HOUSE OF REPRESENTATIVES—*Thursday, February 27, 1992*

The House met at 10 a.m.

The Reverend Tom Cox, Emmaus United Church of Christ, Vienna, VA, offered the following prayer:

O gracious and eternal God, let Your sovereign majesty now take possession of our hearts, that in all we do we may honor You, and trust utterly in Your care.

Thanks be to You for all who have loved this land, who have longed for freedom, justice and prosperity within our borders, and have given themselves for the fulfillment of their longings. Thanks be to You for all who have labored for a friendly world, and have spent themselves in their pursuit of peace. Speak through their memory, O God, and mercifully grant to us who would serve our Nation, grace and courage to further every cause of goodness and truth which they have served. To You, O God, be all honor and glory. Amen.

THE JOURNAL

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

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

Mr. ECKART. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ECKART. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 285, nays 115, answered "present" 1, not voting 33, as follows:

[Roll No. 26]

YEAS—285

Abercrombie	Aspin	Blackwell
Ackerman	Atkins	Bonior
Anderson	AuCoin	Borski
Andrews (ME)	Bacchus	Boucher
Andrews (NJ)	Barnard	Boxer
Andrews (TX)	Bateman	Brewster
Annunzio	Beilenson	Brooks
Anthony	Bennett	Browder
Applegate	Bevill	Brown
Archer	Bilbray	Bruce
Bryant	Hyde	Pease
Bustamante	Jefferson	Pelosi
Byron	Jenkins	Penny
Campbell (CO)	Johnson (CT)	Perkins
Cardin	Johnson (SD)	Peterson (FL)
Carper	Johnson (TX)	Peterson (MN)
Clement	Johnston	Pickett
Clinger	Jones (GA)	Pickle
Coleman (TX)	Jones (NC)	Porter
Collins (IL)	Jontz	Poshard
Combest	Kanjorski	Price
Condit	Kaptur	Quillen
Conyers	Kasich	Rahall
Cooper	Kennedy	Ravenel
Costello	Kennelly	Reed
Cox (IL)	Kildee	Richardson
Coyne	Kleczka	Rinaldo
Cramer	Klug	Ritter
Darden	Kopetski	Roe
Davis	Kostmayer	Roemer
DeFazio	LaFalce	Rose
DeLauro	Lancaster	Rostenkowski
Dellums	Lantos	Rowland
Derrick	LaRocco	Roybal
Dicks	Laughlin	Russo
Donnelly	Lehman (CA)	Sabo
Dooley	Lehman (FL)	Sangmeister
Dorgan (ND)	Lent	Sarpalius
Downey	Levin (MI)	Sawyer
Durbin	Levine (CA)	Schiff
Dwyer	Lewis (GA)	Schulze
Dymally	Lipinski	Schumer
Early	Livingston	Serrano
Eckart	Lloyd	Sharp
Edwards (CA)	Long	Shaw
Edwards (TX)	Lowey (NY)	Shuster
Engel	Luken	Sisisky
English	Manton	Skaggs
Erdreich	Markey	Skeen
Espy	Martin	Skelton
Evans	Martinez	Slattery
Ewing	Matsui	Slaughter
Fascell	Mavroules	Smith (FL)
Fazio	Mazzoli	Smith (IA)
Feighan	McCloskey	Smith (NJ)
Fish	McCurdy	Solarz
Flake	McDermott	Spence
Foglietta	McGrath	Spratt
Ford (MI)	McHugh	Staggers
Ford (TN)	McMillen (MD)	Stallings
Frank (MA)	McNulty	Stark
Frost	Miller (CA)	Stenholm
Gejdenson	Mineta	Stokes
Gephardt	Mink	Studds
Geren	Mollohan	Swett
Gibbons	Montgomery	Swift
Gillmor	Moody	Synar
Gilman	Moran	Tallon
Glickman	Morrison	Tanner
Gonzalez	Mrazek	Tauzin
Gordon	Myers	Taylor (MS)
Gradison	Nagle	Thomas (WY)
Green	Natcher	Thornton
Guarini	Neal (MA)	Torricelli
Gunderson	Neal (NC)	Traficant
Hall (OH)	Nichols	Traxler
Hall (TX)	Nowak	Unsoeld
Hamilton	Oakar	Valentine
Hammerschmidt	Oberstar	Vander Jagt
Harris	Obey	Vento
Hatcher	Olin	Visclosky
Hayes (IL)	Olver	Volkmer
Hayes (LA)	Ortiz	Walsh
Hefner	Orton	Washington
Hertel	Owens (NY)	Waxman
Hoagland	Owens (UT)	Weiss
Hochbrueckner	Oxley	Wheat
Horn	Packard	Williams
Horton	Pallone	Wilson
Houghton	Panetta	Wise
Hoyer	Parker	Wolpe
Hubbard	Pastor	Wyden
Huckaby	Patterson	Wylie
Hughes	Payne (NJ)	Yates
Hutto	Payne (VA)	Yatron

NAYS—115

Allard	Goodling	Paxon
Allen	Goss	Pursell
Armey	Grandy	Ramstad
Baker	Hancock	Regula
Ballenger	Hansen	Rhodes
Barrett	Hastert	Ridge
Barton	Hefley	Roberts
Bentley	Henry	Rogers
Bereuter	Herger	Rohrabacher
Billirakis	Hobson	Ros-Lehtinen
Bliley	Hopkins	Roth
Boehlert	Hunter	Roukema
Boehner	Inhofe	Santorum
Bunning	Ireland	Saxton
Burton	Jacobs	Schaefer
Callahan	James	Schroeder
Camp	Kolbe	Sensenbrenner
Campbell (CA)	Lagomarsino	Shays
Chandler	Leach	Sikorski
Clay	Lewis (CA)	Smith (OR)
Coble	Lewis (FL)	Smith (TX)
Coleman (MO)	Lightfoot	Snowe
Coughlin	Lowery (CA)	Solomon
Cox (CA)	Machtley	Stearns
Cunningham	Marlenee	Stump
Dannemeyer	McCandless	Taylor (NC)
DeLay	McCollum	Thomas (CA)
Doolittle	McCrery	Upton
Dreier	McDade	Vucanovich
Duncan	McEwen	Walker
Emerson	McMillan (NC)	Weber
Fawell	Michel	Weldon
Fields	Miller (OH)	Wolf
Franks (CT)	Miller (WA)	Young (AK)
Gallegly	Molinari	Young (FL)
Gallo	Moorhead	Zeliff
Gekas	Morella	Zimmer
Gilchrest	Murphy	
Gingrich	Nussle	

ANSWERED "PRESENT"—1

Broomfield

NOT VOTING—33

Alexander	Edwards (OK)	Ray
Berman	Gaydos	Riggs
Carr	Holloway	Sanders
Chapman	Kolter	Savage
Collins (MI)	Kyl	Scheuer
Crane	Meyers	Sundquist
de la Garza	Mfume	Thomas (GA)
Dickinson	Moakley	Torres
Dingell	Murtha	Towns
Dixon	Petri	Waters
Dornan (CA)	Rangel	Whitten

□ 1022

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MCNULTY). Will the gentleman from Florida [Mr. LEWIS] kindly come forward and lead the House in the Pledge of Allegiance.

Mr. LEWIS of Florida led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4113. An act to permit the transfer before the expiration of the otherwise applicable 60-day congressional review period of the obsolete training aircraft carrier U.S.S. *Lexington* to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorial.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2269. An act to temporarily extend the Defense Production Act of 1950.

THE REVEREND TOM COX

(Mr. SKAGGS asked and was given permission to address the House for 1 minute.)

Mr. SKAGGS. Mr. Speaker, it is my pleasure to introduce to the House this morning our guest pastor, Rev. Tom Cox, my pastor at the Emmaus United Church of Christ in Vienna, VA.

Tom is a native Minnesotan, a graduate of Harvard College and Union Theological Seminary, and founded the Emmaus Church back in 1964, and has been its only pastor since then.

It has been my pleasure and privilege to listen to his thoughtful sermons over the last several years, and I hope that the Members will make him welcome in the House today.

DEFENSE CUTS: NEW LEGISLATION

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

Mr. PACKARD. Mr. Speaker, America has emerged the victor in the cold war, and now faces a new economic challenge. We must address the issue of economic conversion as we scale back our defense budget in the postcold war era.

California has been hit especially hard as the cold war has drawn to a close and every congressional district will feel the impact.

I support the defense cuts that were proposed by the President. I also believe that savings from reduced defense spending should go toward the reducing of our spiraling Federal deficit. For this reason today I introduce legislation expressing the sense of Congress that this and any future reduction in defense spending should be used for deficit reduction.

Even before the President announced new and deeper cuts in the defense budget it was estimated that as many as 800,000 jobs will be lost as a result of the current cuts in defense spending. I believe we must also spur the economy to balance the negative effects from reduced spending. To do this we must encourage increases in research and development in the technology and aerospace industry.

I am introducing legislation that will both permanently extend the research and experimental credits and to permanently reinstate the investment tax credits.

MIDDLE-INCOME AMERICANS, THIS ONE IS FOR YOU

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

Mr. WISE. Mr. Speaker, there is a popular television commercial that says "This one is for you," and today with the tax bill for middle-income people we can truly say "This one is for you," because for the middle class this gives up to $800 back for two-wage-earner families over 2 years, significant amounts to many of our families. The President promised something like this and then jerked it back.

For the middle-income person, there is tax credit for student loan interest to help working families keep their children in college. There are liberalized IRA withdrawals for first time home buyers and for educational and medical expenses. To create jobs so essential there are incentives for investment, including enterprise zones for urban and rural areas to attract businesses to these areas. There is a temporary investment tax allowance for businesses to buy new equipment this year.

Finally, this is paid for honestly, by asking those couples earning approximately $200,000 a year to pay a slightly larger percentage of income tax and by imposing a surcharge of 10 percent on millionaires.

Tax fairness, investment, Mr. Speaker, for middle-income people, "This one is for you."

AMERICANS WANT AN ECONOMIC GROWTH PACKAGE

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

Mr. LEWIS of Florida. Mr. Speaker, in the past few months, all of us have been asked to help get our economy on track. Americans have said many enlightening things.

Just as important is what they have not said. They have not asked us to invent a bad imitation of the President's proposals for the sole purposes of voting it down.

They also never asked for a bill meant solely for a Presidential veto so that our troubles can be continued.

I also never heard anyone ask for 55 cents a day for 2 years, in exchange for a permanent tax increase and an increase in the deficit, all in a package that would actually harm the economy, and do nothing for millions of teachers, law enforcement officers, firefighters, and senior citizens.

No. Mr. Speaker, Americans want an economic growth package that will spur this economy ahead. They do not care about elections, they care about taking care of their families.

Mr. Speaker, let us end this political charade, and, for once, work together on behalf of America. We will all be better off for it. Mr. Speaker, that is what we were sent here to do.

□ 1030

AN ECONOMIC PROPOSAL TO JUMP-START NATION'S TROUBLED ECONOMY

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

Mr. BRUCE. Mr. Speaker, today, we will vote on an economic proposal that is designed to jump-start our Nation's troubled economy. With 8.9 million Americans unemployed and millions more that face economic uncertainty everyday, members of the Ways and Means Committee should be applauded for bringing this issue to the floor in such an expedient fashion.

The plan being introduced by Chairman ROSTENKOWSKI is comprehensive and far reaching. To list the positive points of the bill would take more time than I have here today, but there are certain aspects that I think are especially noteworthy.

It will begin to make the Tax Code equitable by providing middle income Americans with a refundable tax credit of up to $400. It will encourage children of working families to pursue a college education by offering a nonrefundable tax credit of 15 percent for interest paid on educational loans. And it makes permanent a number of important tax credits including research expenditures and the targeted jobs provision.

For these reasons and many more, I will support the chairman's package, and I urge my colleague to do the same. But, let it be made perfectly clear that we, as representatives of the people, have a responsibility and an obligation to do more. We must make a commitment to be active participants in the economic revitalization of this country. We must listen and work with businesses, labor organizations, and local and State governments to finish the work we have started here today. We are in this recession in no small part because of the policies of 12 years of Republican administrations. So no one should expect that we can fix all the problems in one day.

I have before this Congress two bills that will increase the rate of job cre-

ation for large scale construction work, and help keep existing jobs we have in the troubled coal industry. If we are serious about making real changes in our Nation's economic structure, then we must seriously consider proposals such as mine, and any other measure that promotes investment and commitment for the American worker.

HONEST ECONOMIC ANALYSIS NEEDED

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

Mr. ARMEY. Mr. Speaker, later today we will hear the Democrats come to the floor touting all the wonderful economic benefits that will come from the tax package they will offer.

For their research and analysis of these benefits, they will rely on the Congressional Budget Office, because they own it.

Mr. Speaker, let us see what the Congressional Budget Office has done for us. In 1990 the Democrats were cobbling out their budget deal, the Congressional Budget Office made a $134 billion error in the projection of capital gains earnings. Once they had that error in the projection of earnings, they then complicated the matter further by applying a projection of future tax revenue from taxing those earnings that also never would materialize. That gave us an overprojection of the increased money for the Democrats to spend. They spent it, and as you can see, over the 5-year life of that agreement, we have generated an enormous amount of red ink in the form of increased deficit.

It goes as high as $200 billion by the end of the fifth year. What we need to do, Mr. Speaker, is make sure that there is some honest economic analysis behind all of the outrageous claims we will hear on the floor today.

NOW IS TIME TO EXERCISE LEADERSHIP

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today we come face to face with middle-class Americans. We will look them squarely in the eye and tell them whether or not we had the courage to help them when they needed us most. We can fulfill the promises we have made to them over the past year, promises of tax relief and fairness, or we can turn our backs. But either way, we cannot avoid the choice.

Today we can vote to return some of the hope that has been drained away from middle-class Americans during the past decade. We can restore some of the trust and confidence they have lost in Government. We can give them some real tax relief, we can restore fairness to the tax system, we can help create new jobs and we can prove to them that we are able to respond to their needs.

Today we can have an opportunity to assist working middle-class families cope with the effects of a recession that has left them devastated. This bill boosts the economy by helping first time home buyers, providing financial assistance for education, helping small business invest in the future.

Mr. Speaker, we cannot underestimate the importance of today's vote. Consumer confidence is at its lowest level in nearly 20 years. Major American manufacturers are laying off tens of thousands of workers. People are suffering from the debilitating effects of a 2-year recession. The people we represent need help now. They cannot wait any longer for it to trickle down.

If we are ever going to exercise leadership, now is the time, today is the day.

Vote for the Democratic alternative.

LINE-ITEM VETO AND CONGRESSIONAL SPENDING

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

Mr. STEARNS. Mr. Speaker, in 1991 General Motors took a $4.4 billion loss and took drastic steps to reduce spending. They understood that they cannot survive unless they reduce spending.

Last year, however, the Federal Government took a loss of $268 billion, but Congress continues to spend on wasteful projects.

Last week Citizens Against Government Waste released its 1992 Congressional Pig Book, right here. This book highlights dozens and dozens of wasteful Federal spending projects and demonstrates the contempt Congress has shown to taxpayers.

Mr. Speaker, is it not about time that Congress spent only on what is absolutely necessary, not just desirable? We must balance our budget. We must bring the Federal spending under control, and the line-item veto is one of the best ways to do it.

Because the Democratic leadership in Congress will not give the President a line-item veto, I encourage the President to test it constitutionally and try it anyway. America needs a bold and drastic action to combat these difficult economic times. The line-item veto would be a bold step in the right direction.

ANNOUNCEMENT BY THE CHAIRMAN OF THE COMMITTEE ON RULES

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. I rise to notify members about the Rules Committee's plans for two measures: The budget resolution for fiscal year 1993 and H.R. 3732, the Budget Process Reform Act of 1991.

The Rules Committee hopes to meet next week, the week of March 2, on both bills.

We will meet, possibly as early as next Tuesday. In order to assure timely and fair consideration of the legislation on the floor, the Rules Committee may consider two rules that structure the offering of amendments.

I take this opportunity to advise Members who wish to offer an amendment to either the budget resolution or to H.R. 3732, the Budget Process Reform Act.

Members contemplating amendments to either measure should submit to the Rules Committee, in H-312 in the Capitol, 55 copies of the amendment, along with a brief explanation, no later than 5 p.m. on Monday, March 2, 1992.

Finally, for those contemplating amendments only to the budget resolution, the Rules Committee generally looks more favorably on substitutes during this debate. Cut-and-bite amendments to a budget resolution only duplicate choices that will be made again later during the authorization and appropriations process.

I have sent two "Dear Colleague" letters in this morning's mail: One regarding H.R. 3732 and the other on the budget resolution for fiscal year 1993.

We appreciate the cooperation of all Members in this effort to be fair and orderly in granting rules.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I am happy to yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I just want to ask the chairman, because I am a little confused. I noticed this reference in an earlier letter that the gentleman sent out.

When will the budget resolution be available from the committee, from the Committee on the Budget, so that Members might look at them in order to develop amendments?

Mr. MOAKLEY. I have been told that the Committee on the Budget is marking the bill up today.

Mr. GINGRICH. So the committee will presumably report later today. And do we have any idea when that print might be available for Members?

Mr. MOAKLEY. I do not know that.

Mr. GINGRICH. So if I might, Mr. Speaker, the House, I believe, may not be in session tomorrow or it may only be in pro forma session, and I believe it is only either not in session or pro forma session on Monday. So I just might point out to the chairman that I understand the process by which the Committee on Rules is gradually tightening its grip on the House.

But I would simply point out to the chairman that he is now proposing to

Members that they have to take that document that they may not be able to get until tomorrow and develop 55 copies by the end of business Monday even though most Members may not be in town on either Friday or Monday. Is that correct?

Mr. MOAKLEY. Well, the Chair is trying to give as much notice as possible. We spoke to the chairman of the Committee on the Budget, and he said that he was working on the budget today.

Mr. GINGRICH. If the chairman will yield further, just one last time, and I don't mean to nag him, but I would simply point out to the House that if I were the chairman of the Committee on the Budget I would love an arrangement by which no one would have time to truly offer an amendment, because they had never read my budget, but it seems to me if you are a Member of the House not on the Committee on the Budget that this particular schedule is remarkably disadvantageous to the average Member who will not be here and whose staff will not get access to the document, and I will later on today, and I wish the chairman of the Committee on the Budget, if he notices this dialog, would come to the floor and announce the time at which the committee print will be available so that Members might have an opportunity to look at it.

I would rather have the budget, frankly, postponed a week if that is what it took to actually allow Members to read the budget and actually decide in an intelligent way to offer amendments.

I understand the committee chairmen love to minimize the opportunity for the rest of the House to have any effect, but it does seem to me that giving Members a chance to read the budget before the Committee on Rules deadline is not inappropriate.

□ 1040

Mr. MOAKLEY. I have just been informed that the budget will be available at the committee offices tomorrow.

Mr. TRAFICANT. Mr. Speaker, will the chairman yield to me?

Mr. MOAKLEY. I am glad to yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Speaker, I want to rise in support of what was just stated on the floor. I think that every Member of this body should have at least 7 days to read thoroughly and to understand the budget of our country.

I think this. I do not know if it is in order, but I would like to ask unanimous consent that there be at least 1 week's availability for all Members of this House to read the budget before action for amendments or pending rules be considered.

Mr. Speaker, I put that in the form of a unanimous-consent request.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman's request is not in order.

VACATING SPECIAL ORDER AND GRANTING SPECIAL ORDER

Mrs. COLLINS of Illinois. Mr. Speaker, I already have a request in for a special order of 60 minutes, and I ask unanimous consent to be vacated from that 60-minute special order and ask in lieu thereof to be granted a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

REQUEST THAT MEMBERS BE GIVEN 1 WEEK TO READ BUDGET PROPOSAL

The SPEAKER pro tempore. For what reason does the gentleman from Ohio rise?

Mr. TRAFICANT. Mr. Speaker, I rise for the purpose of offering a unanimous-consent request to the Congress.

Mr. Speaker, I ask unanimous consent that all Members be given 1 week to read next year's budget proposal from the Budget Committee and that no rule be recommended or considered until that 1-week reading opportunity is granted to all Members of the House.

Mr. BILBRAY. Mr. Speaker, I object.

The SPEAKER pro tempore. The Chair has the power of recognition and the Chair declines to recognize the gentleman for that purpose and the gentleman cannot challenge that denial.

POINT OF ORDER

Mr. TRAFICANT. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Speaker, I would like to know under what rule of the House such action by the Chair is taken.

The SPEAKER pro tempore. Clause 2, rule XIV.

Mr. TRAFICANT. Mr. Speaker, a further point of order.

The SPEAKER pro tempore. The gentleman will state it.

Mr. TRAFICANT. I would like to know what would be necessary by a Member of the House who would in fact oppose such a ruling of the Chair.

Mr. DANNEMEYER. Mr. Speaker, the gentleman can achieve that objective, noble as it is, by electing a new Speaker. Join with us in doing that.

Mr. TRAFICANT. A further point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. TRAFICANT. I am not interested in electing a new Speaker, but I am interested in having the Members of this body be able to read this bill.

I would advise the Democrats to maybe take serious what this request is.

Mr. COX of California. Mr. Speaker, I would advise the gentleman that he can appeal the ruling of the Chair and ask for a vote of the House on the ruling.

REAL ESTATE INDUSTRY NEEDS HELP

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

Mr. DANNEMEYER. Mr. Speaker, today the House will take up some provisions dealing with the Tax Code of this country. A very important vote.

The Democratic leadership has the votes in the House and in the Senate to change the tax laws as they see fit anytime the spirit moves them, but they are in a classic conflict-of-interest position. If they change the tax laws and the perception is the economy is improving, to that extent they lessen the chance that a nominee of the Democratic Party is going to make it to the White House.

I would hope they would resolve and use this political power to help the country, rather than their party; but when I look at the provisions of the tax bill they propose to bring to the floor today, I shake my head in sadness at the stewardship of power they are exhibiting. They seem to be helping their party more than their country.

Specifically, if there is one industry in this country that needs help, it is the real estate industry. We put them in the tank in 1986 when we raised capital gains taxes to a level which can only be described as confiscatory.

Now this Democratic package is going to extend the depreciation schedule for real estate an additional 10 years.

With that kind of tender concern, it is almost inevitable that it is going to hurt real estate more than it helps.

THE NEED FOR MORE BREAST CANCER RESEARCH

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I was very moved by reporter Cokie Roberts op-ed piece in Sunday's Washington Post, entitled "One Woman in Nine" in which she told a very poignant true story of going to two women friends' funerals in their fifties who were buried on the same day, waked at the same funeral home, and left mourning children and their husbands.

This mirrors the epidemic of breast cancer that kills 45,000 women every year. We need a comprehensive approach to this disease. It is more of an epidemic than AIDS, yet moneys for AIDS research gets 15 times more moneys to find a cure than breast cancer,

and by the way, I support AIDS research.

I am tired of the low priority given to this disease, although we have made two small gains in recent years.

The President recommended $800 million more for AIDS research, and I support that, but zero for breast cancer research.

Mr. Speaker, I am introducing a comprehensive bill to lick breast cancer finally. I will not stop until we have cured this disease.

Mr. Speaker, I urge all the Members of this body to cosponsor the bill and end this epidemic that is killing our women and injuring our families, their health and their sanity.

The aforementioned article follows:

[From the Washington Post, Feb. 23, 1992]

ONE WOMAN IN NINE

(By Cokie Roberts)

No one should ever have to go to two funeral masses in one day, except perhaps priests and altar boys. It's clearly not women's work. But recently in Washington that's exactly what a number of women and some of their spouses did, as we said goodbye to two more friends in their fifties snatched away by that master of misogyny, breast cancer.

As we comforted each other, statistics on breast cancer rates were not foremost in our minds. We murmured instead of the husbands left behind, of the nine handsome children these two good women had between them, of the not-yet-born grandchildren our friends would never hold. We mourned the waste, the decades of productive life denied them.

But the reality so stunned us as we stood on the eve of the services in the funeral home, with one friend in a room to the left, another in a room to the right, that we found ourselves calculating the casualties, tabulating the toll of women we knew killed by breast cancer. Grimly we recited the numbers that fill us with fear: Breast cancer now strikes one in nine women in this country. Thirty years ago it was one is 20. Those startling figures have moved women in Congress to push for action as they see females falling to an enemy more deadly than in any recent war.

In contrast, to the 47,356 U.S. combat deaths in all the years of the Vietnam War, an estimated 44,500 women lost the battle with breast cancer just last year. And any witness to the contest knows that "battle" is a tame word to describe the struggle . . . the diagnoses and drugs, tests and treatments that usually require years of superhuman determination and fortitude to withstand. But prying research dollars out of the federal budget for breast cancer, or extending Medicare coverage to mammograms requires almost as much muscle as battling the disease itself. Had it not been for the women in Congress, and forays into the field from top brass such as Marilyn Quayle, plus phalanxes of female staffers and lobbyists, what little money there is would not be there.

As the breast cancer statistics mounted in recent years the congresswomen intensified their efforts, first working to get mammograms covered under the 1988 catastrophic health insurance bill. Women of both parties guided the measure through their own committees, but one key subcommittee remained an all-male bastion. A female lobbyist who regularly worked that panel volunteered to ask a friendly congressman to introduce the mammogram language. "I can't do that," he protested, "I did the last women's thing, the guys will think I'm soft on women." "Fear not," the lobbyist replied, "Just tell them you're a breast man." He did and it worked.

But in 1989 the catastrophic law was repealed, and mammogram coverage with it. The women in Congress stubbornly insisted on restoring the benefit, by raising the issue constantly, until mammograms made their way into the budget agreement of 1990, although it had to be done at the expense of a White House proposal for serving preschoolers. Medicare now covers up to $55 for mammograms every two years, considerably less than the high-tech X-rays cost in many areas.

Money for breast cancer research has been equally hard to come by. As women in Congress watched—and in most cases applauded—the increases in funds for AIDS research and prevention they also cautioned their colleagues that AIDS money now outpaces all cancer dollars combined. The congresswomen fought for funds for the greater killer, and they succeeded in getting a significant increase for this year: $133 million for breast cancer. That's up more than $40 million from last year, but still only a small percentage of the total funding for the National Cancer Institute, which is almost $2 billion.

Though some congresswomen grumble that the breast cancer dollars would be greater if men got the disease, they carefully add that they do not want to set up a competition among cancers. No woman does. We all know too many people stricken with other forms of cancer. My own sister died of melanoma when she was even younger than my two friends, and one of my favorite men in the family was younger yet when he died of liver cancer on Christmas morning.

But breast cancer's toll on women, along with its mysteriously increasing incidence, puts it in a special category. The latest attempt at combat comes from Rep. Mary Rose Oakar, who is preparing legislation calling for full funding of the National Cancer Institute's research request to the president of $220 million and establishment of a national breast cancer center aimed at encouraging researchers to get into the field.

But as long as so few women make it to Congress, the success of any drive for more research money must rely on the kindness of congressmen. They cannot leave the country's concerns about breast cancer to the distaff side. If fears for their mothers, sisters, wives and daughters don't spur them to act, then the effect of the disease on the work force, on productivity, on health care costs should. Otherwise many more of us will be joining the mourners at two funeral masses in one day.

SHARE THE PEACE DIVIDEND WITH OUR VETERANS

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

Mr. BILIRAKIS. Mr. Speaker, the cold war has ended. It seems that everyone has a suggestion on how we should be spending the so-called peace dividend. As everyone rushes to get his or her fair share of the pie, one individual is being lost in the scuffle—the veteran.

Today, there are over 28 million living veterans. They and those before them protected over personal liberties. They are the reasons that the United States is the mightiest, wealthiest, most secure Nation on Earth today. They are the reasons that the United States has been and will continue to be the bastion of support and solace for those in a world searching for freedom and human rights.

The time was come to make sure that we keep our promises to those who have shouldered the burden of our Nation's defense. Therefore, before we start dishing out pieces of the peace dividend pie, we must first look toward helping those brave men and women who sacrificed so much to bring about the end of the cold war to share the peace dividend with those who made it possible.

LET'S GO FOR THE GOLD MEDAL IN THE TAX FAIRNESS AND ECONOMIC GROWTH PACKAGE

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

Mr. MAZZOLI. Mr. Speaker, on the Olympic scoring system, the Democratic tax fairness and economic growth package before us today, which I intend to support, is possibly a 5.7 or 5.8. It is good, but not good enough for the gold.

When the bill moves to the conference, as I hope it will with the other body, we have an opportunity to improve on its shortcomings and add to its strengths.

In that setting, I spoke yesterday on how important it is to retain the enterprise zone section which is in the Democratic bill.

I would like to see added to the bill a first-time home buyers, tax credit, which is not in the package today.

I hope that the senior Senator from Texas adds to the Senate version of the bill private health insurance reform and also universal deductibility of the individual retirement accounts. They both are very important, in the opinion of the gentleman from Kentucky now speaking.

Furthermore, Mr. Speaker, I am happy the Democratic proposal makes permanent low-income housing tax credits, revenue mortgage bond authority, research and development tax credits and targeted jobs tax credits. They are made permanent in the Democratic bill, and they, I hope, will stay permanent in the conference report.

We are sending a silver medal to the conference. Let us bring back the gold.

FALSE PREMISES IN DEMOCRATIC TAX PACKAGE

(Mr. COX of California asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, the Democrats will be bringing to the floor a tax bill that they advertise as a tax cut for the middle class and a tax increase for the wealthy. That is false. There is no cut in income taxes for anyone in this bill, H.R. 4287.

In fact, the wealthy are defined in this bill as every American who makes $85,000. Now, let us think about this for a minute, because the Republican plan is to reduce tax rates for everyone, and the Democrats are reducing income tax rates for no one. They are raising tax rates, creating a new fourth income tax rate for every American who makes $85,000. That includes virtually every small business in America. Ninety percent of small businesses are taxed as proprietorships.

It includes not people who make $85,00 year in and year out alone, but somebody who did not make much money last year and will not make much money next year, but sold a small business this year or sold the family farm and has $85,000 of income. That is because the Democrats deleted income averaging just a few years back.

□ 1050

The Republicans are interested in reducing tax rates across the board; the Democrats are raising tax rates on people that they call wealthy, and they mean you.

NEITHER TAX PLAN IS GOOD ENOUGH FOR AMERICA

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

Mr. TRAFICANT. Mr. Speaker, both the Democratic and Republican plans have one thing in common, they are both losers, stone-cold losers, because under both plans jobs will continue to go overseas, taking our dollars, jobs and investment with them.

But today I want to ask if Members of Congress have turned into a bunch of masochists? It is evident. The big export of America this month is Mickey Mouse, and we are now importing electricity from Canada for all these 1,000 points of light we keep voting on around here.

I really believe it, American workers do not want another election day token tax cut, they want a job and they want an opportunity to keep that job.

I am asking Congress to vote both of these things down. The Democratic plan is a better plan, but not good enough for our country.

INTRODUCTION OF PAN AM FLIGHT NO. 103 RESOLUTION

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

Mr. FEIGHAN. Mr. Speaker, it has now been 3½ years since the brutal terrorist attack claimed the lives of 259 passengers on Pan Am flight 103 over Lockerbie, Scotland.

After an exhaustive international investigation conducted by law enforcement agencies of the United States and the United Kingdom, indictments were issued in November for two Libyan agents wanted for the Pan Am 103 attack.

On January 21, 1992, the U.N. Security Council passed a resolution calling upon Libya to provide a "full and effective response" to United States and British requests to hand over these two individuals.

What followed has been a game of cat and mouse between Libya and the international community. Threatened with the possibility of international sanctions, Libya has pledged cooperation, but has not delivered the two suspects.

President Ronald Reagan once described Libya as a member of a modern-day Murder Incorporated. It seemed to be an apt analogy, especially after a recent press report that Libya had bumped off the triggermen responsible for the attack. Given their appearance on CNN last week, reports of the two agents' demise have been greatly exaggerated.

It is tremendously important that the administration continue to pursue this case—not just to bring those responsible to justice, but to trace the crime back to its intellectual authors, to make sure we know exactly which individuals were involved and whether they acted with the knowledge or complicity of one or more governments.

Today, I am introducing a resolution calling upon the President to pursue all aspects of the attack on Pan Am 103; including those responsible for financing, planning, and executing the attack. In addition, the bill calls for a campaign of multilateral economic sanctions to be imposed against Libya, if it continues its defiance of the Security Council resolution.

I include herewith a copy of the resolution to appear following my remarks.

H. CON. RES. —

Whereas on December 21, 1988, Pan Am Flight 103 was destroyed by a bomb which killed all 259 people on board and 11 people on the ground.

Whereas investigators believe that the bomb was concealed in a radio-cassette player and planted in a forward luggage compartment of Flight 103;

Whereas an international investigation of the bombing initially focused on the activities of Iran, Syria, and the terrorist group known as the Popular Front for the Liberation of Palestine-General Command (PFLP-GC), headed by a Syrian intelligence officer named Ahmed Jabril;

Whereas investigators originally believed that the attack was planned by Iran as retaliation for the accidental downing by the United States of an Iranian airliner in 1988 and that Iran had paid Ahmed Jabril to carry out this plan;

Whereas in October of 1988, West German police conducted a number of raids against PFLP-GC cells in West Germany, seizing a large cache of weapons, explosives, and a radio cassette player, and days after the raids, West German officials discovered in the car of a PFLP-GC member a second radio cassette player rigged as a bomb and equipped with a barometric trigger;

Whereas the discovery in Scotland of a microchip from the timing device of the bomb shifted the focus of the international investigation to the Libyan intelligence service which had purchased 20 such timers from a Swiss manufacturer in 1985 and 1986;

Whereas investigators first theorized that Libyan intelligence operatives carried out the attack after taking control of the operation from the PFLP-GC, they later concluded that the bombing was an operation backed by elements of the Libyan Government seeking retaliation for the 1986 United States military attack against Libya;

Whereas these agents used the knowledge and access gained from their official Libyan government status as representatives of Libyan Arab Airlines to facilitate the bombing of Flight 103;

Whereas on November 13, 1991, the United States issued 193-count indictments against two Libyan intelligence operatives, Abdel Basset Ali al-Megrahi and Lamen Khalifa Fhimah, in connection with the bombing of Flight 103;

Whereas on January 21, 1992, the United Nations Security Council passed a resolution urging Libya to provide a full and effective response to the requests of the governments of the United Kingdom, the United States, and France to surrender those individuals indicted for the bombing of Flight 103 and the bombing of Union des Transports Airiens Flight 772, which exploded over Niger in September 1989, killing 177 passengers; and

Whereas in 1979 and for each year thereafter Libya has been identified by the Secretary of State as a country that has repeatedly provided support for acts of international terrorism and has been the subject of bilateral sanctions imposed by the United States government: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the President should continue his efforts to pursue all those responsible for the bombing of Pan Am Flight 103, including the parties responsible for financing, planning, and carrying out the bombing;

(2) the President should take appropriate steps in the United Nations Security Council to secure the support of the United Nations in enforcing economic sanctions against Libya if the Libyan government refuses to comply fully with United Nations Security Council Resolution 731 (1991);

(3) the President should consider the following sanctions against Libya, to be implemented on a multilateral basis: cutting civilian air links with Libya; banning aircraft spare parts sales to Libya; banning government and commercial contracts with the government of Libya; ending oil purchases from Libyan sources; and banning the sale of all equipment and related technology used by the Libyan oil industry;

(4) the President should direct all appropriate United States agencies to continue to investigate the bombing of Flight 103 in order to identify all individuals and all governments in any way responsible for the

bombing, to bring all such parties to justice, and to seek compensation for the families of the victims of the bombing; and

(5) the President should take all necessary steps to implement fully the requirements of the Aviation Security Improvement Act of 1990, which was based on the recommendations of the President's Commission on Aviation Security and Terrorism.

THE RULE ON THE $1.4 TRILLION BUDGET

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

Mr. BURTON of Indiana. Mr. speaker, a few minutes ago, the Republican whip pointed out to the House and to the people who are paying attention to what is going on around here that we are going to have no time to review a $1.4 trillion budget.

The Committee on Rules is giving us until Monday to file amendments to that $1.4 trillion budget, and we are not going to be here tomorrow and Monday.

So, how can any Member of the House really review that budget and get amendments to the floor in time to make any positive changes to that big spending bill?

The people of this country are fed up with Congress, they are fed up with Washington, because we are blowing all this money and we are raising their taxes and we are here—they are, the Democrats, in charge of the Committee on Rules—they are bringing a $1.4 trillion budget to the floor of the House without giving anybody an opportunity to amend it.

I think that is tragic, and the American people ought to pay particular attention to what they are doing.

CLARIFICATION OF THE BUDGET DEFICIT

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

Mr. DORNAN of California. Mr. Speaker, did you hear what the last gentleman from Indiana just said? We do not even get this until tomorrow to look at this budget.

Now, no nation in the history of civilization has ever been so successful at raising taxes as these United States of America. We are going to raise more than last year, as we did the year before that and that and that and that and that. We are going to raise over $1 trillion. But it is not enough.

We want to spend $1.4 trillion. So we are going to have a Federal deficit this year of somewhere between $380 billion and $400 billion-plus.

Now, get out your pencils, come on now, get out your pencils and write this down. Let us do a little arithmetic. We have the advantage of a leap year because there are 366 days in this year.

Divide that into $400 billion. and that is not the real budget, because we deducted all of our trust funds—the highway trust fund, Social Security, airways and airports trust funds.

But let us just take the $400 billion. That comes out to $1,093,000,000 today and Sunday and holidays.

How much is that per hour? It is $45.5 billion a day. How much per minute? It is $759,000 a minute. How much per second, Mr. Speaker? It is 1,650 bucks, this second, and this second, and this second, and this second.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair would remind our guests in the gallery that we are delighted to have them here but they are to refrain from responding either negatively or positively to any statements made on the floor.

AUTHORIZING QUORUM CALLS DURING DEBATE ON H.R. 4210, ECONOMIC GROWTH ACCELERATION ACT OF 1992

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that during the consideration of H.R. 4210 in the Committee of the Whole a quorum call be in order with not more than 15 minutes of debate remaining on each of the two amendments made in order by the rule, House Resolution 374.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ECONOMIC GROWTH ACCELERATION ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 374 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4210

□ 1056

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, with Mr. DERRICK in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, February 26, 1992, the amendment in the nature of a substitute consisting of the text of the bill H.R. 4210 had been disposed of.

Pursuant to the rule, no further amendment to the bill is in order except the following two amendments:

First, an amendment in the nature of a substitute consisting of the text of the bill H.R. 4200, as modified by the amendment printed in section 2 of House Resolution 374, to be offered by the gentleman from Illinois, [Mr. MICHEL], or the gentleman from Texas [Mr. ARCHER] or their designee; and

Second, an amendment in the nature of a substitute consisting of the text of the bill H.R. 4287, to be offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] or his designee.

Each amendment is considered as read, is not subject to amendment and is debatable for 1 hour, equally divided and controlled between the proponent and an opponent of the amendment. If more than one amendment in the nature of a substitute is adopted, only the last amendment adopted is considered as finally adopted.

It is now in order to debate the amendment in the nature of a substitute consisting of the text of the bill H.R. 4200, as modified by the amendment printed in section 2 of House Resolution 374.

AMENDMENT IN THE NATURE OF A SUBSTITUTE, AS MODIFIED, OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Chairman, I offer an amendment in the nature of a substitute, as modified.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment in the nature of a substitute, as modified, is as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Growth and Job Creation Act of 1992".

SEC. 2. TABLE OF TITLES.

TITLE I—ENHANCED ECONOMIC RECOVERY ACT OF 1992

SECTION 101. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "Enhanced Economic Recovery Act of 1992".

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

(c) SECTION 15 SHALL NOT APPLY.—Except as otherwise expressly provided, no amend-

ment made by this title shall be treated as a change in rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—

TABLE OF CONTENTS

Subtitle A—Provisions Relating to Capital Gains

SEC. 111. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

(a) GENERAL RULE.—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. 1202. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) DEDUCTION ALLOWED FOR CAPITAL GAINS.—

"(1) IN GENERAL.—If, for any taxable year, a taxpayer other than a corporation has a net capital gain, an amount equal to the sum of the applicable percentages of the applicable capital gain shall be allowed as a deduction.

"(2) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under paragraph (1) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by income beneficiaries (other than corporations) as gain derived from the sale or exchange of capital assets.

"(b) APPLICABLE PERCENTAGES.—For purposes of this subsection, the applicable percentages shall be the percentages determined in accordance with the following table:

"In the case of:	The applicable percentage is:
1-year gain	15
2-year gain	30
3-year gain	45

"(c) GAIN TO WHICH DEDUCTION APPLIES.—For purposes of this section—

"(1) APPLICABLE CAPITAL GAIN.—The term 'applicable capital gain' means 1-year gain, 2-year gain, or 3-year gain determined by taking into account only gain which is properly taken into account on or after February 1, 1992.

"(2) 3-YEAR GAIN.—The term '3-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 3 years.

"(3) 2-YEAR GAIN.—The term '2-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by 3-year gain, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 2 years but not more than 3 years.

"(4) 1-YEAR GAIN.—The term '1-year gain' means the net capital gain for the taxable year determined by taking into account only—

"(A) gain from the sale or exchange of assets held more than 1 year but not more than 2 years, and

"(B) losses from the sale or exchange of assets held more than 1 year.

"(5) SPECIAL RULES FOR GAIN ALLOCABLE TO PERIODS BEFORE 1994.—For purposes of this section—

"(A) GAIN ALLOCABLE TO PERIODS BEGINNING ON OR AFTER FEBRUARY 1, 1992 AND BEFORE 1993.—In the case of any gain from any sale or exchange which is properly taken into account for the period beginning on February 1, 1992 and ending on December 31, 1992, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 3-year gain.

"(B) GAIN ALLOCABLE TO 1993.—In the case of any gain from any sale or exchange which is properly taken into account for periods during 1993, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 2-year gain and 3-year gain, respectively.

"(6) SPECIAL RULES FOR PASS-THROUGH ENTITIES.—

"(A) IN GENERAL.—In applying this subsection with respect to any pass-through entity, the determination of when a sale or exchange has occurred shall be made at the entity level.

"(B) PASS-THROUGH ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-through entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(7) RECAPTURE OF NET ORDINARY LOSS UNDER SECTION 1231.—For purposes of this subsection, if any amount is treated as ordinary income under section 1231(c) for any taxable year—

"(A) the amount so treated shall be allocated proportionately among the section 1231 gains (as defined in section 1231(a)) for such taxable year, and

"(B) the amount so allocated to any such gain shall reduce the amount of such gain."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Section 56(b)(1) is amended by adding at the end thereof the following new subparagraph:

"(G) CAPITAL GAINS DEDUCTION DISALLOWANCE.—Except with respect to gains realized on the sale, exchange, or other disposition of a direct or indirect interest in real estate or in a closely-held business, the deduction under section 1202 shall not be allowed."

(d) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3)(A) Subparagraph (B) of section 170(e)(1) is amended by inserting "the nondeductible percentage" before "the amount of gain".

(B) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), the term 'nondeductible percentage' means 100 percent minus the applicable percentage with respect to such property under section 1202(b), or, in the case of a corporation, 100 percent."

(4)(A) Paragraph (2) of section 172(d) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 221 (as redesignated by section 224(a) of this Act) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deductions for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 (as amended by section 224(c) of this Act) is amended by striking "reference" in the item relating to section 221 and inserting "references".

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for net capital gain) shall not be taken into account."

(8) Subparagraph (C) of section 643(a)(6) is amended—

(A) by inserting "(i)" before "there", and

(B) by inserting ", and (ii) the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account" before the period at the end thereof.

(9) Paragraph (4) of section 691(c) is amended by striking "1202, and 1211" and inserting "1201, 1202, and 1211".

(10) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(11) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(12)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking the last sentence.

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act of 1936, is amended by striking the last sentence.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Reduction in capital gains tax for noncorporate taxpayers."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after February 1, 1992.

(2) TREATMENT OF COLLECTIBLES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after February 1, 1993.

(B) SPECIAL RULE FOR 1992 TAXABLE YEAR.—In the case of any taxable year which includes February 1, 1992, for purposes of section 1202 of the Internal Revenue Code of 1986 and section 1(g) of such Code, any gain or loss from the sale or exchange of a collectible (within the meaning of section 1222(12) of such Code) shall be treated as gain or loss from a sale or exchange occurring before such date.

SEC. 112. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect to such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle. Notwithstanding any other provision of this chapter, in the case of a taxpayer other than a corporation, any amount treated as ordinary income under this subsection shall be subject to tax at a rate not in excess of 28 percent.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1968, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECITATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subsection (d) of section 1250 is amended by striking paragraph (10).

(4) 1250 is amended by striking subsections (e) and (f) and by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(5) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) RECAPTURE OF REDUCTION.—For purposes of section 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(6) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)".

(7)(A) Subsection (a) of section 291 is amended by striking paragraphs (1) and by redesignating paragraph (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(10) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(11) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on the day before the date of enactment of the Enhanced Economic Recovery Act of 1992)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions made on or after February 1, 1992, in taxable years ending on or after such date.

Subtitle B—Provisions Relating to Passive Losses and Depreciation

SEC. 121. PASSIVE LOSS RELIEF FOR REAL ESTATE DEVELOPERS.

(a) TREATMENT OF REAL ESTATE DEVELOPMENT ACTIVITIES.—Subsection (c) of section 469 (relating to the limitation on passive activity losses and credits) is amended by adding at the end the following new paragraph:

"(7) REAL ESTATE DEVELOPMENT ACTIVITY.—The real estate development activity of a taxpayer shall be treated as a single trade or business activity that is not a rental activity."

"(b) DEFINITION.—Subsection (j) of section 469 is amended by adding at the end thereof the following new paragraph:

"(13) REAL ESTATE DEVELOPMENT ACTIVITY.—

"(A) IN GENERAL.—The real estate development activity of a taxpayer shall include all activities of the taxpayer (determined without regard to subsection (c)(7) and this paragraph) in which the taxpayer actively par-

ticipates and that consist of the performance of real estate development services and the rental of any qualified real property.

"(B) REAL ESTATE DEVELOPMENT SERVICES.—For purposes of this paragraph, real estate development services include only the construction, substantial renovation, and management of real property and the lease-up and sale of real property in which the taxpayer holds an interest of not less than 10 percent.

"(C) QUALIFIED REAL PROPERTY.—For purposes of this paragraph, the term "qualified real property" means any real property that was constructed or substantially renovated in an activity of the taxpayer at a time when the taxpayer materially participated in such activity.

"(c) EFFECTIVE DATE.—The amendments made by this section are effective for taxable years ending on or after December 31, 1992.

SEC. 122. SPECIAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 is amended by adding at the end thereof the following new subsection:

"(j) SPECIAL RULE FOR EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—There shall be allowed, in addition to the reasonable allowance provided for by section 167(a), a depreciation deduction determined under paragraph (2) with respect to qualified equipment.

"(2) DETERMINATION OF ADDITIONAL ALLOWANCE.—

"(A) IN GENERAL.—The additional allowance shall equal 15 percent of the purchase price of the qualified equipment.

"(B) PURCHASE PRICE.—For purposes of paragraph (A), the purchase price of qualified equipment shall equal its cost to the taxpayer. In the case of self-constructed property that is qualified equipment under paragraph (4)(D), cost is determined on the date the property is placed in service.

"(3) WHEN ADDITIONAL ALLOWANCE MAY BE CLAIMED.—The additional allowance may be claimed in the tax year in which the qualified equipment is placed in service.

"(4) DEFINITIONS AND SPECIAL RULES.—

"(A) QUALIFIED EQUIPMENT.—For purposes of this subsection, the term 'qualified equipment' means property that—

"(i) is new property,

"(ii) is section 1245 property (within the meaning of section 1245(a)(3)),

"(iii) is—

"(I) acquired on or after February 1, 1992, but only if no binding contract for the acquisition was in effect before that date, or

"(II) acquired pursuant to a binding contract entered into on or after February 1, 1992, and before January 1, 1993,

"(iv) is placed in service before July 1, 1993, and

"(v) is not defined as disqualified property in regulations prescribed by the Secretary.

"(B) NEW PROPERTY.—For purposes of this paragraph, property is new property if the original use of the property commences with the taxpayer and commences on or after February 1, 1992. Except as otherwise provided in regulations, repaired or reconstructed property is not new property, regardless of the extent of the repairs or reconstruction.

"(C) ACQUIRE.—For purposes of this paragraph, a taxpayer is considered to 'acquire' property on the date the taxpayer obtains physical control or possession of the property, or on such other date as the Secretary may prescribe by regulations.

"(D) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—If a taxpayer manufactures, constructs, or produces property for the taxpayer's own use, the property shall be treated as 'qualified equipment' only if—

"(i) the property meets the requirements of clauses (i), (ii), (iv), and (v) of paragraph (4)(A), and

"(ii) the taxpayer begins manufacturing, constructing, or producing the property on or after February 1, 1992, and before January 1, 1993.

"(E) COORDINATION WITH SECTION 280F.—In the case of a passenger automobile (within the meaning of section 280F(d)(5)) that is qualified equipment under this subsection, the Commissioner shall adjust the limitations of section 280F(a)(1) to take into account the additional allowance under this subsection. Consistent with the overall purpose of section 280F, such adjustments shall be based on the threshhold cost at which the section 280F(a)(1) limitations begin to apply.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(b) BASIS ADJUSTMENTS.—Subsection (c) of section 167 is amended by adding at the end thereof the following new sentence: "If a taxpayer claims the additional allowance provided by section 168(j) with respect to qualified equipment in a taxable year, the basis of the qualified equipment is reduced under section 1016 by the amount of the additional allowance before the depreciation deduction under paragraph (a) is determined for that taxable year."

(c) ALTERNATIVE MINIMUM TAX.—Paragraph (1) of section 56(a) is amended—

(1) by inserting "or (iii)" after "(ii)" in subparagraph (A)(i), and

(2) by adding at the end thereof the following new clause:

"(iii) The additional allowance provided by section 168(j) for certain equipment shall apply in determining the amount of alternative minimum taxable income. The basis adjustment required for the additional allowance provided by section 168(j) shall be made before the depreciation deduction allowable in determining alternative minimum taxable income under this paragraph is determined."

(d) CROSS REFERENCE.—Subsection (e) of section 1016 is amended by adding at the end thereof the following new paragraph:

"(3) For the order in which basis adjustments should be made for depreciation in the case of property with respect to which the special additional allowance is claimed under section 168(j), see section 167(c)."

(e) EFFECTIVE DATE.—The amendments made by this section are effective February 1, 1992.

SEC. 123. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) GENERAL RULE.—Clause (i) of section 56(g)(4)(A) is amended to read as follows:

"(i) PROPERTY PLACED IN SERVICE AFTER 1989 AND PRIOR TO FEBRUARY 1, 1992.—The depreciation deduction with respect to any property placed in service—

"(I) in a taxable year beginning after 1989, and

"(II) prior to February 1, 1992,

shall be determined under the alternative system of section 168(g)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for property placed in service on or after February 1, 1992.

Subtitle C—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 131. REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) INTERESTS IN MORTGAGES.—The last sentence of subparagraph (B) of section 514(c)(9) is hereby transferred to subparagraph (A) of section 514(c)(9) and added at the end thereof.

(b) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—For purposes of section 514(c)(9)(B), except as otherwise provided by regulations, the following additional rules apply—

"(i) IN GENERAL.—

"(I) For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in clause (iii) or (iv) shall be disregarded if no more than 10 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(II) Clause (v) of subparagraph (B) shall not apply to the extent the financing is commercially reasonable and is on substantially the same terms as loans involving unrelated persons; for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary.

"(ii) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—In the case of a qualifying sale out of foreclosure by a financial institution, clauses (i) and (ii) of subparagraph (B) shall not apply. For this purpose, a 'qualifying sale out of foreclosure by a financial institution' exists where—

"(I) a qualified organization acquires real property from a person (a 'financial institution') described in sections 581 or 591(a) (including a person in receivership) and the financial institution acquired the property pursuant to a bid at foreclosure or by operation of an agreement or of process of law after a default on indebtedness which the property secured ('foreclosure'), and the financial institution treats any income realized from the sale or exchange of the property as ordinary income,

"(II) the amount of the financing provided by the financial institution does not exceed the amount of the financial institution's outstanding indebtedness (determined without regard to accrued but unpaid interest) with respect to the property at the time of foreclosure,

"(III) the financing provided by the financial institution is commercially reasonable and is on substantially the same terms as loans between unrelated persons for sales of foreclosed property (for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary), and

"(IV) the amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property ('participation feature') does not exceed 25 percent of the principal amount of the financing provided by the financial institution, and the participation feature is payable no later than the earlier of satisfaction of the financing or disposition of the property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt-financed acquisitions or real estate made on or after February 1, 1992.

SEC. 132. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 131 of this Act) is amended by adding at the end thereof the following new subparagraph:

"(H) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) investments in the partnership are organized into units that are marketed primarily to individuals expected to be taxed at the maximum rate prescribed for individuals under section 1.

"(II) at least 50 percent of each class of interests is owned by such individuals,

"(III) the partners that are qualified organizations owning interests in a class participate on substantially the same terms as other partners owning interests in that class, and

"(IV) the principal purpose of partnership allocations is not tax avoidance.

"(ii) EXCEPTION WHERE TAXABLE PERSONS OWN A SIGNIFICANT PERCENTAGE.—In the case of any partnership, other than a partnership to which clause (i) applies, in which persons who are expected (under the regulations to be prescribed by the Secretary), at the time the partnership is formed, to pay tax at the maximum rate prescribed in section 1 or 11 (whichever is applicable) through the term of the partnership own at least a 25 percent interest, the provisions of subparagraph (B) shall not apply if the partnership satisfies the requirements of subparagraph (E)."

(b) PUBLICLY TRADED PARTNERSHIPS; UNRELATED BUSINESS INCOME FROM PARTNERSHIPS.—Subsection (c) of section 512 is amended by striking paragraph (2) (relating to publicly traded partnerships), by redesignating paragraph (3) as paragraph (2), and by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

Subtitle D—Provisions Affecting Homebuyers

SEC. 141. CREDIT FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—Subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—If an individual who is a first-time homebuyer purchases a principal residence (within the meaning of section 1034), there shall be allowed to such individual as a credit against the tax imposed by this subtitle an amount equal to 10 percent of the purchase price of the principal residence.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed $5,000.

"(2) LIMITATION TO ONE RESIDENCE.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

"(3) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return under section 6013, the credit under this section is allowable only if both the husband and wife are first-time homebuyers, and the amount specified under paragraph (1) shall apply to the joint return.

"(4) OTHER TAXPAYERS.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and the sum of the amount of credit allowed to such individuals shall not exceed the lesser of $5,000 or 10 percent of the total purchase price of the residence. The amount of any credit allowable under this section shall be apportioned among such individuals under regulations to be prescribed by the Secretary.

"(5) APPLICATION WITH OTHER CREDITS.—

"(A) GENERAL RULE.—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 any other credits allowable under this chapter.

"(B) CARRYFORWARD OF UNUSED CREDITS.—Any credit that is not allowed for the taxable year solely by reason of subparagraph (A) shall be carried forward to the succeeding taxable year and allowed as a credit for that taxable year. However, the credit shall not be carried forward more than 5 taxable years after the taxable year in which the residence is purchased.

"(6) YEAR FOR WHICH CREDIT ALLOWED.—Fifty percent of the credit allowed by subsection (a) shall be allowed in the taxable year in which the residence is purchased and the remaining fifty percent of the credit shall be allowed in the succeeding taxable year.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of the acquisition thereof.

"(2) FIRST-TIME HOMEBUYER.—

"(A) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual has not had a present ownership interest in any residence (including an interest in a housing cooperative) at any time within the 36-month period ending on the date of acquisition of the residence on which the credit allowed under subsection (a) is to be claimed. An interest in a partnership, S corporation, or trust that owns an interest in a residence is not considered an interest in a residence for purposes of this paragraph except as may be provided in regulations.

"(B) CERTAIN INDIVIDUALS.—Notwithstanding subparagraph (A), an individual is not a first-time homebuyer on the date of purchase of a residence if on that date the running of any period of time specified in section 1034 is suspended under subsection (h) or (k) of section 1034 with respect to that individual.

"(3) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—No credit is allowable under this section if—

"(A) the residence is acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), or

"(B) the basis of the residence in the hands of the person acquiring it is determined—

"(i) in whole or in part by reference to the adjusted basis of such residence in the hands of the person from whom it is acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(d) RECAPTURE FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (determined without regard to subsection (e)) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—The provisions of paragraph (1) do not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period to which reference is made under paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence.

"(e) PROPERTY TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—The provisions of this section apply to a principal residence if—

"(A) the taxpayer acquires the residence on or after February 1, 1992, and before January 1, 1993, or

"(B) the taxpayer enters into, on or after February 1, 1992, and before January 1, 1993, a binding contract to acquire the residence, and acquires and occupies the residence before July 1, 1993."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time homebuyer."

(c) EFFECTIVE DATE.—The amendments made by this section are effective on February 1, 1992.

SEC. 142. PENALTY-FREE WITHDRAWALS FOR FIRST HOME PURCHASE.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans), as amended by section 213 of this Act, is further amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR FIRST HOME PURCHASE.—A distribution to an individual from an individual retirement plan with respect to which the requirements of paragraph (7) are met."

(b) DEFINITIONS.—Subsection (t) of section 72 is amended by adding at the end thereof the following new paragraph:

"(6) REQUIREMENTS APPLICABLE TO FIRST HOME PURCHASE DISTRIBUTION.—For purposes of paragraph (2)(E)—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a distribution if—

"(i) DOLLAR LIMIT.—The amount of the distribution does not exceed the excess (if any) of—

"(I) $10,000, over

"(II) the sum of the distributions to which paragraph (2)(E) previously applied with respect to the individual who is the owner of the individual retirement plan.

"(ii) USE OF DISTRIBUTION.—The distribution—

"(I) is made to or on behalf of a qualified first home purchaser, and

"(II) is applied within 60 days of the date of distribution to the purchase or construction of a principal residence of such purchaser.

"(iii) ELIGIBLE PLANS.—The distribution is not made from an individual retirement plan which—

"(I) is an inherited individual retirement plan (within the meaning of section 408(d)(3)(C)(ii)), or

"(II) any part of the contributions to which were excludable from income under section 402(c), 402(a)(7), 403(a)(4), or 403(b)(8).

"(B) QUALIFIED FIRST HOME PURCHASER.—For purposes of this paragraph, the term 'qualified first home purchaser' means the individual who is the owner of the individual retirement plan, but only if—

"(i) such individual (and, if married, such individual's spouse) had no present ownership interest in a residence at any time within the 36-month period ending on the date for which the distribution is applied pursuant to subparagraph (A)(ii), and

"(ii) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from an individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account—

"(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

"(II) for purposes of subclause (II) of subparagraph (A)(i).

"(D) PRINCIPAL RESIDENCE.—For purposes of this paragraph, the term 'principal residence' has the meaning given such term by section 1034.

"(E) OWNER.—For purposes of this paragraph, the term 'owner' means, with respect to any individual retirement plan, the individual with respect to whom such plan was established."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after February 1, 1992.

TITLE II—FEDERAL INSURANCE ACCOUNTING ACT OF 1992

SECTION 201. SHORT TITLE.

This Act may be cited as the "Federal Insurance Accounting Act of 1992".

SEC. 202. INSURANCE ACCRUAL ACCOUNTING.

Title V of the Congressional Budget Act of 1974 is amended as follows:

(a) The title of title V is amended to read "TITLE V—CREDIT AND INSURANCE ACCOUNTING REFORM".

(b) Following the title, insert "Subtitle A—Credit Accounting".

(c) Substitute the word "subtitle" for "title" wherever it appears.

(d) Following section 507, insert the following:

"Subtitle B—Insurance Accounting

"SEC. 550. PURPOSES.

"The purposes of this subtitle are to—

"(1) measure more accurately the cost of Federal insurance programs;

"(2) place the cost of insurance programs on a budgetary basis equivalent to other Federal spending;

"(3) improve the allocation of resources among insurance programs and between insurance and other spending programs; and

"(4) encourage the provision of Federal insurance in a manner that adequately protects the insured at the least cost to the Federal Government.

"SEC. 551. EFFECTIVE DATES.

"The definitions and changes in budget treatment and accounting shall be effective as of the following dates:

"(a) October 1, 1991, for: the deposit insurance activities of the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the National Credit Union Administration; and the pension guarantee program of the Pension Benefit Guaranty Corporation;

"(b) October 1, 1992, for all other insurance programs.

"SEC. 552. DEFINITIONS.

"For purposes of this subtitle, with respect to any Federal insurance program—

"(1) the term 'obligation' means a binding agreement by a Federal agency to indemnify a nonfederal entity against specified losses in return for premiums paid. This term does not include loan guarantees as defined in Subtitle A or obligations of social security, Medicare, and other social and medical insurance programs;

"(2) the term 'accrued cost' means the net present value of the insurance liabilities outstanding on the effective date and at the end of each successive reporting period;

"(3) the term 'accrual cost' means the increase or decrease in accrued cost during a fiscal year or from the beginning of a fiscal year to the time of the insured event, if one occurs during the fiscal year. Alternatively, for programs for which it is possible to make actuarial estimates, the accrual cost may be the estimated long-term average loss per fiscal year for periods of comparable exposure to risk of loss;

"(4) the term 'liquidating account' means the budget account for the accrued cost, as estimated on the effective date specified in section 551;

"(5) the term 'program account' means the budget account for the accrual costs, for all costs of administering the insurance program, and balances;

"(6) the term 'financing account' means the non-budget account that receives cost payments from the program account and the liquidating account, makes payments to the program account, includes all cash flows to and from the Federal Government, and holds balances;

"(7) the term 'insured event' means an event that results in an obligation of the Federal Government; and

"(8) the term 'Director' means the Director of the Office of Management and Budget.

"SEC. 553. OMB, CBO, AND AGENCY ANALYSIS, COORDINATION, AND REVIEW.

"(a) DIRECTOR'S RESPONSIBILITIES.—For the Executive branch, the Director shall be responsible for the estimates required by this subtitle, in consultation with the agencies that administer insurance programs.

"(b) DELEGATION.—The Director may delegate to agencies authority to make estimates. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this subtitle.

"(c) COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

"(d) IMPROVING COST ESTIMATES.—The Director and the Director of the Congressional Budget Office shall coordinate the development of methods of estimating the costs of insurance programs. The Office of Management and Budget and the Congressional Budget Office shall have access to the agency data necessary to develop estimates of costs.

"(e) ACCOUNTING SUPPORT.—The Director shall coordinate the development by the Federal agencies that conduct insurance programs of such accounting methods and systems as are necessary to support accounting and budgeting for insurance programs on an accrual basis.

"SEC. 554. BUDGETARY TREATMENT.

"(a) BUDGET ACCOUNTING.—For any insurance program.—

"(1) Premiums and other income shall be credited to a finance account and available to finance program costs in the following priority:

"(A) administrative expenses, by reimbursement to the program account;

"(B) accrued costs, estimated as of the effective date specified in section 551, for insured events that occur during a fiscal year, before drawing on the resources of the liquidating account; and

"(C) accrual costs, before drawing on the resources of the program account.

"(2) Any balance of premiums and other income remaining after financing the program costs shall be paid to the program accounts.

"(3) All collections and payments by the financing accounts shall be a means of financing.

"(4) To the extent the accrued costs, estimated as of the effective date specified in section 551, for insured events that occur during a fiscal year, exceed the premiums and other income available in accordance with paragraph (1), an obligation equal to the amount of such excess shall be recorded in the insurance liquidating account. Such obligation shall be a charge, first, against any unobligated balances of the liquidating account and, second, against appropriations to the liquidating account for that year. Outlays from the liquidating account shall be made to the financing account at the time the insured event occurs. Any balances remaining in excess of accrued costs shall be transferred to the program account.

"(5) For any year in which there is an accrual cost that exceeds the premiums and other income available in accordance with paragraph (1), an obligation equal to such excess shall be recorded in the program account. Such obligation will be a charge, first, against any unobligated balances of the program account and, second, against appropriations to the program account for that year. An outlay in the amount of the obligation shall be made in the same fiscal year to the finance account for the program.

"(6) For the Bank Insurance Fund, any appropriations necessary under paragraphs (4) and (5) shall be repaid to the general fund from premiums and other income on a 15 year schedule as authorized under section 14 of the Federal Deposit Insurance Corporation Improvement Act of 1991. Premiums and other income available to the Bank Insurance Fund shall be available, first, to finance costs in the priority shown in paragraph (1) and, second, to finance these repayments.

"(b) MODIFICATIONS.—No action shall be taken to modify an insurance program in a manner that increases its accrual cost unless

budget authority for the additional accrual cost is appropriated in advance, or is available out of existing appropriations or from other budgetary resources.

"(c) ADMINISTRATIVE EXPENSES.—All obligations for an agency's administration of an insurance program shall be displayed as distinct and separately identified subaccounts within the program account. To the extent that the administrative expenses of an insurance programs are authorized to be financed by premiums and other income, the financing account shall reimburse the program account for administrative expenses. The administrative expenses of the Resolution Trust Corporation shall be financed as authorized by section 501 of Public Law 101-73, in a program account established for the purpose, separate from the RTC Revolving Fund.

"SEC. 555. AUTHORIZATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS FOR COSTS.—There are authorized to be appropriated to each Federal agency authorized to conduct insurance programs, such sums as may be necessary to pay the accrued and accrual costs associated with such insurance programs. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, such appropriations shall be considered discretionary spending if the spending for a program was classified as discretionary spending by that Act. If such spending was not classified as discretionary spending, it shall be considered direct spending (entitlement authority).

"(b) AUTHORIZATION TO ESTABLISH FINANCING ACCOUNTS.—In order to implement the accounting required by this subtitle, the President is authorized to establish such non-budgetary accounts as may be appropriate.

"(c) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the insurance financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above. The authorities described above shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate an insurance program. All of the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code. Cash balances of the program, financing, and liquidating accounts in excess of current requirements shall be maintained in a form of uninvested funds, and the Secretary of the Treasury shall pay interest on these funds.

"(d) ELIGIBILITY AND ASSISTANCE.—Nothing in this subtitle shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by, an insurance program.

"SEC. 556. EFFECT ON OTHER LAWS.

"(a) This subtitle shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this subtitle to the extent such provision is inconsistent with this subtitle. Nothing in this subtitle shall be construed to establish a limitation on any Federal insurance program.

"(b) The changes made by this subtitle shall be considered changes in budget concepts and definitions for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.".

SEC. 203. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3(2) of the Congressional Budget Act of 1974 is amended by adding "and accrual costs of insurance programs," after "programs,".

(2) Section 1105(a) of title 31, United States Code, is amended by inserting at the end thereof the following:

"(29) the accrued and accrual costs of insurance programs.".

(b) EFFECTIVE DATE.—These changes are effective upon enactment.

TITLE III—PENSION SECURITY ACT OF 1992

SECTION 301. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pension Security Act of 1992".

(b) TABLE OF CONTENTS.—

Subtitle A—Amendments to Pension Plan Funding Requirements

PART 1—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 986

SEC. 311. REVISION OF ADDITIONAL FUNDING REQUIREMENTS FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.

(a) Section 412(a) of the Internal Revenue Code of 1986 (26 U.S.C. 412(a)) is amended by striking "the excess of the total charges to the funding standard account" through the end of that sentence, and inserting "the largest of—

"(1) the lesser of—

"(A) the excess of the total charges to the funding standard account for all plan years (beginning with the first plan year to which this section applies) over the total credits to such account for such years; or,

"(B) the excess of the total charges to the alternative minimum funding standard account for such plan years over the total credits to such account for such years; or,

"(2) if applicable, the underfunding reduction requirement under subsection (1); or

"(3) if applicable, the solvency maintenance requirement under subsection (o).".

(b) Section 412(1) is revised to read as follows:

"(1) UNDERFUNDING REDUCTION REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) UNDERFUNDING REDUCTION REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the underfunding reduction requirement for such plan year is the sum of—

"(A) an amount equal to the product of the initial unfunded liability of the plan multiplied by the excess (if any) of (i) 30 percent, over (ii) the product of one quarter of one percent multiplied by the number of percentage points (if any) that the initial funding ratio of the plan exceeds 35 percent;

"(B) the charges to the funding standard account for normal cost under subparagraph (b)(2)(A) and for the amounts necessary to amortize any waived funding deficiencies under subparagraph (b)(2)(C);

"(C) the excess (if any) of—

"(i) the sum of charges to the funding standard account for plans years beginning after December 31, 1993, for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v) over—

"(ii) the sum of credits to the funding standard account for plan years beginning after December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 412(b)); and

"(D) the net of—

"(i) charges to the funding standard account for plan years beginning on or before December 31, 1993, for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v); and

"(ii) the sum of credits to the funding standard account for plan years beginning on or before December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 412(b)).

"(2) DEFINITIONS.—For definitions pertaining to this subsection, see subsection (o)(3).

"(3) APPLICATION TO SMALL PLANS.—For the application of this subsection to small plans, see subsection (o)(4).".

(c) Section 412 is further amended by adding at the end thereof the following new subsection (o):

"(o) SOLVENCY MAINTENANCE REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) SOLVENCY MAINTENANCE REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the solvency maintenance requirement for such plan year is the sum of—

"(A) the sum of:

"(i) all disbursements from the plan for the plan year, and

"(ii) an amount equal to the initial unfunded liability of the plan multiplied by the interest rate used by such plan (determined under subparagraph (b)(5)(A));

"(B) the charges described in section 412(1)(1)(B);

"(C) the amount described in section 412(1)(1)(C); and

"(D) the amount described in section 412(1)(1)(D).

"(2) LIMITATION ON SOLVENCY MAINTENANCE REQUIREMENT.—For plan years commencing after December 31, 1993, the amount required under paragraph (1) shall not exceed the sum of—

"(A) the amount required under 412(1); and

"(B) the product of—

"(i) the excess (if any) of—

"(I) the amount required under paragraph 1 over

"(II) the amount required under subsection (l); multiplied by—

"(ii) the applicable percentage.

"(iii) For purposes of subparagraph (ii), the applicable percentage is:

"For plan years commencing after:	The applicable percentage is:
December 31, 1993	20 percent
December 31, 1994	40 percent
December 31, 1995	60 percent
December 31, 1996	80 percent
December 31, 1997	100 percent

"(3) DEFINITIONS.—For purposes of this subsection and subsection (1)—

"(A) INITIAL UNFUNDED LIABILITY.—The term 'initial unfunded liability' means the excess (if any) of the amount necessary to satisfy the initial termination liability of the plan over the initial value of assets of the plan.

"(B) INITIAL FUNDING RATIO.—The term 'initial funding ratio' means the ratio of (i) the initial value of assets of the plan to (ii) the amount necessary to satisfy the initial termination liability of the plan.

"(C) INITIAL TERMINATION LIABILITY.—The term 'initial termination liability' means all liabilities with respect to employees and their beneficiaries under the plan in the meaning of section 401(a)(2) as of the first day of the plan year.

"(D) INITIAL VALUE OF ASSETS.—The term 'initial value of assets' means the value of the assets of the plan determined under section 412(c)(2) as of the first day of the plan year.

"(E) DISBURSEMENTS FROM THE PLAN.—

"(i) IN GENERAL.—The term 'disbursements from the plan' means benefit payments, including purchases of annuities or payment of lump sums in satisfaction of liabilities, administrative expenditures or any other disbursements from the plan or its trust.

"(ii) SPECIAL RULE FOR PURCHASES OF ANNUITIES AND PAYMENT OF LUMP SUMS.—In determining the applicable amounts attributable to purchases of annuities or the payment of lump sums under clause (i), the actual purchase or lump sum amounts paid by the plan or trust shall be multiplied by the excess (if any) of one over the initial funding ratio of the plan.

"(4) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection and subsection 412(1) shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding year had no more than 150 participants, the additional amounts required by the underfunding reduction requirement under subsection (1) or the solvency maintenance requirement under this subsection shall be equal to the product of—

"(i) the excess of such requirements (determined without regard to this subparagraph) over the funding deficiency (if any) under subsection 412(b), multiplied by—

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.".

(d) CONFORMING AMENDMENTS.—

(1) Section 412(b) is amended—

(A) by striking the last sentence of paragraph (2); and

(B) by striking "and for purposes of determining a plan's required contribution under section 412(l)" in subparagraph (5)(B) and inserting "under section 412(c)(7)(B)".

(2) Section 412(c) is amended by striking "has the meaning given such term by section 412(1)(7) and inserting "means all liabilities with respect to employees and their beneficiaries under the plan within the meaning of section 401(a)(2) (within such limitations as the Secretary may prescribe by regulation) determined by using the interest rate under section 412(b)(5)(B)".

(3) Section 412(m)(4)(B) is amended by striking "section 412" in subparagraph (i) and inserting "section 412 (b) or (l), whichever is greater".

(4) Section 401(a)(29) is amended—

(A) by striking "current liability" and "funded current liability percentage" and "unfunded current liability" and "412(l)" each time they appear and inserting instead, respectively, the terms "initial termination liability" and "initial funding ratio" and "initial unfunded liability" and "412(o)".

(B) By striking everything after the word "except" in subparagraph (E) and inserting "that in computing initial unfunded liability there shall not be taken into account an amount equal to the initial unfunded liability of the plan as of the beginning of the first plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987), reduced by an amount equal to the product of the amount necessary to amortize such pre-1988 initial unfunded liability in equal annual installments over a period of 18 plan years (beginning with the first plan year beginning after December 31, 1988) multiplied by the number of years (but not more than 18) beginning since December 31, 1988.".

(5) Section 404(a)(1)(D) is amended by striking "the unfunded liability determined under section 412(l)." at the end of the first sentence and inserting instead "the amount necessary to assure that the plan can satisfy all liabilities with respect to employees and their beneficiaries within the meaning of section 412(c)(7)(B) determined by using the interest rate under section 412(b)(5)(B)."

SEC. 312. CORRECTION TO ERISA CITATION.

(a) Section 404(g)(4) is amended by striking "enactment" and all that follows through the end of the paragraph and inserting "the transaction involved.".

SEC. 313. EFFECTIVE DATES.

The amendments made by section 311 shall effective for plan years beginning after December 31, 1993. The amendment made by section 312 shall take effect one day after the date of enactment of title II.

PART 2—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 321. REVISION OF ADDITIONAL FUNDING REQUIREMENTS FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.

(a) Section 302(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(a)(2)) is amended by striking "the excess of the total charges to the funding standard account" through the end of that sentence, and inserting "the largest of—

"(A) the lesser of—

"(i) the excess of the total charges to the funding standard account for all plan years (beginning with the first plan year to which this section applies) over the total credits to such account for such years; or,

"(ii) the excess of the total charges to the alternative minimum funding standard account for such plan years over the total credits to such account for such years; or,

"(B) if applicable, the underfunding reduction requirement under subsection (d); or,

"(C) if applicable, the solvency maintenance requirement under subsection (g).".

(b) Section 302(d) is revised to read as follows:

"(d) UNDERFUNDING REDUCTION REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) UNDERFUNDING REDUCTION REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the underfunding reduction requirement for such plan year is the sum of—

"(A) An amount equal to the product of the initial unfunded liability of the plan multiplied by the excess (if any) of (i) 30 percent, over (ii) the product of one-quarter of one percent multiplied by the number of percentage points (if any) that the initial funding ratio of the plan exceeds 35 percent;

"(B) the charges to the funding standard account for normal cost under subparagraph (b)(2)(A) and for the amounts necessary to amortize any waived funding deficiencies under subparagraph (b)(2)(C);

"(C) the excess (if any) of—

"(i) the sum of charges to the funding standard account for plan years beginning after December 31, 1993 for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v) over—

"(ii) the sum of credits to the funding standard account for plan years beginning after December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 302(b)); and

"(D) the net of—

"(i) charges to the funding standard account for plan years beginning on or before December 31, 1993 for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v); and

"(ii) the sum of credits to the funding standard account for plan years beginning on or before December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 302(b)).

"(2) DEFINITIONS.—For definitions pertaining to this subsection, see subsection (g)(3).

"(3) APPLICATION TO SMALL PLANS.—For the application of this subsection to small plans, see subsection (g)(4).".

(c) Section 302 is further amended by—

(1) redesignating subsection (g) as (h); and

(2) inserting after subsection (f) the following:

"(g) SOLVENCY MAINTENANCE REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) SOLVENCY MAINTENANCE REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the solvency maintenance requirement for such plan year is the sum of—

"(A) the sum of:

"(i) all disbursements from the plan for the plan year, and

"(ii) an amount equal to the initial unfunded liability of the plan multiplied by the interest rate used by such plan (determined under subparagraph (b)(5)(A));

"(B) the charges described in section 302(d)(1)(B);

"(C) the amount described in section 302(d)(1)(C); and

"(D) the amount described in section 302(d)(1)(D).

"(2) LIMITATION ON SOLVENCY MAINTENANCE REQUIREMENT.—For plan years commencing after December 31, 1993, the amount required under paragraph (1) shall not exceed the sum of—

"(A) the amount required under section 302(d); and

"(B) the product of—

"(i) the excess (if any) of—

"(I) the amount required under paragraph 1 over

"(II) the amount required under section 302(d); multiplied by—

"(ii) the applicable percentage.

"(iii) For purposes of subparagraph (ii), the applicable percentage is:

"For plan years commencing after:	The applicable percentage is:
December 31, 1993	20 percent
December 31, 1994	40 percent
December 31, 1995	60 percent
December 31, 1996	80 percent
December 31, 1997	100 percent

"(3) DEFINITIONS.—For purposes of this subsection and subsection (d)—

"(A) INITIAL UNFUNDED LIABILITY.—The term "initial unfunded liability" means the excess (if any) of the amount necessary to satisfy the initial termination liability of the plan over the initial value of assets of the plan.

"(B) INITIAL FUNDING RATIO.—The term "initial funding ratio" means the ratio of (i) the initial value of assets of the plan to (ii) the amount necessary to satisfy the initial termination liability of the plan.

"(C) INITIAL TERMINATION LIABILITY.—The term "initial termination liability" means all liabilities with respect to employees and their beneficiaries under the plan in the meaning of section 401(a)(2) of the Internal Revenue Code of 1986 as of the first day of the plan year.

"(D) INITIAL VALUE OF ASSETS.—The term "initial value of assets" means the value of the assets of the plan determined under section 302(c)(2) as of the first day of the plan year.

"(E) DISBURSEMENTS FROM THE PLAN.—

"(i) IN GENERAL.—The term "disbursements from the plan" means benefit payments, including purchases of annuities or payment of lump sums in satisfaction of liabilities, administrative expenditures or any other disbursements from the plan or its trust.

"(ii) SPECIAL RULE FOR PURCHASES OF ANNUITIES AND PAYMENT OF LUMP SUMS.—In determining the applicable amounts attributable to purchases of annuities or the payment of lump sums under clause (i), the actual purchase or lump sum amounts paid by the plan or trust shall be multiplied by the excess (if any) of one over the initial funding ratio of the plan.

"(4) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection and subsection (d) shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding year had no more than 150 participants, the additional amounts required by the underfunding reduction requirement under subsection (d) or the solvency maintenance requirement under this subsection shall be equal to the product of—

"(i) the excess of such requirements (determined without regard to this subparagraph) over the funding deficiency (if any) under subsection 302(b), multiplied by—

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day.".

(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

(d) CONFORMING AMENDMENTS.—

(1) Section 302(b) is amended—

(A) by striking "and for purposes of determining a plan's required contribution under section 302(d)" in subparagraph (5)(B) in inserting "under section 302(c)(7)(B)".

(2) Section 302(c) is amended by striking "has the meaning given such term by subsection 302(d)(7) (without regard to subparagraph (D) thereof)" in subparagraph (7)(B) and inserting "means all liabilities with respect to employees and their beneficiaries under the plan within the meaning of section 401(a)(2) of the Internal Revenue Code of 1986 (within such limitations as the Secretary of the Treasury may prescribe by regulation) determined by using the interest rate under section 302(b)(5)(B)".

(3) Section 302(e)(4)(B) is amended by striking "section 412 of the Internal Revenue Code of 1986" in subparagraph (i) and inserting "section 412 (b) or (i) of the Internal Revenue Code of 1986, whichever is greater".

SEC. 322. EFFECTIVE DATES.

The amendments made by this part shall be effective for plan years beginning after December 31, 1993.

Subtitle B—Amendments to Title IV of ERISA

SEC. 331. LIMITATION ON BENEFITS GUARANTEED.

(a) Subsection (b)(1) of section 4022 of ERISA is amended by adding after "(7)" ", (8) and (9)".

(b) Subsection (b)(7) of section 4022 of ERISA is amended by—

(1) striking the period at the end and inserting in its place a semicolon; and

(2) by adding after paragraph (7) a new paragraph (8):

"(8)(A) Benefits under a new plan or any increase in benefits under a plan resulting from a plan amendment, which new plan or amendment was adopted or became effective after December 31, 1991, shall be disregarded unless:

"(i) The plan was fully funded for vested benefits for the plan year that the new plan or amendment was adopted or became effective, whichever is later, or became fully funded for vested benefits in a subsequent plan year; and

"(ii) The new plan or amendment was adopted or effective, whichever is later, at least one year prior to the date of plan termination.

"(B) For purposes of this section, a plan is 'fully funded for vested benefits' for any plan year if such plan has no unfunded vested benefits within the meaning of section 4006(a)(3)(E)(iii) as of the last day of such plan year.

"(C)(i) Except as provided in clause (ii), paragraph (7) and paragraphs (5)(B) and (5)(C) shall not apply to benefits described in subparagraph (A) of this paragraph.

"(ii) This paragraph shall not apply, and paragraph (7) and paragraphs (5)(B) and (5)(C) shall apply, to any new plan or plan amendment resulting from a collective bargaining agreement or amendment thereto entered and ratified on or prior to December 31, 1991.".

(c) Subsection (b) of section 4022 of ERISA (as amended by subsection (b) of this section) is further amended by adding a new paragraph (9):

"(9)(A) Notwithstanding paragraph (8), any plan provision or amendment adopted or effective after December 31, 1991, that creates or increases unpredictable contingent event benefits shall not be guaranteed.

"(B) For purposes of this section, an 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(i) age, service compensation, death or disability, or

"(ii) an event which is reasonably and reliably predictable (as determined under regulations prescribed by the corporation).".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective on December 31, 1991.

SEC. 332. ENFORCEMENT OF MINIMUM FUNDING REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 4003(c) of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303 (e)(1)) is amended by inserting after "title" the following: "and, in the case of a plan to which this title applies under section 4021, section 302 of this Act or section 412 of the Internal Revenue Code of 1986".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for installments and other payments required under section 302 of the Employee Retire-

ment Income Security Act of 1974 or section 412 of the Internal Revenue Code of 1986 due on or after the date of the enactment of this Act.

SEC. 333. DEFINITION OF CONTRIBUTING SPONSOR.

(a) IN GENERAL.—Paragraph (13) of section 4001(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)(13)) is amended to read as follows:

"(13) 'contributing sponsor' means, with respect to a single-employer plan, a person entitled to receive a deduction under section 404(a)(1) of the Internal Revenue Code of 1986 for contributions required to be made to the plan under section 302 of this Act or section 412 of such Code.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in section 9305 of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-351).

SEC. 334. RECOVERY RATIO PAYABLE UNDER CORPORATION'S GUARANTY.

(a) IN GENERAL.—Section 4022(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(c)(3)(B)) is amended—

(1) by redesignating clauses (i) and (ii) as clauses (ii) and (iii) respectively; and

(2) by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the outstanding amount of benefit liabilities does not exceed $20,000,000,".

(b) TERMINATIONS.—Clause (iii) of section 4022(c)(3)(B) of such Act (29 U.S.C. 1322(c)(3)(B)), as redesignated by subsection (a), is amended—

(1) by inserting ", or proceedings were instituted under section 4042," after "provided"; and

(2) by striking "in which occurs the date of the notice of intent to terminate with respect to the plan termination".

(c) CONFORMING AMENDMENTS.—Clause (i) of section 9312(b)(3)(B) of the Pension Protection Act is amended by—

(1) inserting ", or proceedings were instituted under section 4042," after "provided"; and

(2) striking "1990" and inserting "1994".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 9312(b)(3) of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-362).

SEC. 335. ELIMINATION OF THE SEVENTH REVOLVING FUND.

(a) TRANSFER.—Effective September 30, 1992, all assets and liabilities of the fund described in section 4005(f)(1) of the Employee Retirement Income Security Act of 1974 (as in effect before the amendments made by this section) shall be transferred to the fund established pursuant to section 4005(a) of such Act with respect to basic benefits guaranteed under section 4022 of such Act.

(b) REPEAL.—Section 4005 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1305) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning after September 30, 1992.

SEC. 336. DISTRESS TERMINATION CRITERIA FOR BANKING INSTITUTIONS.

(a) IN GENERAL.—Subclause (I) of section 4041(c)(2)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)(B)(i)(I)) is amended by inserting "Federal law or" before "law of a State".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan terminations under section 4041 of the Employee Retirement Income Security Act of 1974 with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after the date of the enactment of this Act.

SEC. 337. VARIABLE RATE PREMIUM EXEMPTION.

(a) IN GENERAL.—Clause (v) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by striking all that follows "not less than" and inserting "the maximum amount that may be contributed without incurring an excise tax under section 4972 of the Internal Revenue Code of 1986".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

Subtitle C—Employer Liability, Lien and Priority

PART 1—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 341. EMPLOYER LIABILITY LIEN AND PRIORITY AMOUNT.

(a) REVISED LIMITATIONS ON LIEN AND TAX PRIORITY AMOUNT.—Section 4068(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1368(a)) is amended—

(1) by striking "If any person liable to the corporation" and inserting "(1) Subject to paragraphs (2) and (3), if any person liable to the corporation";

(2) by striking "section 4062" and inserting "section 4062(a)(1)";

(3) by striking the comma after "belonging to such person" and inserting a period;

(4) by striking "except that such lien" and inserting the following:

"(2) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation before January 1, 1992, the lien established under paragraph (1)"; and

(5) by adding at the end the following paragraph:

"(3)(A) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation on or after January 1, 1992, the lien established under paragraph (1) may not be in an amount in excess of the sum of—

"(i) the amount of benefits attributable to the occurrence of unpredictable contingent events valued as of the date of plan termination arising at any time during the 3 years preceding the date of plan termination (to the extent not funded prior to plan termination), plus

"(ii) the greater of—

"(I) 30 percent of the collective net worth of all persons described in section 4062(a), or

"(II) the currently applicable percentage of the excess of the amount of unfunded benefit liabilities under the plan as of the date of plan termination over the amount described in clause (i).

"(B) For purposes of this paragraph—

"(i) the term 'currently applicable percentage' means—

"(I) with respect to plan terminations initiated in calendar year 1992, 10 percent,

"(II) with respect to plan terminations initiated in any calendar year after 1992 and before 2012, the percentage determined under this clause with respect to plan terminations initiated in the preceding calendar year, plus 2 percent, and

"(III) with respect to plan terminations initiated in calendar years after 2011, 50 percent.

"(ii) The term 'amount of benefits attributable to the occurrence of unpredictable contingent events' means, with respect to any plan, the present value of unpredictable contingent event benefits (within the meaning of section 302(d)(7)(B)(ii)), determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044.

"(C) In applying subparagraph (A), the corporation may disregard subclause (I) of clause (ii) thereof if the corporation determines, in its sole discretion, that disregarding such subclause (I) is cost-effective.".

(b) CONFORMING AND CLARIFYING AMENDMENTS RELATING TO AMOUNT ENTITLED TO PRIORITY TREATMENT IN INSOLVENCY AND BANKRUPTCY CASES.—Section 4068(c)(2) of such Act (29 U.S.C. 1368(c)(2)) is amended by inserting "(A)" after "(2)" and by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall apply—

"(i) in the case of terminations described in paragraph (2) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (2), and

"(ii) in the case of terminations described in paragraph (3) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (3).".

(c) CLARIFICATION OF BANKRUPTCY AND INSOLVENCY CLAIM.—Section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100-203, 101 Stat. 1330-361) is amended by adding at the end thereof the following new clause:

"(iii) Section 4068(c)(2) of ERISA (29 U.S.C. 1368(c)(2)) is amended—

"(I) by striking 'the lien imposed under subsection (a)' and inserting 'the liability to the corporation under section 4062(a)(1), 4063, or 4064'; and "(II) by inserting 'which is' after 'tax', and by inserting 'and assigned priority' after 'United States'.".

(d) EFFECTIVE DATES.—

(1) Section 4068(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(i) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act before January 1, 1992.

(2) Section 4068(a)(3) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(ii) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act on or after January 1, 1992.

(3) The amendment made by subsection (a)(2) shall be effective as if included in the enactment of section 11011(a) of the Single-Employer Pension Plan Amendments Act of 1986 (Public Law 99-272; 100 Stat. 253).

(4) The amendment made by subsection (c) shall be effective as if included in the enactment of section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100-203, 101 Stat. 1330-361).

SEC. 342. LIABILITY UPON LIQUIDATION OF CONTRIBUTING SPONSOR WHERE PLAN REMAINS ONGOING

(a) IN GENERAL.—Section 4062 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1362) is amended by adding at the end the following new subsection:

"(f) LIABILITY ON LIQUIDATION OF CONTRIBUTING SPONSOR.—

"(1) IN GENERAL.—In any case in which all or substantially all of the assets of a person who is a contributing sponsor of a single-employer plan are liquidated in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision of a State, and in the course of such liquidation another member of such person's controlled group remains a contributing sponsor of the plan or is liable for payment of contributions or installments under section 302(c)(11) of this Act or section 412(c)(11) of the Internal Revenue Code of 1986, such person shall be deemed liable under subsection (b) as if such plan had terminated under section 4041(c) in the course of such liquidation and as if the termination date were the date determined by the corporation as the date on which the liquidation was initiated.

"(2) APPLICABILITY OF OTHER PROVISIONS.—Any provision of this Act or any other provision of law that applies to liability under this section upon termination of a plan shall apply in the same manner and to the same extent to the liability established under this subsection. For purposes of this paragraph, the date referred to in paragraph (1) shall be deemed the date of plan termination.

"(3) TRANSFER OF LIABILITY PAYMENTS TO THE ONGOING PLAN.—The corporation shall pay to the plan amounts collected by the corporation in satisfaction of any liability established under this subsection in connection with such plan.

"(4) REGULATIONS.—The corporation may prescribe regulations under this subsection. Such regulations may—

"(A) prescribe rules governing—

"(i) the basis upon which the plan will continue as an ongoing plan maintained by other members of the controlled group,

"(ii) the determination of whether a liquidation referred to in this subsection has occurred, and

"(iii) the assignment of the corporation's claim to liability payments under this subsection to other members of the controlled group as a means of collecting such payments, subject to the transfer of such payments to the plan, and

"(B) provide alternative arrangements for making liability payments under this subsection.".

(b) CONFORMING AMENDMENT.—Section 4062(a)(1) of such Act (29 U.S.C. 1362(a)(1)) is amended by striking "subsection (b) and inserting "subsections (b) and (f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for liquidations initiated on or after the day following the date of enactment of title II.

PART 2—AMENDMENTS TO TITLE 11, UNITED STATES CODE

SEC. 351. PENSION BENEFIT GUARANTY CORPORATION PERMITTED TO BE A MEMBER OF AN UNSECURED CREDITORS' COMMITTEE.

(a) DEFINITION.—Section 101(41) of title 11 of the United States Code is amended by inserting "that guarantees pension benefits of the debtor or an affiliate of the debtor, or" after "governmental unit" the second time it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply with respect to cases commenced under title 11 of the United States Code before the day following of the enactment of title II.

SEC. 352. CLARIFICATION OF PRIORITIES IN CONFORMITY WITH THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) PRIORITY AS EXPENSES ARISING BEFORE COMMENCEMENT OF CASE.—

(1) in subparagraph (F), by striking "or" at the end;

(2) in subparagraph (G), by striking the period at the end and inserting a semicolon; and

(3) by adding after subparagraph (G) the following:

"(H) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period prior to the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; or

"(I) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is on or prior to the date of the filing of the petition.

"For purposes of subparagraph (I), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.".

(b) PRIORITY AS ADMINISTRATIVE EXPENSES ARISING AFTER COMMENCEMENT OF CASE.—Section 503(b) of such title 11 is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting "; and"; and

(3) by adding at the end the following;

"(7)(A) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period beginning on the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; and

"(B) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is after the date of the filing of the petition.

"For purposes of paragraph (7)(B), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.".

(c) EFFECTIVE DATE.—Sections 507(a)(7)(H) and 503(b)(1)(7)(A) of title 11 of the United States Code (as amended by this section) shall be effective as if included in section 9304(e) of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-348). Sections 507(a)(7)(I) and 503(b)(1)(7)(B) of such title (as amended by this section) shall be effective with respect to cases under such title which commence on or after the day following the date of the enactment of title II or cases under such title which are pending on the day following the date of the enactment of title II and in which claims for liability have not been resolved as of such date.

SEC. 353. NOTICE REQUIRED WHERE FEDERALLY INSURED PENSION PLAN IS ADMINISTERED BY THE DEBTOR OR ITS AFFILIATE.

(a) IN GENERAL.—Rule 2002(j) of the Bankruptcy Rules (11 U.S.C. Appendix) is amended by inserting before the period at the end the following: "; (5) to the Pension Benefit Guaranty Corporation in any case in which the debtor or an affiliate of the debtor maintains a pension plan to which title IV of the Employee Retirement Income Security Act of 1974 applies.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect one day after the date of enactment of title II.

TITLE IV—ELIMINATE THE STATUTE OF LIMITATIONS ON THE COLLECTION OF DEFAULTED GUARANTEED STUDENT LOANS

SEC. 401. Section 3(c) of the Higher Education Technical Amendments of 1991 (P.L. 102-26) is amended by striking out "that are brought before November 15, 1992".

TITLE V—EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES

SEC. 501. Chapter 83 of title 5, United States Code, is amended—

(1) in section 8342(a) by striking out "section 8343a or";

(2) by repealing section 8343a; and

(3) in the analysis by striking out the item relating to section 8343a.

SEC. 502. Chapter 84 of title 5, United States Code, is amended—

(1) by repealing section 8420a;

(2) in section 8424(a) by striking out "Except as provided in section 8420a, payment" and inserting in lieu thereof "Payment"; and

(3) in the analysis by striking out the item relating to section 8420a.

SEC. 503. The Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) is amended by repealing section 807(e).

SEC. 504. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is amended in part K of title II by repealing section 294.

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ROSTENKOWSKI. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The Chair will recognize the gentleman from Illinois [Mr. ROSTENKOWSKI] for 30 minutes.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on February 26, 1975, 17 years ago today, the House of Representatives passed a bill to provide an economic stimulus to a flagging economy. That bill was in response to President Ford's State of the Union challenge to Congress to pass a bill he could sign by April 1.

The conference agreement was approved by the House and Senate on

March 26 and was signed into law on March 29.

We have a chance today to repeat a bit of history and move a package forward that President Bush can sign into law.

For us to succeed, we need a bill that stimulates investment, creates new jobs, preserves existing jobs, and restores the confidence of the American people in their financial futures.

The Michel-Archer substitute provides that opportunity. it is progrowth, prohousing, prosavings, proinvestment, projobs, and profiscal responsibility.

Introduced as H.R. 4200, it contains the seven specific economic stimulus provisions President Bush challenged Congress to pass by March 20.

□ 1100

It is fully financed in each and every year without resorting to any tax increases. Unlike the Democrats' alternative, it meets every requirement of the Budget Enforcement Act.

It will stimulate individual savings and investment by reducing the extra tax burden this country—virtually alone among its international competitors—places on capital savings. We tax income when it is earned, and then we tax it again when the income is saved and invested.

Current tax rules lead people to hang on to assets long after they should be sold in the name of efficiency and economic self-interest, and the President's capital gains rate reduction in the Archer-Michel substitute will restart the engine of capital formation and stimulate new job-creating investment.

The Archer-Michel substitute will also help thousands of Americans fulfill the great American dream of owning their own home because it provides a credit of up to $5,000 for first-time home buyers. There is no such provision in the Rostenkowski Democrat alternative.

The credit has become an enormously important provision in this economic growth debate, just as the home buyer credit was in 1975, because today's proposed credit will create 700,000 jobs and make homes affordable for many middle income Americans. Buyers are holding off today in purchasing their home to see what we do. Helping to make the credit even more effective is our provision allowing the penalty-free withdrawal of IRA savings to make the down payment on that first home.

The Michel-Archer substitute would also promote immediate investment, jobs, and growth by providing an incentive for businesses to buy productive equipment and buy it right now.

The President's investment tax allowance would give businesses an extra 15-percent depreciation deduction in the first year.

Our substitute contains two other ideas to provide additional help to the real estate sector. It would restore full deductibility of losses for real estate developers, and it would remove unnecessary restrictions on pension fund investment in real estate.

It's no accident that real estate—and home ownership in particular—are focal points of the President's plan. Those are the sectors which have led the Nation out of every recession in recent memory, and they can again if we adopt this substitute.

Importantly, unlike the $93 billion tax increase alternative that Chairman ROSTENKOWSKI will offer later today, this is a package that can become law.

This substitute does have the potential for helping us reach a bipartisan compromise, and we're really very close already.

The Democrat alternative now includes six of the seven proposals—some identical, some modified—contained in the President's March 20 challenge. A large majority in this Chamber agree that those provisions—in some form—should be enacted now.

And that's exactly what we should do: Move ahead quickly where we have agreement, and not let our disagreement on controversial tax increases prevent us from enacting legislation that will put people back to work.

The President had the right idea. Now let's do our part.

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to H.R. 4200, the Republican substitute for the President's original tax proposals.

This is the third version of the President's tax program. His first version contained the tax proposals presented in the President's budget and State of the Union Message. We rejected that version yesterday.

The second version was the bill, H.R. 4200, introduced on the President's behalf by the Republican leader and ranking minority member of the Ways and Means Committee. The third version is the substitute now before us which contains a further change to the President's capital gains tax cut for the wealthy.

I think we should vote on it right away, before the President and his Republican supporters change their minds again. As my distinguished counterpart, Senator BENTSEN, has said: "If the President keeps changing his proposals, even he won't make his March 20 deadline." To which I add: Instead of "Read my lips," it's "Watch my flips."

Let's review the chronology of the President's ever changing tax proposals. In his State of the Union Address, the President promised broad tax relief to the American people, including a tax cut for the middle class. The very next day, the President submitted his budget for fiscal year 1993 which contained 39 revenue proposals.

However, Republicans in the House read the President's budget with horror because the President proposed to tax credit unions, life insurance annuities, firemen, policemen, teachers, and other State and local government workers. Republicans then ran to the White House and said: "This won't do. We won't support it. This will have to change."

Within a week of submitting his budget, the President agreed to change his original plan, and asked the Republican leader and the ranking minority member of the Ways and Means Committee to introduce H.R. 4200, which includes only seven of the President's original proposals. Most regrettably, the President, and his Republican supporters decided to drop the tax cut promised just a week before to middle-class Americans across the country.

It took the President and his advisers 2 months to decide on his original economic growth package—and 1 week to drop the middle-class tax cut from the bill.

We were repeatedly told by Treasury Secretary Brady, by Assistant Secretary Goldberg, by OMB Director Darman, by the Republican leader, and by the President himself that H.R. 4200—let's call it Bush 2—was the bill the President wanted passed and on his desk by March 20. Gone was the middle-class tax cut—wait, the President said, for the second tax bill, or, as the President himself described it, wait for the political dance after the first bill is enacted.

Some Republican insiders were quoted in the press as saying the President never intended to give the middle class any tax relief at all. The promise of a middle-class tax cut, they said, was only for the New Hampshire primary. No wonder the American people are so cynical about government—when a middle-class tax cut is advertised in the State of the Union and on the campaign stump, and then dropped a week later in the bill introduced on the President's behalf by the House Republican leadership.

At the same time that he dropped the middle-class tax cut, the President and his Republican supporters made his capital gains cut for the wealthy even more generous. The annual $8,500 capital gains cut in the President's first proposal apparently wasn't good enough for his Republican supporters here in the House. So they increased the tax cut for the wealthy to $12,700 in Bush II.

Meanwhile, the middle class was told to be patient—just wait for the economic benefits from the capital gains cut to trickle down. Well, the middle class has been waiting for Republican promises to trickle down for the last 10 years—while the rich got richer, the poor got poorer, and the middle class just got squeezed.

And now the President and the House Republicans have changed the Presi-

dent's proposals again—let's call it Bush III. They asked for just one amendment, which was granted by the Rules Committee. No it was not to put the middle-class tax cut back in. No. You could have guessed it—they just had to liberalize capital gains one more time: hundreds of millions for the wealthy, hundreds of millions for the deficit, still nothing for the middle class.

In addition to my objections about leaving out the middle class, I am also concerned that Bush III leaves out several important provisions that are supported by strong majorities on both sides of the aisle in the House. These include broader real estate passive loss relief, repeal of the luxury tax on boats and other items, and important taxpayer bill of rights, pension and other tax simplification, and the permanent extension of various expiring provisions including the R&D credit, the low-income housing credit, the targeted jobs credit, mortgage revenue bonds, and employer-provided educational assistance. In addition, Bush III does not include urban and rural enterprise zones or any tax relief for student loans so that middle-class Americans can send their kids to college.

Finally, Bush III, the Republican substitute, should be rejected because it will increase the deficit by $28 billion over the next 5 years, and by even more in the years beyond. The budget gimmicks that have been used by the President and his Republican supporters, in an attempt to disguise the bill's real revenue losses, do not come close to fully funding the package—and won't, no matter how many times the package is revised.

Increasing the deficit in the long term as the Republican substitute does, is a failure of leadership and threatens the Nation's long-term economic growth and prosperity.

Mr. Chairman, for all the stated reasons, I strongly oppose the Republican substitute and urge my colleagues to reject it.

□ 1110

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, as far as I am concerned, we have but one priority; and that is to create jobs, good jobs with good benefits. We do this through the encouragement of investment and savings.

We also must control the deficit. I hear this, time and time again, as I go around the State of Washington. Not just from a parade of well-educated economists, but from people who live in places like Aberdeen, Forks, and Port Angeles, people out of work in the timber industry.

The Republican package meets the test of this priority to create jobs. It has within it an investment tax credit, first-time home buyer tax credit, and important real estate provisions, to help lead us out of this recession.

It encourages savings and investment at home through a capital gains reduction, expanded individual retirement accounts, and incentives to invest right here at home. It does not increase the deficit. It is fully funded each year.

On the other hand, our friends from the other side of the aisle do not create jobs, they do not encourage investment, and they do not control the deficit. They do raise taxes, and they do encourage class warfare.

I want to say this: Americans want jobs. I would rather put a paycheck in the pocket of someone who does not have a job than put $1 a day in the pocket of somebody who is working.

Where is the priority? People who are out of work are hurting. They are the ones to whom this situation is unfair, not those who are lucky enough to have a job.

The President's plan does create jobs. This plan puts Americans first, and it does not do it through isolationism or protectionism.

We also must do more, much more. Many of the provisions the chairman talked about in his package I favor very much. In fact, I helped author some of them. But we can do those later, once we have worked to jump start this economy.

We need to reduce the deficit through cutting wasteful spending. We need to adopt a North American free-trade agreement, and open markets to free trade and fair trade for all.

We need to amend the Endangered Species Act to get workers to work who have been thrown onto the unemployment rolls by a rigid, inflexible, unfair law that is not working for anybody.

I urge my colleagues to vote today to support the Michel-Archer substitute.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Chairman, in New York City there was once a clothing store, and there still is, by the name of Barney's. They had an interesting ad. Their ad said: "At Barney's, you can select; you don't have to settle."

Now, unfortunately, a tax law is not like a men's haberdashery. Here we are asked to settle, not select.

If you are forced into a position of accepting that which is offered as opposed to doing precisely what you want, these two bills give you ample reason to be concerned about our future.

But as I look at the Democratic version of the tax bill versus the Republican, I am struck by a couple of things. We tried mightily in our plan to make sure that it is paid for and that it is not ridden with gimmicks. We members of the Committee on Ways and Means recognized that things like the permanent extension of the R&D tax credit, permanently extending affordable housing, providing for a targeted tax credit, removing some of the luxury taxes that have been much maligned, and also having a rational capital gains was the way to go.

But the one thing we understood probably more than anything was that there were millions of people who had been left out of the Reagan-Bush revolution. Now, my Republican friends call this class warfare. It is class warfare in a way, and you have been winning. You have managed over the years to do a wonderful job of increasing the number of millionaires and billionaires. Sadly, the percentage of people who have been middle class have also been reduced.

Now, this middle class proposal that is in this bill is not what I want. I would have preferred to give money permanently to families with children and focus that relief on them. We were given every opportunity to pass that, but unfortunately not a majority on our committee were for it. I understand that the other body is interested, so those people who are concerned about the Democratic bill understand that when the House Democratic plan goes forward, we will be able to negotiate with our Senate friends to help families with kids. So there are many good things in the Democratic bill and many opportunities to make it better.

Now, what about the substitute before us today? The Republican Party was once a party that had a proud tradition. The tradition said that we are interested in fiscal responsibility. We want to make sure that deficits do not grow, that they diminish. They have sacrificed at the altar of electoral politics any sense of fiscal responsibility.

The President of the United States in a interview with David Frost said, "I will do anything I have to to win." Evidence of that is the Republican tax plan. It has nothing for the middle class. It says that it will create jobs. It may or may not create jobs. It will certainly create a much higher long-term deficit.

Who benefits and who does not benefit? The reason the Republicans do not like to talk about who benefits who does not benefit is because when you look at their plan, it is so hopelessly and unalterably weighted to wealthy Americans, that it puts any rational argument on its face that it is determined to help the broad bases of middle income people in this country.

The President said he wanted to deliver a $500 increase in the personal exemption for dependent children. Where is it? Where is it? He campaigned in New Hampshire and said "I am for this."

It is not in your plan. In your plan are a series of proposals that are designed to make the rich richer, the middle class poorer, and the poor des-

titute. It would be rejected for its unfairness alone. If unfairness is not one of the reasons for it to be rejected, then take a look at the gimmicks that are riddled in its plan to pay for itself.

□ 1120

It will increase the deficit long term. It will not create the jobs that it advertises it will create, and it will result in further exacerbating the income differentials that exist in this country.

Please, my colleagues, reject this plan. Recognize that all may not be perfect with the Democratic plan but it is an infinite improvement over what the Republicans have produced.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I come from the school that believes the best approach to stimulating a sustained economic recovery is to let monetary policy and low interest rates work, and do nothing that would cause these rates to rise again. That means keeping a lid on the Federal deficit and making only those changes in the tax laws that contribute to long-term growth and competitiveness. I only wish the Democrats shared this philosophy.

Predictably, but unfortunately, the Democrat approach to jump-starting the economy, H.R. 4287, is to raise taxes, shift $90 billion of tax burdens between groups without any thought to the negative economic effects, violate the Budget Enforcement Act, and use permanent tax increases to fund temporary tax cuts.

This will not create jobs. This will not stimulate the economy. This will not promote long-term growth. This will not control spending. Mr. Chairman, this is not leadership.

There is almost universal agreement from across the spectrum that whatever we do, we should not increase the deficit, start a bidding war that will rapidly get out of hand, transfer income from one group to another hoping this will stimulate the economy and create jobs, or adopt a package that is not disciplined or targeted toward investment. The Republican plan meets these mandates—the Democrat plan does not.

H.R. 4287 is bad tax policy and even worse economic policy. Our problem in this country is hardly that we overinvest and underconsume. Rather, it is exactly the reverse. H.R. 4287, which would dole out minuscule, consumption-oriented tax cuts while taking funds away from those taxpayers who have the capacity to save and invest, is an awful idea.

My constituents tell me they want jobs, not a 1-dollar-a-day tax cut. And they certainly do not support increased Federal borrowing to support a temporary tax cut.

I will support the Michel-Archer substitute. Adoption of this seven-point plan is a foundation for long-term growth. The proposal provides for a reduction in the capital gains tax rate, institutes an investment tax allowance to encourage new investment, simplifies the alternative-minimum tax system, and encourages real estate investment and home ownership through a modification to the passive loss rules and the establishment of a tax credit for first-time home buyers. This plan does not impose any new taxes that will negate its positive economic effects and further hamper economic growth. And this plan shows fiscal restraint that sticks to pay-as-you-go budgeting.

The measures contained in the Michel substitute, H.R. 4200, hold the promise of actually enhancing long-term economic growth and providing a boost in short-term business and consumer confidence. The Republican alternative isn't perfect, but it's far preferable to the Democrat tax-increasing alternative. I will support it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Chairman, I urge opposition to the Republican substitute and strong support for the Democratic bill that will be coming up after this coming vote. I would like to talk one moment about definitions, if I may.

We have been hearing from Members on the other side of the aisle that the Democratic bill is a bill that transfers money or income between groups. We have also heard that they talk about redistribution.

Let me tell my colleagues what that actually means when we talk about moving money or income from one group to another and redistribution. What it basically means is that we have a 10-percent surtax on people that make $1 million a year. Second, on people that make about $200,000 a year income, joint filers. We increase taxes on them from 31 percent to 35 percent. And we use that $55 billion tha we pick up annually for people in the middle-income group, 90 million taxpayers will then get about $800 to $1,000 over the next 24 months in credits on their income tax.

That is what we are really talking about when we are talking about redistribution. The reason we are doing this is not because of economic growth. It will not have any impact on growth. What it will have, however, is equity in the Tax Code. And as many of my colleagues, know, in 1981 and over the last decade, the Income Tax Code got to the point where the wealthier had lower taxes. The middle-income people had higher taxes.

We thought this was an opportunity, because President Bush talked about it in his State of the Union Message, to bring equity back to the Tax Code.

But the reason I want to speak on the floor is to talk a little bit about some of the growth initiatives that I am afraid my colleagues on the other side of the aisle seem to have forgotten about. These are some of the provisions that George Bush picked out of the Democratic proposals that were floating around over the last 2 years in the form of bills that had not been brought to the full committee.

One is that we have a capital gains proposal. It is a very good capital gains proposal that will help middle-income Americans because what our bill does, it provides for nontaxability of inflationary gains.

What that means is if we have 100-percent inflation on a piece of property over a 10-year period and the cost of that property $100,000 and now it is $200,000, our tax will only be on $100,000 and that is only fair because the inflationary gain, frankly, should not have been taxed at all. That is not appreciation of your property.

We have a venture capital proposal that helps small business ventures that want to start up; it provides capital gains for them.

It also provides for very small businesses expensing. They can buy machinery and equipment up to $25,000; instead of having to depreciate it, they can expense it.

We have a number of other growth-oriented provisons in this bill. I am afraid that what is going to happen for those Members that vote against this bill, they are going to have to go home and they are going to have to explain to their constituents, their business community, small businesses, why, why they did not support capital gains expensing up to $25,000, IRA's for first-time home buyers and for education and medical expenses.

It is my belief that this vote will be a critical vote, particularly for those that vote against this bill, because it is a very, very good piece of legislation.

Mr. Chairman, today I rise in support of H.R. 4287, the Tax Fairness and Economic Growth Act of 1992, drafted by the Ways and Means Committee over the past several weeks. It is a balanced, equitable package, offering both middle-income tax relief and growth and investment incentives, and it deserves strong support.

For over a year, there has been much discussion regarding the decline in progressivity of the Tax Code. Study after study has shown that, since the mid-1970's, while the rich have gotten richer, the middle class has seen its real income decline steadily. Democrats and Republicans alike appear to agree that this is a very real problem—the Democratic alternative, however, contains the broadest relief and most fair solution for a vast majority of U.S. tax return filers.

Restoring fairness in the code is an important first step. Equally important, however, is stimulating the economy by providing investment incentives and job assurance. With that in mind, I am particularly pleased that H.R.

4287 incorporates strong incentives for small businesses. It encourages capital formation for entrepreneurial ventures, and it helps already existing small companies expand by allowing more liberal expensing.

Small business is the engine for new job creation in our economy, but few people understand the magnitude of this statement. In 1988, for example, it is estimated that, while the United States added 3.6 million jobs to the economy, the Fortune 500 companies eliminated 400,000 jobs. Small business accounted for the difference. In the 10 years between 1976 and 1986, government data shows that 7 percent of U.S. companies created two-thirds of all new jobs during that period, and 85 percent of those firms had fewer than 100 employees.

Despite the importance of these small firms, a high cost and scarcity of capital for small, entrepreneurial firms over the past several years has put America at a disadvantage. The alarming slowdown in domestic capital investment has caused smaller firms to turn to investors from our major international competitors to fund their growth. This is simply unacceptable—we must enact the small business incentives in the Democratic alternative to buoy this important sector of our economy.

The Democratic substitute would provide middle-class relief, job creation, growth and investment incentives, measures to ensue that the wealthy pay their fair share of taxes, and simplification of the laws. My colleagues who do not vote for this package will have to answer why they object to a tax credit for student loan interest, penalty-free IRA withdrawals for first-time home buyers or for medical or educational expenses, expansion of the income exclusion for employer-provided transit passes and van pooling, a taxpayer bill of rights and other middle-income tax relief provisions.

Any Member voting against this bill will have to explain why he or she is voting against the enactment of growth incentives such as permanent extension of the research and development credit, the low-income housing credit, the targeted jobs tax credit, the exclusion for employer-provided educational assistance, and enterprise zones for urban and rural areas.

Finally, any Member voting against H.R. 4287 should explain why he or she is voting against progressivity and fairness. This package restores equity in the code by requiring that the wealthy pay their fair share of taxes. Any Member voting no should explain why he or she objects to a 10-percent surtax on millionaires and a $1 million cap on the corporate deduction for executive compensation.

This package is balanced; it is equitable; and it reduces the Federal deficit. It is time to give the American people the relief they have been asking for—vote for this Democratic alternative, and do something good for America and the economy.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, what this debate is about today is whether or not we are going to recognize that supply-side economics, that tax policy influences investment attitudes, and job creation should be the law of the land.

We learned this in 1981, when I was here and voted to reduce marginal tax rates for all Americans. And we created almost 20 million jobs for this country in the decade of the 1980's. We took that away in 1986 and 1990. The reality is, Congress has raised taxes 13 times since 1981, and I am proud to say I voted against every one of those tax increases.

But today the issue is, Shall we recognize again that tax policy influences investment decisions? The Republican alternative is not everything I would like in a proposal, but the capital gains provision is far more beneficial to the economy than the Democrat plan.

The Republican plan recognizes that real estate investment is necessary to bring this Nation out of recession, whereas in contrast, the Democrat plan, I could not believe it when I saw this, they would increase the depreciation schedule on real estate from 31.5 to 40 years.

I cannot imagine a more effective way to stop real estate investment and construction jobs in this country than to increase the depreciation schedule that the Democrat plan contains for real estate.

My State of California has a 1-percent unemployment rate higher than the rest of the country. One of the reasons is our construction industry is in trouble.

We need relief in California and across the country so that real estate can lead the recovery that everyone in the Nation wants.

Is there any wonder about whether or not the Republican alternative is more beneficial for job creation? Our proposal would create 593,000 jobs while the Democrat proposal would lead to a loss of 103,000 jobs. The Republican proposal would increase the Nation's output of goods and services by 476 billion through 1997, while the Democrat proposal would actually lead to a loss of 69 billion in output.

Mr. Chairman, I think the choice is clear and I ask for a vote on the Archer-Michel substitute.

□ 1130

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I rise today in support of H.R. 4287, the Tax Fairness and Economic Growth Act of 1992. Title V of this Democratic alternative bill is a most important provision, the taxpayer bill of rights of 1992. This is the second time that the Committee on Ways and Means and the Congress have attempted to pass comprehensive legislation to better protect the rights and procedural safeguards of taxpayers.

The very first provision of this taxpayer bill of rights establishes a new position of taxpayers' advocate within the IRS. This advocate is to be nominated by the President, confirmed by the Senate. But, most importantly, the advocate is required to report to the Congress, so that we who are held accountable for their actions might know what is going on at the IRS. The advocate is required to make reports directly to the Congress so that his voice on behalf of the everyday working American taxpayer will never be quietly swallowed up in the halls of the IRS bureaucracy.

Mr. Chairman, in addition to creating the position of taxpayer advocate, this bill makes changes in over 30 different areas of tax administration. As time is short, I will share with the Members just some of the most compelling examples of why this bill is essential.

Mr. SCHULZE. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I will be happy to yield to the gentleman, at the end of my time. I want to also say this bill was passed out unanimously by the Oversight Subcommittee and the gentleman from Pennsylvania——

Mr. SCHULZE. I was just wondering whether the gentleman from Texas [Mr. PICKLE] was going to say the things that were dropped behind closed doors and the things that were changed from that which was reported out of the subcommittee.

Mr. PICKLE. Mr. Chairman, I appreciate the gentleman's comments, and I will be happy to talk to him about that later on.

First, imagine, if you will, a 21-year-old secretary-bookkeeper, working at her first job for a small business. Her duties include making routine reports to the company president on the company's bank balances. In addition, she is authorized to sign checks, as a convenience to the president, who is frequently out of town on business. She never signs any checks without previous permission, and has no involvement with the company's financial and tax decisions. She is not a trained CPA, and isn't trained or expected to know all the facts about the company's tax obligations. This secretary certainly does not know that this company has not timely deposited its payroll taxes for the past 6 months. More importantly, she doesn't know, and has never been told that she can be held personally liable for those taxes. As a matter of fact, even if she learns these things, blows the whistle, and brings this matter to the attention of the IRS, she can be held personally responsible for all the taxes. Even if her boss says she wasn't responsible she can be held to be personally liable. Mr. Chairman, this isn't right and this taxpayer bill of rights corrects this problem.

Second, imagine that you receive a letter from the IRS questioning a deduction on your tax return, asking you

for further substantiation, and telling you that, based on the information you supply, the IRS will make a final decision. You promptly respond by certified letter, and you hear nothing more. A couple of years pass, and, out of the blue, the IRS writes you, disallowing your deduction, and assessing tax, penalties, and interest. In checking into the matter further, you learn that the 2-year delay was the result of the IRS losing your file, because the person working your case was transferred, and the case wasn't promptly reassigned. In fact the IRS even admits its mistake, doesn't try to defend the situation, perhaps even apologizes for the delay. No matter, the IRS cannot abate the interest due to its own mistakes. You are expected to pay the cost of the IRS delays, which you did not cause, did not want, and could not have prevented. Mr. Chairman, this is not right, and this taxpayer bill of rights corrects this problem.

Third, imagine you are a small business owner, and you have settled a dispute with the IRS concerning the appropriate tax treatment of contributions you made to your company's employee pension plan. As part of this settlement you are now paying your tax in full, with interest, installments over the next 6 months. Unfortunately, the IRS agent handling your case accidently filed a lien against your company's assets, and had this lien publicly recorded. Your company's credit may be destroyed, your commercial loan agreements are now subject to immediate repayment, and your ability to remain in business is in grave jeopardy. The IRS admits it made a mistake, and that the lien never should have been recorded. Too bad, the IRS can't withdraw the lien until you pay your tax liability in full. Mr. Chairman, this is not right, and this taxpayer bill of rights corrects this problem.

Fourth, imagine you are divorced, and have filed your own separate return for the past several years. However, the IRS has audited the joint returns you and your spouse filed when you were married. The IRS has never notified you of the audit, the IRS has sent a notice of deficiency to your former spouse. The IRS has never even attempted to call or write you until today, when you get a letter telling you that your bank account has been levied and a lien has been placed on your house. You are further told that your time for administrative appeal has passed, and that you have no choice, but to pay the tax, penalty, and interest in full, and then sue the IRS in Federal district court for a refund. Mr. Chairman, this is not right, and this taxpayer bill of rights corrects this problem.

Fifth, imagine you receive a letter from the IRS asking why you didn't report $30,000 in additional income you supposedly received when you filed your tax return over two years earlier. Unfortunately, you've never heard of the company that supposedly paid you the money. You have no record of ever receiving any money. You have no way of contacting the company, and the information return the company filed doesn't even give you a phone number where they can be reached. So you call the IRS to explain the situation, and you are told that the IRS is entitled to the presumption that this third party return is correct, and that you are responsible for reconciling the discrepancy. Even worse, if you can't straighten the mess out then you must pay the tax, penalty, and interest. And even if you find out that the whole thing was the result of a malicious act by someone intent on harassing you, you can't even sue for damages because there is no Federal cause of action available to you. Mr. Chairman, this isn't right, and this taxpayer bill of rights corrects this problem.

Mr. Chairman, I could go on all day about the problems we found that taxpayers experience all too frequently: problems with installment agreements; problems that businesses encounter with inaccurate forms and instructions; problems with taxpayers getting erroneous information returns; and, the list goes on and on.

The taxpayer bill of rights addresses all these problems in 11 general areas. The bill:

First, establishes a taxpayers' advocate, nominated by the President, confirmed by the Senate, and reporting directly to the Congress, with expanded authority to issue taxpayer assistance orders to force the IRS to act on behalf of taxpayers;

Second, improves installment agreements by requiring prior notice of their cancellation, allowing for administrative appeals, and suspending certain penalties while they are in effect;

Third, expands the authority of the IRS to abate interest payments and gives taxpayers 45 days after receiving a notice of additional tax due to pay the tax without further interest;

Fourth, provides protection to spouses filing joint returns and requires the IRS to take all reasonable steps to notify both spouses of any deficiencies on the return;

Fifth, improves the procedures concerning liens, levies, and offers in compromise;

Sixth, requires the IRS to verify the accuracy of information returns, the inclusion of the payer's telephone number on such returns, and gives the taxpayer a civil cause of action if an information return is fraudulently filed;

Seventh, provides additional notice and protection for taxpayers who are determined to be responsible officers in Federal tax deposit situations;

Eighth, allows Federal courts to assess litigation costs against IRS employees whose arbitrary, capricious, or malicious actions required taxpayers to seek judicial relief;

Ninth, requires the IRS to improve its forms and notices concerning changes of address, divorce, and the payment of employee withholding and payroll taxes;

Tenth, requires the IRS to study and report on better ways to serve taxpayers with special needs, the taxpayer rights education program, and the misconduct of IRS employees, and also requires the IRS to conduct a pilot program for taxpayer appeals of collection and enforcement actions;

Eleventh, requires the GAO to study and report on the accuracy of IRS forms and notices, and the operations of the IRS employee-suggestions programs.

Mr. Chairman, I support H.R. 4287, and I think this taxpayer bill of rights is one of the most important aspects of this bill. At a time when partisan passions are running high, this taxpayer bill of rights is the result of true bipartisan work on the part of all the members of the Oversight Subcommittee. I know that this is not the cure for all taxpayer problems, and our efforts to protect the legitimate interests of taxpayers are by no means over. But, this is a good, responsible package and I strongly urge that it be favorably acted upon today.

Mr. ARCHER. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I just want to set the record straight and let everybody know the things which were removed which had been passed by the oversight subcommittee in the way of the taxpayers' bill of rights, one very basic right, which was to protect taxpayers who acted in good faith in reliance on initial guidance by the IRS.

When one goes to the IRS and says, "How do I handle this," and they say, "Do it this way," should one not be protected? Should one not be able to do it that way and have some sense of security? You're darned right. In the dark of the night it was taken out.

We equalized the interest rate on tax deficiencies and refunds. If the IRS is going to charge 8 percent, should they not pay 8 percent? It is just basic common decency to have that. They threw that out in the dark of night.

We wanted to expand access to attorneys' fees by taxpayers who prevail over the IRS. When the taxpayer is proven right, why should not the taxpayer be allowed to recover attorneys' fees? As a matter of fact, they had to show that they were justified. All the IRS had to do was show that they were justified in pursuing the case. They threw that out. What happens to the poor guy who was up against the IRS?

The other thing was to allow taxpayers to serve as their own counsel in

successfully litigating against the IRS to recover a reasonable amount for their time that they put into fighting this thing with the IRS. In the dark of night, behind closed doors, that was thrown out.

How can the American people have faith in the bill when they have destroyed their faith in this system?

Mrs. KENNELLY. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, the gentleman from Pennsylvania [Mr. SCHULZE] is correct, he did not get all in the bill he wanted. I may say to him that we have the taxpayers' bill of rights in our version. I do not believe they have anything in their version. All the points the gentleman mentioned, some of them can be discussed.

Let me simply say to the gentleman, with respect to some of the points, I admit we did not get them all. I wish we could get them. We may get them later on. But at least this is a very important bill.

I would say to the gentleman we could have gotten some of the things he wanted but we would have done damage to the reporting requirement particularly on the 1099. So I would say that the steps we have taken are tremendously important.

Mrs. KENNELLY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in strong support of the Democratic alternative. Conventional wisdom inside the beltway seems to say Congress probably should not pass any tax legislation. But, my colleagues, I suggest that is wrong. I think there is a real probability we can stay in a recession for many, many months without some significant action from Congress.

Clearly, I think the Democratic proposal is the more responsible and will lead to our economy responding faster. What does it do? It is promiddle class, it is probusiness, and it is clearly the most fiscally responsible of the two alternatives. It restores passive losses, that fatal flaw in the 1986 Tax Code that led to literally billions of dollars of equity losses in all of American's homes.

It restores capital gains to eliminate inflation, the effects of inflation, when one sells property. Finally, the middle-income tax cut. There are those who say $400 is insignificant. I would suggest to my colleagues that to a large majority of Americans a $400 reduction in our tax bill is significant to us.

Clearly, the Democratic alternative is the most responsible. It does increase taxes on the very highest of the incomes to pay for the tax reductions for the middle-class Americans. I would urge my colleagues to support the Democratic alternative.

□ 1140

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise today to support the Michel-Archer plan for economic recovery. It is far from the plan that I would have preferred, but it is sure better than the soak-the-rich, ignore-the-unemployed alternative of the Democrats.

H.R. 4200, Michel-Archer, would reduce the alternative minimum tax, stimulate the real estate industry, enact a new investment tax allowance, cut the tax on capital gains. The Democrat plan, by contrast, raises taxes $95 billion, creates a new higher tax bracket, increases the deficit by $30 billion in the next 2 years, and deliberately pits the rich against the poor.

The central tenet of the Democrats' economic plan seems to be tax the rich, bust the budget, raise the deficit, beat the President. Well, that is not much of an economic policy, and the American people are going to see through that charade, because they realize that higher taxes on the haves, the people who have the money to create the investment, to create the jobs, that higher taxes on them could well end up just hurting the have nots.

Remember that the luxury tax which was designed to punish the rich when they bought their fancy yachts and airplanes ended up putting 9,000 workers out of work. How many people are you going to put out of work this time?

Our main emphasis ought to be putting people back to work in a position to buy a home, putting people in a position to save for the future. H.R. 4200 helps to meet those goals.

The Democrat plan increases the deficit $30 billion in the next 2 years. It denies first-time home buyers the $5,000 tax credit that the President wants to help jump-start home sales and construction and retail sales.

Mr. Chairman, we need investment. We need jobs. We do not need envy and class warfare. The rest of the world is throwing off the politics of envy and class warfare. It is time that we did that here, too.

We should pass H.R. 4200 and deal with the problems of the people, not with Presidential politics.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. FRANKS].

Mr. FRANKS of Connecticut. Mr. Chairman, today this House has the opportunity to improve the lives of millions of Americans. We could set the groundwork for economic growth, or we could succumb to political pressure and vote for a permanent tax increase to pay for some temporary benefits while adding $30 billion to the Federal deficit over the next 3 years.

Mr. Chairman, I oppose the Democratic alternative to H.R. 4210, and I support the Republican alternative. The Democratic plan offers little assistance to most taxpayers, especially in light of the long-term effects that it will have on the Federal deficit.

Adding to an already high Federal deficit in this manner is unthinkable. It could actually take jobs away from people.

On the other hand, the Republican substitute offers business incentives that will create jobs. It offers incentives that will help the real estate industry. It offers tax credits to first-time home buyers that will help families. It is a plan that can be enacted quickly to spark the economy and provide a base for long-term growth.

As a candidate for Congress in 1990, I talked about my opposition to the tax-and-spend ways of the Democrats. Regrettably, now as a freshman Congressman, I am witnessing firsthand the tax-and-spend ways of the Democratic-controlled Congress. My Democratic friends continue to fail to get the message.

The American people want jobs. The American people want to earn an honest living. They do not want, instead, a dollar a day in tax breaks.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, today we will vote on an economic growth package to jump start the economy. The choice is clear.

The Michel-Archer substitute is a solid plan that will jump start the economy, create jobs, and help small businesses and American families. The Democrats have proposed a disastrous prescription for the economy—raising taxes on 90 percent of our Nation's small businesses.

Small businesses are the backbone of the American economy. They provide more than 80 percent of our Nation's jobs. A tax increase on small businesses will guarantee fewer jobs and higher unemployment.

The Democrat tax plan will not stimulate economic growth. It increases the deficit, increases taxes, and penalizes the fruits of free enterprise.

If Congress does not approve the Michel-Archer growth package, it will be responsible for blocking an important opportunity to jump start the American economy and end the recession. That would be a terrible loss for small businesses, American workers, and American families.

Let us not blow this opportunity, Mr. Chairman. Let us pass the Michel-Archer economic growth plan.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong support of the Michel-Archer substitute for economic growth.

It includes the President's seven-point economic growth plan.

Economic times are tough in California and my constituents are looking to Congress for help. They do not want smoke and mirrors or long political speeches. They want jobs and investment and they want opportunity, and they do not want more taxes. And more deficits.

Michel-Archer has the jobs. Cutting the tax on capital gains and providing an investment tax allowance means a lower cost of capital for American businesses and more jobs for American workers.

In addition to job creation, a lower capital gains tax puts the United States on more competitive footing with our global trading partners, many of whom, like Japan, Hong Kong, Germany, and others, have little or no tax on capital gains.

Michel-Archer also has the opportunity. The opportunity to own a home, once a cornerstone of the American dream, would be brought back within reach for many with tax credits of up to $5,000 for first-time homebuyers, as well, as by allowing first-time home buyers to make penalty-free withdrawals from their IRA accounts to help cover the cost of a downpayment.

I first introduced the IRA first-time home buyers proposal over a decade ago. Now, more than every, its passage is critical to boosting the construction and housing industry, providing jobs for Americans while also helping to combat the often unreachable opportunity to own a home.

One thing that Michel-Archer does not have is the taxes. The Federal Government must not borrow its way out of the recession and the Congress cannot tax and spend its way to a healthy economy. Reforming the Federal Government and cutting back on wasteful spending will create the money to pay for the economic growth package in H.R. 4200.

I urge my colleagues to accept the President's challenge to Congress and support the progrowth initiatives of Michel-Archer. This bill is one part of a real solution to some very real economic problems.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, during the recess, I was pleased to have the opportunity to submit a statement to the Committee on Ways and Means in support of several proposals to stimulate encomic growth.

Too many of our constituents are suffering from the economic situation, and we want to be able to help those in need. However, more importantly, we must not enact a tax package that is detrimental to our economy. The Democratic substitute provides a small temporary benefit of $400 in tax relief for middle-class families, less than 54 cents per day for each person, and this proposal permanently increases taxes without providing any incentive for growth.

The Republican growth proposal, which includes policies which encourage research and development and enhances business investment through tax credits, focuses on the need to create additional jobs. With several million Americans out of work, it is vitally important that we offer those unemployed Americans a means to reenter the work force.

Let us not forget that the 54 cents per day tax cut will not help those Americans who don't have a job to begin with. Instead we should focus on incentives to stimulate small business and the creation of jobs, not the creation of tax cuts.

Therefore, I am pleased that among many the growth incentives included in the Michel-Archer substitute is a $5,000 tax credit for first-time home buyers along with penalty-free IRA withdrawals to help with the purchase of a first home.

The availability of affordable housing in my region of New York has deteriorated to the point where young couples must commute to their jobs for several hours a day. The Michel-Archer substitute provides a needed incentive for young people to own their homes.

Let us also not forget that homebuilding is one of the more important factors in our economy. Not only does the home construction provide jobs for carpenters, plumbers, and others, it provides jobs for the Americans who make washers, dryers, and refrigerators and all the materials that go into home construction.

It is also of importance to note that the Michel-Archer proposal includes several provisions to provide relief for our small businessmen. In particular, the provision for an investment tax allowance and for passive loss relief.

Mr. Chairman, I hope that my colleagues will bear in mind that we in the Congress represent all of our constituents, not just our political parties. Let us work together and vote for a package that will create jobs for all of the American people.

Mrs. KENNELLY. Mr. Chairman, I yield 1 minute to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Chairman, the purposes of this legislation are accurately described by its title, the Tax Fairness and Economic Recovery Act of 1992.

These purposes would be accomplished in the United States by the changes that the legislation proposes in the national tax system.

But, because of provisions in or under the laws establishing the Federal relationships of some of the insular areas associated with the United States to our nation that are within the jurisdiction of the Committee on Interior and Insular Affairs, changes in the Federal Internal Revenue Code will automatically change the local tax codes of insular areas.

Because of the President's deadline for congressional action and the schedule that it has required for this legislation, I have not suggested impeding this bill's progress by proposing that its impacts on insular tax systems and economies be studied before it is considered on this floor.

More importantly, the distinguished chairman of the Committee on Ways and Means, our colleague DAN ROSTENKOWSKI, has recognized the potential implications for the insular areas and promised to cooperate with the Committee on Interior and Insular Affairs as this legislation progresses on any necessary provisions to coordinate the Federal and insular tax systems.

I intend for the Subcommittee on Insular and International Affairs, which I am privileged to chair, to study this matter and propose actions, if they are found to be necessary, either through this or other legislation.

I look forward to working with Chairman DAN ROSTENKOWSKI, in this regard and appreciate his willingness to cooperate so that necessary changes in the national system also accomplish worthwhile purposes in insular areas.

□ 1150

Mrs. KENNELLY. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I rise in support of the Democratic bill and opposed to this substitute.

Let me say, Mr. Chairman, that I think all of us in this country want to focus on growth. In my judgment, that is the most important thing that we can do, which is making the pie get bigger. To this Member, frankly, it is far more important to make the pie bigger than to redistribute the pieces of the pie at this point in time, but I have to tell you that I do not think the Republican proposal meets that bill. Instead, it seems to be a package of giveaways to friends on that side of the aisle.

If we really want to increase growth, there are proposals that we can do. I would be for indexing all capital gains, savings, and borrowings, and that indeed we shift the balance in this country from too much consumption, too much borrowing and toward more savings and investment over the long run.

Alas, such a proposal is in neither bill, but the Democratic proposal comes closer, even though it focuses on equity, to doing things for real growth than the Republican proposal does, and I urge my colleagues to vote for it.

Mrs. KENNELLY. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentlewoman for yielding me this time.

It is not infrequent that we forget why we are here and what we are debating, because the debate sometimes gets so shrill.

The fact is, this country is in serious trouble. It has had a long recession that came and stayed here. A lot of people are out of work. A lot of people who are working are concerned about whether they will be able to continue to work. They want some leadership. They want some help. They want people in this House of Representatives, and on the other side of the Capitol, to begin working as a team to see if we can do some things to strengthen this country's economy.

Now, we have some differences of opinion and when we debate these kinds of issues, people say, "Oh, that is partisan, it is destructive."

No; it is not. It is debate, and debate generally should produce a good result.

There are some things in this bill today that I do not like. But I must say that there are plenty of common areas that the Republicans and Democrats both believe we ought to do. But those things are in both of the bills we are talking about today.

We are talking about jobs and economic growth, but now we have a philosophical difference on some points. Let me describe what I think that difference is. Many of us believe the economic engine for this is the middle class, the people who work doing the best they can for their country, themselves, their families, and their communities. We believe they represent the economic engine for economic growth and prosperity in this country. They have found in the last decade that they have been squeezed like lemons. The very, very wealthy have got much wealthier and the middle-income people have been squeezed like lemons. So we propose a tax on upper income folks, a modest tax on millionaires' incomes and on a couple earning over $200,000 a year and use the money from that to give the middle-income groups in this country a break.

We believe $800 for a couple over 2 years is not insignificant. It might seem insignificant to some people who have much more money than that, but it is going to be very helpful to the middle-income people in this country who have seen their incomes squeezed and their tax burdens increased, particularly because of the Social Security tax increase. We believe that is the road to economic health in this country.

Mrs. KENNELLY. Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I rise in opposition to the Republican alternative today and urge its defeat.

Although productivity in this country remains dead in the water year after year, the Bush administration and too many of us in Congress are prepared to play economic politics again today.

Although real family disposable income has been stagnant for 20 years, the Bush administration and too many of us in Congress are prepared to play economic politics again today.

Although the standard of living of American families remains no better in 1992 than it was in 1972, the Bush administration and too many of us in Congress are prepared to play economic politics again today.

The people we represent deserve better than this. We can do better. We won't do better as a nation by adopting either of the plans before us today. America might be better off if we rejected both alternatives and did nothing. America certainly would be better off if we rejected both plans and did the unthinkable in an election year: Tried to work together to develop a comprehensive, bipartisan approach—not a quick fix to get our economy moving today—it already is moving—but a game plan that rejects political gamesmanship and budget gimmickery to address the real economic challenges that face our country.

First and foremost, we must significantly increase productivity in America. How? By investing in research and development, in human capital, in modernizing plants and equipment, and in our infrastructure—our transportation systems, our water and sewer systems.

We must increase net savings, and not just encourage Americans to move their money from taxable investments to tax-free investments.

We must reduce the Federal deficit which now equals close to three-fourths of aggregate savings in the United States.

We must continue to bring down the cost of capital for businesses and families, with a special focus not on short-term interest rates, but on long-term rates.

We must expand exports dramatically. There are growing markets for U.S. goods well beyond our borders, and we spend entirely too little effort trying to gauge those markets and to penetrate them.

We must promote a new era of cooperation between labor and management and between business and Government. We came to this country in different boats, but we're in the same boat today, and that boat is in danger of sinking. Paul Tsongas is right. We can't be projobs and antibusiness.

There are plenty of other things we need to do—most of them are just plain, old-fashioned common sense. They involve preserving our manufacturing base, renewing our commitment to quality, reining in the cost of health care, stemming our growing penchant for litigation, and more. These are issues which, frankly, cannot be addressed in a single tax bill or, indeed, solely by the Government.

Let me conclude by acknowledging today that we face several temptations: To use the recession either as a cover to make our favorite changes in the Tax Code, to worsen the budget deficit, or to gain some political advantage as November approaches.

The choice is ours—the Members of this House. Our best choice today is to reject the proposals of both parties and resolve to leave well enough alone or to put aside our differences and try to work together to restore long-term economic growth in the United States.

Ms. LONG. Mr. Chairman, while I applaud efforts of my colleagues to create a package which provides middle-income tax relief and economic growth incentives, I cannot support either of the substitutes being considered on the floor today.

The substitute offered by Representatives MICHEL and ARCHER contain some laudable proposals. I support the provisions which allow businesses to accelerate depreciation, provide passive loss relief for real estate developers, and the measure allowing early withdrawals from individual retirement accounts [IRA's] for first-time home buyers. Clearly, these measures would stimulate economic growth.

Unfortunately, these are not the only proposals in the Michel-Archer substitute. When taking as a whole, this plan offers extremely little for middle-income families, while providing a huge windfall to those individuals who have annual incomes of over $100,000. Their plan offers huge tax breaks for the wealthy and increases the Federal deficit. Congress should be working to make the tax burden more equitable and to reduce the deficit. The Michel-Archer substitute moves in the opposite direction.

While the Rostenkowski-Gephardt substitute addresses the tax fairness issue by providing relief to middle-income families, unfortunately, I cannot support this measure either. Like the Michel-Archer substitute, there are some very appealing measures contained in the Rostenkowski-Gephardt proposal. I support economic growth incentives, such as indexing capital gains which will not add to the deficit in the long run, modifying passive loss rules, accelerating the depreciation schedule, repealing certain luxury taxes, and permanently extending the research and development tax credits. I also applaud my colleagues for remembering middle-income families and providing these families with much needed tax relief. As appealing as these provisions may be, I cannot support this proposal.

I gave my word to the constituents of my congressional district that I would not support measures in this Congress which raise taxes. If I voted for the Rostenkowski-Gephardt proposal to place a 10-percent surtax on annual incomes of $1 million and to raise the highest income tax rate from 31 to 35 percent, I would be breaking my pledge. In these days, when the public believes that politicians will cynically say anything to get elected and then promptly ignore their own words, I believe that it is critical that I keep my word.

Mr. GILCHREST. Mr. Chairman, there is nothing especially difficult about the decision

before us. We had one bill which contained certain limited incentives for investment and does so without raising taxes or increasing the deficit. Now we have another proposal which contains a larger group of tax breaks, but which raises taxes and increases short-term borrowing.

The majority party has argued again and again that Republican proposals favor the rich, that they are not fair. The fact is that Republican proposals stimulate the sort of investment which is critical for job creation. Is job creation unfair? Are investment and economic growth unfair?

And what about the Democrat proposal? It certainly contains a lot of temporary tax breaks, most of which I support. But rather than having the courage to pay for these through spending cuts, they use a combination of—no surprise—tax increases and increased short-term borrowing. If tax increases and deficit spending were the formula for economic growth, the 1990 budget agreement should have caused a boom, not a recession.

Of course, the majority will say their package moves toward fairness. I guess once everyone is unemployed, when all wages fall, when no one can create wealth anymore, there will be a strange fairness to that. The Democrat package hurts everyone alike; I suppose that is fair. It hurts the wealthy and upper middle class with taxes, it hurts working Americans by putting their jobs at risk, and it hurts the unemployed by reducing their chances of finding a job. Is this the sort of fairness we want?

Mr. Chairman, I urge my colleagues to oppose the Rostenkowski substitute; it is the sort of fairness we could use a lot less of. Let's vote this down and take up legislation which will bring back economic growth.

Mr. KYL. Mr. Chairman, in 1990, the House passed one of the largest tax increases in our Nation's history and sent a weak economy spiraling into recession.

Despite the proponents' talk of tax fairness and soaking the rich at the time, it was the middle class and the poor who ultimately paid the price in terms of lost jobs, lower wages, and uncertainty over their futures.

Mr. Chairman, the American people had better beware because the air is filled once again with talk of tax fairness and soaking the rich.

One of the reasons to beware is the very centerpiece of the legislation offered by the Democrat caucus: A temporary tax credit of $200 for single taxpayers and $400 for married couples in each of the next 2 years.

It is an anemic response at best to the Nation's economic problems. Even the winner of the Democrat Presidential primary in New Hampshire has said he would veto it were he the President.

What's worse than anemia, though, is that it is a set up for a big tax increase in another 2 years. In 2 years, another election will be looming, and there will no doubt be great temptation to extend the credit. But, the extension will have to be paid for, and there won't be any way then to limit the tax increases to only the wealthy. The Joint Committee on Taxation estimates that the proposed new higher income tax rate of 35 percent would have to apply beginning at incomes of $38,400 for individuals, $64,000 for couples.

Just like before, the Democrat caucus aims at the wealthy, but ends up hitting the middle class.

To carry along the proposal, the caucus did include some positive features with respect to individual retirement accounts, passive loss reform, extensions of a number of existing credits—like the targeted jobs tax credit, mortgage revenue bonds, and the exclusion for employer-provided educational assistance. It drops the proposed tax on annuities and the proposed elimination of the deduction for interest paid on corporate-owned life insurance.

But, the Democrats' substitute is flawed even in some of these areas. For example, while the passive loss reforms might provide some relief, many of the same taxpayers would be hurt by the raising of the top effective individual income tax rate to 40 percent. It also requires slower depreciation of real estate, something that will depress real estate prices—the last thing many areas of the country can stand.

And, since 90 percent of American small businesses are unincorporated and taxed as individuals, the higher income tax rate imposed by the Democrats' bill represents a major impediment to economic recovery and growth. You just don't raise taxes to stimulate the economy.

The Democrats' substitute repeals the luxury tax, except for the automobile industry. The industry tax was supposed to soak the rich and make them pay through the nose for their expensive planes, cars, boats, jewelry, and furs. The problem, as many of us had warned at the time, was that the rich don't have to pay the luxury tax if they don't buy the goods, and that is exactly what happened. They stopped buying. Only those people employed by the boat, plane, and automobile manufacturing and sales companies, and those employed by the fur and jewelry companies paid—they paid with their jobs. If the luxury tax was ill-conceived for the boat, plane, fur, and jewelry industries, why is it good for the auto industry?

The substitute also allows prospective indexing of capital gains earned by individuals. For years, the Democrats have criticized capital gains reform as something only for the rich. Does the inclusion of the indexing provision mean that the Democratic leadership finally sees the light? That American firms can't compete when our major trading partners tax capital gains at much lower rates, if at all? That lower capital gains taxes produce new jobs? And that most of the benefits of capital gains reform go to average Americans?

The point really is that the Democrat caucus didn't craft legislation to address the Nation's economic problems. It put together a hodgepodge of as many different tax provisions as the leadership found necessary to attract enough votes for their plan, knowing full well that it would be vetoed by the President.

The plan of the Democrat caucus is not fair. It is not sound economic policy. It permanently raises taxes on almost 2 million American families, adds $30.2 billion to the deficit over the next 3 years, and violates the Budget Enforcement Act.

The National Center for Policy Analysis concluded that it would actually result in 100,000 jobs being lost. It ought to be defeated.

By contrast, the Republican alternative is a good start, but just a start. The Council of Economic Advisors estimates that it would create 500,000 new jobs by the end of the year. It includes solid incentives to quickly stimulate the economy, including a capital gains tax cut, a tax credit for first-time home buyers, super IRA's, passive loss reform, and an investment tax allowance.

I don't think it goes far enough, but there is no way to remedy that problem under the rule. We're simply allowed an up-or-down vote on the Democrats' bill and the Republicans alternative. No amendments.

If the leadership is going to restrict the House to consideration of just one economic recovery package this year, then we need to do more. For example, we need to outright repeal the luxury tax which has cost thousands of people their jobs. We need to increase the dependent deduction, and extend the R&D tax credit.

There are some good things in both the Democrats' and Republicans' packages to be sure, and if the leadership were really interested in working together, we could produce a bill that would pool the good, eliminate the bad, speed economic recovery, and put people back to work. But, that is not the choice before us today.

Our only choice is between a bill that provides minimal temporary tax relief for some at the expense of others and sets people up for big tax increases in the future, and a bill which will get us on the road to economic recovery.

Mr. Chairman, this House should not make the same mistake it made in 1990. Tax increases in the name of fairness and soaking the rich were not the solution to the Nation's economic problems then, and they are not the solution now. I urge adoption of the Republican substitute.

Mrs. ROUKEMA. Mr. Chairman, in these times when America is no longer in a cold war but engaged in an economic war of global proportions, the people should demand straight talk from its elected officials. This is no time for politics as usual. But our actions so far on this tax bill are unfortunately mostly politics, not sound economic policy.

I will vote for the Republican bill not because I support it in every detail. I do not. I will vote for it because it is the lesser of the three evils we have before us.

My overriding concern is that we pass a tax bill as soon as possible, one that will pass my save and invest in America test. Evidence is everywhere that our industrial base and productive capacity that provide good jobs are badly eroding. The recession alone doesn't have Americans depressed and anxious. It's the fact that good jobs are disappearing. It's GM eliminating 74,000 jobs. It's IBM eliminating 20,000 jobs. Our competitive edge is disappearing along with the jobs. People are asking, "Where are the new jobs?" "Are we going to be flipping hamburgers rather than working the production lines?"

Such a tax package should do no further violence to our budget deficit while providing stimulus for capital investment and economic recovery. In general terms, our Republican bill meets those objectives. But there are at least two serious flaws—perhaps not fatal flaws—but flaws nevertheless.

Specifically, this package is overly generous in its treatment of the capital gains rate reduction, which I support. When combined with the alternative minimum tax, the passive loss provisions may go too far, re-creating egregious loopholes. The result may be land and paper swaps not productive investments.

In addition, I believe we should have gone further in extension of the investment tax credit.

A near fatal flaw is the projections of the revenue assumptions and the consequences to the budget deficit. Republicans should not be part of this smoke and mirrors accounting. This is not the fiscally responsible and fiscally conservative party I have known.

Yes, a bad bill would be worse than no bill at all, as some Members and noted economists have observed. But, we are at the beginning of the legislative process. We still have a reasonable expectation that we can get a save and invest in America bill passed by both Houses and signed by the President.

If we fail in this, if the President is unable to effectively use his Executive leadership to guide through a bill to promote economic growth and restore our competitive edge in the global economy, then the American people will hold both parties accountable in November.

This is no time for politics as usual. It's the time for bold action.

Mrs. KENNELLY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 27]

Abercrombie	Broomfield	DeFazio
Ackerman	Browder	DeLauro
Alexander	Bruce	DeLay
Allard	Bryant	Dellums
Allen	Bunning	Derrick
Anderson	Burton	Dicks
Andrews (ME)	Bustamante	Dingell
Andrews (NJ)	Byron	Dixon
Andrews (TX)	Callahan	Donnelly
Annunzio	Camp	Dooley
Anthony	Campbell (CA)	Doolittle
Applegate	Campbell (CO)	Dorgan (ND)
Archer	Cardin	Dornan (CA)
Armey	Carper	Downey
Atkins	Carr	Dreier
AuCoin	Chandler	Duncan
Bacchus	Chapman	Durbin
Baker	Clay	Dwyer
Ballenger	Clement	Dymally
Barnard	Clinger	Early
Barrett	Coble	Eckart
Barton	Coleman (MO)	Edwards (CA)
Bateman	Coleman (TX)	Edwards (OK)
Beilenson	Collins (IL)	Edwards (TX)
Bennett	Collins (MI)	Emerson
Bentley	Combest	Engel
Bereuter	Condit	English
Bevill	Conyers	Erdreich
Bilbray	Cooper	Espy
Bilirakis	Costello	Evans
Blackwell	Coughlin	Ewing
Bliley	Cox (CA)	Fascell
Boehlert	Cox (IL)	Fawell
Boehner	Coyne	Fazio
Bonior	Cramer	Feighan
Borski	Crane	Fields
Boucher	Cunningham	Fish
Boxer	Dannemeyer	Flake
Brewster	Darden	Foglietta
Brooks	Davis	Ford (MI)
Ford (TN)	Lloyd	Ritter
Franks (CT)	Long	Roberts
Frost	Lowery (CA)	Roe
Gallegly	Lowey (NY)	Roemer
Gallo	Luken	Rogers
Gaydos	Machtley	Rohrabacher
Gejdenson	Manton	Ros-Lehtinen
Gekas	Markey	Rose
Gephardt	Marlenee	Rostenkowski
Geren	Martin	Roth
Gibbons	Martinez	Roukema
Gilchrest	Matsui	Rowland
Gillmor	Mavroules	Roybal
Gilman	Mazzoli	Russo
Gingrich	McCandless	Sabo
Glickman	McCloskey	Sanders
Gonzalez	McCrery	Sangmeister
Goodling	McCurdy	Santorum
Gordon	McDade	Sarpalius
Goss	McDermott	Savage
Gradison	McEwen	Sawyer
Grandy	McGrath	Saxton
Green	McHugh	Schaefer
Guarini	McMillan (NC)	Schiff
Gunderson	McMillen (MD)	Schroeder
Hall (OH)	McNulty	Schulze
Hall (TX)	Meyers	Schumer
Hamilton	Mfume	Sensenbrenner
Hammerschmidt	Michel	Serrano
Hancock	Miller (CA)	Sharp
Harris	Miller (OH)	Shaw
Hastert	Miller (WA)	Shays
Hatcher	Mineta	Sikorski
Hayes (IL)	Mink	Sisisky
Hayes (LA)	Moakley	Skaggs
Hefley	Molinari	Skeen
Hefner	Mollohan	Skelton
Henry	Montgomery	Slattery
Herger	Moody	Slaughter
Hertel	Moorhead	Smith (FL)
Hoagland	Moran	Smith (IA)
Hobson	Morella	Smith (NJ)
Hochbrueckner	Morrison	Smith (OR)
Holloway	Mrazek	Smith (TX)
Hopkins	Murtha	Snowe
Horn	Myers	Solomon
Horton	Nagle	Spence
Houghton	Natcher	Spratt
Hoyer	Neal (MA)	Staggers
Hubbard	Neal (NC)	Stallings
Huckaby	Nichols	Stark
Hughes	Nowak	Stearns
Hunter	Nussle	Stenholm
Hutto	Oakar	Stokes
Inhofe	Oberstar	Studds
Jacobs	Obey	Stump
James	Olin	Sundquist
Jefferson	Olver	Swett
Jenkins	Ortiz	Swift
Johnson (CT)	Orton	Synar
Johnson (SD)	Owens (UT)	Tallon
Johnson (TX)	Oxley	Tanner
Johnston	Packard	Tauzin
Jones (GA)	Pallone	Taylor (MS)
Jones (NC)	Panetta	Taylor (NC)
Jontz	Parker	Thomas (CA)
Kanjorski	Pastor	Thomas (GA)
Kaptur	Patterson	Thomas (WY)
Kasich	Paxon	Thornton
Kennedy	Payne (NJ)	Torres
Kennelly	Payne (VA)	Torricelli
Kildee	Pease	Towns
Kleczka	Pelosi	Traficant
Klug	Penny	Traxler
Kolbe	Perkins	Unsoeld
Kolter	Peterson (FL)	Upton
Kopetski	Peterson (MN)	Valentine
Kostmayer	Petri	Vander Jagt
Kyl	Pickett	Vento
LaFalce	Pickle	Visclosky
Lagomarsino	Porter	Volkmer
Lancaster	Poshard	Vucanovich
Lantos	Price	Walker
LaRocco	Pursell	Walsh
Laughlin	Quillen	Waters
Leach	Rahall	Waxman
Lehman (CA)	Ramstad	Weber
Lehman (FL)	Rangel	Weiss
Levin (MI)	Ravenel	Weldon
Levine (CA)	Reed	Wheat
Lewis (CA)	Regula	Wilson
Lewis (FL)	Rhodes	Wise
Lewis (GA)	Richardson	Wolf
Lightfoot	Ridge	Wolpe
Lipinski	Riggs	Wyden
Livingston	Rinaldo	Wylie
Yates	Young (AK)	Zeliff
Yatron	Young (FL)	Zimmer

□ 1217

The CHAIRMAN. Four hundred fourteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1220

The gentlewoman from Connecticut [Mrs. KENNELLY] has 2 minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 8 minutes remaining.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. chairman, I rise in strong support of the Michel-Archer-Bush real economic growth package and in strong opposition to the Rostenkowski tax hike and the Gephardt tax mistake.

Mr. Chairman, I wonder if any of my colleagues read the excellent debate that appears in the current, that is the March 1992, issue of Commentary magazine entitled, "Is America on the Way Down?" Edward N. Luttwak of the Center for Strategic and International Studies says yes, while Robert L. Bartley of the Wall Street Journal says no. Both raise very interesting points regarding the strengths and weaknesses of our system. And though I side with Bartley, Luttwak does make a compelling case, especially when he hits on a central truth regarding our disastrous shortage of capital. Luttwak writes:

Obviously, it is possible to invest without saving, if others lend the necessary money. And of course the United States has borrowed hugely in recent years, and also absorbed a vast amount of foreign investment. Yet given the size of the American economy, even the huge inflow of money from abroad could not possibly remedy the disastrous difference between our rate of savings and those of our competitors.

Indeed, as Luttwak points out, from 1970 to 1989, total U.S. savings fluctuated between 12.1 percent and 14.1 percent of the gross domestic product, as opposed to 22.9 percent and 22.7 percent for the European Community average, and 38.9 percent and 34.9 percent for Japan.

Fortune magazine made much the same point in its current cover story, "How American Industry Stacks Up." Author Andrew Kupfer writes:

The rapidity with which the Japanese adapt technology to manufacturing processes is a big reason why their productivity growth has outstripped America's by more than a third since 1979. (The other reason, which reflects Japan's higher savings rate, is a fourfold edge in capital formation.) Europe's productivity growth, savings, and investment have also outpaced America's—and that rate should pick up as European unification advances.

In its article "Can America Compete?" the Economist magazine states, "The biggest reason to doubt whether America can stay so competitive is its low level of investment. Last year capital spending by American businesses accounted for only 9 percent of the country's GNP, compared with almost 20 percent in Japan and 13 percent in Germany."

The problem is clear. Americans save and invest too little. But what can we do to increase saving and investment?

I know that several of my Democrat colleagues, including my colleague from Ohio, Mr. PEASE, seem to believe that saving simply means putting money in a savings account at a financial institution. But saving is much more than that. In its recent special report on pension fund saving, the American Council for Capital Formation defines saving as "simply the difference between after-tax income and the amount of money spent on consumption. The money saved can be invested in the stock market, deposited in a bank or saving institution, or used to finance a real investment such as an addition to the family home." Stanford Economist John Shoven points out that households save in several ways, including making mortgage payments on a house. According to the Federal Reserve's flow of funds accounts, which is one of the two primary sources for statistics on savings, even the purchase of consumer durables—refrigerators, washing machines, et cetera—is considered investment, and thus counts toward savings. As we all learned in our introductory economics class, saving must equal investment. So what is good for saving is good for investment.

We on the Republican side of the aisle have always advocated a reduction in the capital gains rate as one way to increase saving and investment capital. This, in turn, will create jobs, most of which will be in small businesses, which have always acted as the economy's engine. Indeed, as a result of the Reagan tax cuts, between 1983 and 1990 more than 18 million new jobs were created, even while the Fortune 500 companies pared their payrolls. You on the Democrat side of the aisle have always pooh-poohed this notion, preferring instead to wallow in your pitiful pseudo-Marxist class warfare theories, where ideological purity is more important than actual results. But let me offer you a real-life example of how this lack of investment capital translates into lost jobs and less growth. You Japan-bashers who also oppose a lower capital gains tax—my colleagues from Missouri, Mr. GEPHARDT, and Ohio, Mr. TRAFICANT, among others—take particular note. This is again from Mr. Luttwak's article.

As soon as the suitably Korean-born chief developer of digital High-Definition (HD) TV revealed that the suitably small company he works for had totally overtaken the Japanese giants and their merely analog HD-TV, the company's owners, General Instrument, let it be known that it would not even try to raise the capital needed to produce and market the new invention, preferring to license production to established TV manufacturers, i.e., the Japanese TV giants.

In a manner literally pathetic, for pathos is the emotion evoked in the spectators to an inevitable downfall, a company spokesman hopefully speculated that if 20 million HD-TV sets were sold annually, its royalties at $10 per set could amount to as much as $200 million a year, a nice bit of change as they say—but truly mere change as compared to the $20-25 billion that the actual producers would earn each year, largely, no doubt, by exports to the United States.

Luttwak concludes: "But that is by now standard operating procedure, given our bootless capitalism-without-capital."

I wonder how many American jobs could have been created with enough investment capital to allow those HD-TV's to be manufactured here, and not there? I wonder if reducing the capital gains tax could increase the amount of available capital for this and other projects? I wonder if this story gives pause to my colleagues on the other side of the aisle?

I am proud to say that the Michel-Archer-Bush growth package will address this most serious economic issue. Probably the bill's most important feature is that it reduces the capital gains tax rate for individuals. It is a basic economic principle that if you lower the cost of something people will buy more of it. Cutting the capital gains tax will reduce the cost of saving and investment and will therefore result in more of it. One benefit of this policy is that it would also result in increased Government revenues, as it has always done in the past.

I think it is also important that my class-warfare colleagues on the other side of the aisle understand that capital is the single most important determinant of real wages. According to National Center for Policy Analysis, "About 98 percent of the variation in real wages over the past 37 years can be explained by the capital-to-labor ratio alone, without reference to any other economic factor." Further, the NCPA found that, "For every 10 percent increase in the average amount of capital per worker, the real wage rate increases by 11.9 percent."

In short, the middle class can't reap the rewards of capitalism without adequate capital, and we can't have more capital without increasing the rate of return on investment, and the best way to increase the rate of return on investment is to lower the capital gains tax. If you really want to help the middle class, this is the best way to do it.

The Michel-Archer-Bush plan would also increase saving and investment by making it easier for people to buy that all-important first home. Remember, as I have already pointed out, buying a home is saving. The Michel-Archer-Bush plan would allow individuals taxpayers to withdraw up to $10,000 from their individual retirement account without penalty for the first purchase of a principal residence. Moreover, it would establish a temporary tax credit for first-time home buyers equal to 10 percent of the purchase price up to a maximum of $5,000. This, of course, would also increase saving and investment. The immediate effect would be to put people back to work in the home-building industry, which would have an impact on suppliers of home products, such as washing machines, dryers, refrigerators, electric fixtures, plumbing fixtures, et cetera. This would have a beneficial ripple effect throughout the whole economy.

As a result of these and other changes, the Michel-Archer-Bush growth package would create 500,000 new jobs.

Now I noticed that Mr. ROSTENKOWSKI's plan also reduces capital gains, but it is clear his heart, and those of his Democrat colleagues, is not in it. I can hear Al Jolson singing in the background now:

You made me cut cap gains,
I didn't want to do it,
I didn't want to do it.

Didn't want to do it indeed. So the Democrats decided not to do it. What they gave with one hand they took away with the other. The Democrats would create a permanent 35-percent bracket for individual taxpayers with taxable incomes above $85,000 for single filers; $125,000 for heads of households; and $145,000 for joint returns. They also would increase the alternative minimum tax rate to 25 percent from 24 percent and impose a 10-percent surtax on millionaires. Now I don't know about your State, Mr. Chairman, but $125,000 is not the income of a wealthy family in southern California, and anyone who has spent any time there knows this is true.

So what the Democrats have offered us, Mr. Chairman, is not a tax cut, it is a $90 billion income redistribution scheme. And the most laughable part of the Democrats package is their candy-bar tax cut for the middle class. As President Bush said, the tooth fairly is more generous. This temporary 2-year credit is an insult to working Americans not only because it is a transparent election year sop, but because it also assumes that Americans are more concerned with their own self-interest than opportunity. The vast majority of Americans understand that their interests are advanced by a growing economy, and if some folks get rich in the process, more power to them. Indeed, this is the one point that Democrats seem unable to grasp—all Americans want the opportunity to get rich themselves, and they certainly don't mind using the capital of people who are already rich to help them do it. Isn't this what the American dream is all about?

The result of the Democrat tax hike is predictable. It is estimated that the Rostenkowski plan would actually result in job loss totaling 100,000. This is an antirecession package? This is growth? This is pro-middle-class?

But here is the big question: What has happened to the once-great Democratic Party of Andrew Jackson, who thought the people instinctively right and moral, and big government, of the kind he could see growing up in Washington and the kind we have here today, instinctively immoral?

Mr. Chairman, the only way we are going to set the foundation for long-term economic growth is to increase the availability of investment capital. And there is only one plan we will consider today that will do that. The Michel-Archer-Bush plan. Vote "yes" on Michel-Archer-Bush, vote "no" on Rostenkowski and Gephardt.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL].

(Mr. FAWELL asked and was given permission to revise and extend his remarks.)

Mr. FAWELL. Mr. Chairman, I rise in opposition to H.R. 4287, the Democrat economic growth package.

Mr. Chairman, the Democrat plan claims to provide, first, help to the middle class, and second, incentives for job creation and savings. These are laudable ends.

As a practical matter, I don't like the Democrat plan for $93 billion on new taxes, which are forever, and the 2-year refundable tax credits which do little for the middle class and nothing for job creation or savings. On the other hand, the Republican plan zeros in more exclusively to target job creation and to stimulate the economy.

But, more important, the Democrat plan ignores the deficit, especially in the first 2 crucial years of the 6-year plan—when it really counts. Too often, I've seen this Congress load up the deficit in the current year, when new legislation is passed, amidst promises to offset the newly created deficit with offsetting savings in later years. Somehow, the current year deficits are always for real and the offsetting savings in later years never materialize.

The Democrat plan increases the deficit $9.6 billion in fiscal year 1992 and another $12.6 billion in fiscal year 1993. Their promise is that if the refundable tax credits are not extended beyond fiscal years 1992 and 1993, they will be sure to use excess taxes available from the $93 billion dollar tax increase to make up for these deficits. Of course, no one believes that. As usual, the newly created deficits for fiscal years 1992 and 1993 will be stacked onto the $400 billion plus deficits already planned for those 2 fiscal years. Compliments of the Democrats. Send the bill to our children and grandchildren who will have to eventually pay these deficits.

Some things never change. But they should. The Democrats appear to be as oblivious as ever about the national debt and deficits. For the last 23 years, Congress has failed to balance a budget. It will add over a half trillion dollars of new debt to the $3.6 trillion dollar debt in fiscal year 1992. In addition, in fiscal year 1992, the biggest program of our budget will be roughly $300 billion incurred on that national debt. That ought to be enough to sober any prodigal profligator—which is what Congress is—but apparently Congress is not yet ready for reform. Maybe next year.

In short, the Democrats' intention in this bill is good. But like the alcoholic whose promises to stop drinking are no longer respected, so too have Congress' pledges to stop spending at the expense of posterity, lost all credibility.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the Archer-Michel bill which most closely reflects the tax changes recommended by our December hearings as having the greatest potential to stimulate economic growth and create jobs.

While the democratic form of government requires legislators to alter, adjust, and refine executive branch initiatives to assure they serve the interests of all the people and while the Democratic Party, in violation of our constitutional commitments, has denied us the right to reform and improve the fine basic bill the President sent to the Hill. I support this proposal enthusiastically and remind my colleagues on the other side of the aisle that if we pass this bill, we can then get into a bipartisan part of the process and adopt the passive loss reforms and other changes we prefer in conference and send a truly excellent bill forward to the President.

This bill is funded and by not increasing our deficit, will not slow the economy and cost jobs.

This bill helps people buy homes and so will create thousands of jobs. This bill rewards small manufacturers for buying the new machinery and equipment they need to stay competitive. It is a targeted, sound series of tax changes that will stimulate the economy.

Mr. Chairman I urge my colleagues to support it.

Mrs. KENNELLY. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I want to set the record straight—the Democratic alternative is a growth bill.

The Democratic alternative would permanently extend both the mortgage revenue bond program and the low-income housing tax credit. According to the National Association of Home Builders, these two programs will create 619,000 jobs over the next 5 years. These are real, proven programs that have bipartisan support.

In contrast, the much-heralded first-time home buyer tax credit, again according to the National Association of Home Builders, will create only 415,000 jobs.

In addition, the first-time home buyer tax credit is a temporary 1-year program while permanent extension of the MRB and tax credit programs will provide housing opportunities in all economic times.

Finally, a first time home buyer tax credit does little to make housing more affordable to the average American family in the long run while the MRB and tax credit programs facilitate long-term affordability.

Support proven, job-creating, housing programs than enjoy the support of more than 330 Members, not short-term gimmicks. Support the Democratic alternative.

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] has 7 minutes remaining.

Mr. ARCHER. Mr. Chairman, I yield the balance of my time to the respected minority leader on our side, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, let me say to the members of the committee that I did not request this quorum call. I am happy to see as many Members on the floor currently as there are. I thought earlier on, when there were just a handful of us on the floor in the House, that it was rather demeaning to the whole legislative process to have as important a measure as this attended by so few Members. But let me way that it is a manifestation of the mechanism by which we are considering this bill in the first place.

I look at my dear friend, the gentleman from Kentucky [Mr. NATCHER], and some others like the gentleman from Florida [Mr. BENNETT] who can remember the days when an important bill like this came forward with an opportunity for a substitute, and an amendment, and an amendment to the amendment, and an amendment to the substitute, working off both propositions in a way which required every Member to be on the floor and participate in the debate and offer the amendments. We would use the teller aisle here to telescope those debates. It would not take that long, but in the end we had a product in which all of us were participants in the process.

Unfortunately, we do not have that today, and that is why there were so few Members on the floor. Take it or leave it, in one way or another Members have already made up their minds.

The chairman of the Ways and Means Committee earlier seemed overly agitated over our having pared down the President's full menu of proposals addressed in his State of the Union Message to seven specifics that relate directly to the creation of jobs, long-term, permanent jobs. Now, what is wrong with that?

Spreading a dollar a day or four bits a day around the electorate for some minuscule, temporary political gain that will not create one job. It is a temporary, feel-good kind of thing out there. We are giving some people something. But what? We are not giving them jobs.

I look at the kind of things that will create jobs in my district, and it requires an investment of $100,000 to $125,000 per worker to create jobs to produce the kinds of things that we would like to have produced.

Some Members want to equate the Democratic kind of give-away with the President's suggestion that consideration be given to a $500 increase in the family deduction for children. Let me just say that we recognize this as a very costly proposition that cannot possibly be paid without a drastic $24 billion reduction in spending from some quarter.

That is why we say we will consider that proposal later when we can have the time to debate what expenditures to cut or eliminate to give us the wherewithal to reorder our priorities. And, yes, I will concede that it may come from a further reevaluation of our defense expenditures that may or may not reflect what has come to be regarded as the so-called peace dividend.

But that is for another day. We are talking now today about what it is that creates jobs. And after listening yesterday to hours of fulminations, and condemnations, and equivocations, and rhetorical abominations, I thought it would be refreshing to just review a few plain facts, and here they are.

□ 1230

Today we are finally considering the short-term economic stimulus plan the President outlined in his State of the Union Address and which he asked Congress to complete by March 20. This

overall program had two parts. This is the first part.

The plan consists of just seven provisions which, if enacted, will put a considerable number of Americans back to work. Not all of them, but a considerable number. We have got to start from someplace.

Let me briefly sketch out again these seven provisions.

No. 1, first-time home buyers will receive an income tax credit of 10 percent of the purchase price of a new or existing home up to $5,000, spread over a 2-year period.

Now, the National Association of Home Builders estimates this provision alone will create 700,000 new jobs. Home construction does create jobs for builders, carpenters, plumbers, architects, landscapers, persons dealing in appliances, and on and on.

No. 2, first-time home buyers will also be allowed to make a $10,000 penalty-free withdrawal from their IRA adding to the job creation impact of the home buyer tax credit.

No. 3, business is provided an investment tax allowance which allows an enhanced first-year depreciation of 15 percent of the purchase price of newly acquired equipment. This investment incentive increases cash-flow and lowers the cost of capital for businesses purchasing new equipment.

We have had it in the past in a more expansive form. Maybe it is not as grandiose this time, but it is a good proposition.

No. 4, the capital gains tax rate is cut to an effective rate of 15.4 percent for taxpayers now subject to a 28-percent rate and an 8.25-percent rate for taxpayers now subject to the 15-percent rate.

Capital gains for one-time sales of family farms, or businesses, or personal residences, are not subject to the alternative minimum tax, and depreciation recapture is taxed at a maximum rate of 28 percent.

A lowering of the capital gains rate unlocks old investments. It provides the small business community with startup capital and small businesses are where most of the new jobs are created in our economy. Let us face it.

No. 5, the passive loss rules are amended so that persons active in real estate development are treated as any other business person. They can trade off gains and losses for tax purposes.

No. 6, the alternative minimum tax is simplified by requiring only one computation for depreciation for alternative minimum tax purposes. The current calculations penalize capital intensive companies. Those are the ones who produce so many of our jobs that we are looking for.

No. 7, we propose to remove impediments to allow more efficient investing by pension funds in commercial properties.

Now, I mentioned just the seven. I want to address if I might, just a moment or two, some on my side who say, we do not go far enough. And I accept that.

But let me say to my friends on this side, every one of you, who I know do not want to be in a position of raising taxes. How can you provide some of these other things without raising taxes?

Now, it is either/or. And my position is that you ought to support what we are proposing here in the name of the President, without deviation.

Then, two, when we come to the other proposition on the other side of the aisle, I will tell you, I want some of you to look very closely at that very proposition. The distinction between the two parties, on who is raising taxes and who is holding the line or taking it out of a reduction of expenditures as the better route to follow, will become very clear.

So under the budget discipline which we must and do abide by, this package of incentives is the best of the proposals we will have the opportunity to vote on today. Not down the road a piece, but today.

I am not going to shut out the possibility that after we are done with this narrow package, we are not going to be considering other proposals for the balance of the year. Of course we are.

Unfortunately, the distinguished chairman of the Ways and Means Committee laid down the gauntlet and said there is only going to be one tax bill.

You know, there is nothing omnipotent about that kind of reasoning, I will tell you. Those members of the Committee on Ways and Means, and we have got good solid people on our side, I do not think would mind going to bat the second or third time if it is required.

Who is it for one person to dictate to this entire House one tax bill and none other? I will tell you, that is overexercising one's power, in my judgment, around here.

I would like to stress that our package is fully offset, year by year, with spending reforms and savings and, as I indicated, there are no tax increases in the bill, As I said, those are the simple facts.

I would like to think that maybe that was refreshing. But let me just add one more point. The American people do not want us to flimflam them, but are looking for us to frankly enact the kind of legislation that will, in the bottom line, create jobs. And our seven-point plan does create jobs.

I ask all Members to draw your own conclusions from the facts, vote right, and support this proposition.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as modified, offered by the gentleman from Texas [Mr. ARCHER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 264, not voting 4, as follows:

[Roll No. 28]

AYES—166

Allard	Gingrich	Orton
Allen	Goss	Owens (UT)
Archer	Gradison	Oxley
Armey	Grandy	Packard
Baker	Gunderson	Pallone
Ballenger	Hammerschmidt	Pastor
Barrett	Hancock	Paxon
Barton	Hansen	Porter
Bateman	Hastert	Quillen
Bennett	Hefley	Ramstad
Bentley	Henry	Ravenel
Bereuter	Herger	Rhodes
Bilirakis	Hobson	Riggs
Bliley	Holloway	Rinaldo
Boehlert	Hopkins	Ritter
Boehner	Horton	Roberts
Brewster	Houghton	Rohrabacher
Broomfield	Hunter	Ros-Lehtinen
Browder	Hutto	Roth
Bunning	Hyde	Roukema
Burton	Inhofe	Sangmeister
Callahan	Ireland	Santorum
Camp	James	Schaefer
Campbell (CA)	Johnson (CT)	Schiff
Chandler	Johnson (TX)	Schulze
Clement	Kasich	Sensenbrenner
Clinger	Klug	Shaw
Coble	Kolbe	Shays
Coleman (MO)	Kyl	Shuster
Combest	Lagomarsino	Skeen
Coughlin	Leach	Smith (NJ)
Cox (CA)	Lent	Smith (OR)
Cramer	Lewis (CA)	Smith (TX)
Crane	Lewis (FL)	Solomon
Cunningham	Livingston	Spence
Dannemeyer	Lowery (CA)	Stearns
Davis	Marlenee	Stump
DeLay	Martin	Sundquist
Doolittle	McCandless	Tanner
Dornan (CA)	McCollum	Taylor (NC)
Dreier	McCrery	Thomas (CA)
Duncan	McDade	Thomas (WY)
Edwards (OK)	McEwen	Upton
Emerson	McGrath	Vander Jagt
English	McMillan (NC)	Vucanovich
Ewing	Meyers	Walker
Fawell	Michel	Walsh
Fields	Miller (OH)	Weber
Fish	Miller (WA)	Weldon
Franks (CT)	Molinari	Wolf
Gallegly	Moorhead	Wylie
Gallo	Moran	Young (AK)
Gekas	Morella	Zeliff
Gilchrest	Morrison	Zimmer
Gillmor	Myers	
Gilman	Nichols	

NOES—264

Abercrombie	Brown	Dicks
Ackerman	Bruce	Dingell
Alexander	Bryant	Dixon
Anderson	Bustamante	Donnelly
Andrews (ME)	Byron	Dooley
Andrews (NJ)	Campbell (CO)	Dorgan (ND)
Andrews (TX)	Cardin	Downey
Annunzio	Carper	Durbin
Anthony	Carr	Dwyer
Applegate	Chapman	Dymally
Aspin	Clay	Early
Atkins	Coleman (TX)	Eckart
AuCoin	Collins (IL)	Edwards (CA)
Bacchus	Collins (MI)	Edwards (TX)
Barnard	Condit	Engel
Bellenson	Conyers	Erdreich
Berman	Cooper	Espy
Bevill	Costello	Evans
Bilbray	Cox (IL)	Fascell
Blackwell	Coyne	Fazio
Bonior	Darden	Feighan
Borski	DeFazio	Flake
Boucher	DeLauro	Foglietta
Boxer	Dellums	Ford (MI)
Brooks	Derrick	Ford (TN)

Frank (MA)	Manton	Rostenkowski
Frost	Markey	Rowland
Gaydos	Martinez	Roybal
Gejdenson	Matsui	Russo
Gephardt	Mavroules	Sabo
Geren	Mazzoli	Sanders
Gibbons	McCloskey	Sarpalius
Glickman	McCurdy	Savage
Gonzalez	McDermott	Sawyer
Goodling	McHugh	Saxton
Gordon	McMillen (MD)	Scheuer
Green	McNulty	Schroeder
Guarini	Mfume	Schumer
Hall (OH)	Miller (CA)	Serrano
Hall (TX)	Mineta	Sharp
Hamilton	Mink	Sikorski
Harris	Moakley	Sisisky
Hatcher	Mollohan	Skaggs
Hayes (IL)	Montgomery	Skelton
Hayes (LA)	Moody	Slattery
Hefner	Mrazek	Slaughter
Hertel	Murphy	Smith (FL)
Hoagland	Murtha	Smith (IA)
Hochbrueckner	Nagle	Snowe
Horn	Natcher	Solarz
Hoyer	Neal (MA)	Spratt
Hubbard	Neal (NC)	Staggers
Huckaby	Nowak	Stallings
Hughes	Nussle	Stark
Jacobs	Oakar	Stenholm
Jefferson	Oberstar	Stokes
Jenkins	Obey	Studds
Johnson (SD)	Olin	Swett
Johnston	Olver	Swift
Jones (GA)	Ortiz	Synar
Jones (NC)	Owens (NY)	Tallon
Jontz	Panetta	Tauzin
Kanjorski	Parker	Taylor (MS)
Kaptur	Patterson	Thomas (GA)
Kennedy	Payne (NJ)	Thornton
Kennelly	Payne (VA)	Torres
Kildee	Pease	Torricelli
Kleczka	Pelosi	Towns
Kolter	Penny	Traficant
Kopetski	Perkins	Traxler
Kostmayer	Peterson (FL)	Unsoeld
LaFalce	Peterson (MN)	Valentine
Lancaster	Petri	Vento
Lantos	Pickett	Visclosky
LaRocco	Pickle	Volkmer
Laughlin	Poshard	Washington
Lehman (CA)	Price	Waters
Lehman (FL)	Pursell	Waxman
Levin (MI)	Rahall	Weiss
Levine (CA)	Rangel	Wheat
Lewis (GA)	Reed	Williams
Lightfoot	Regula	Wilson
Lipinski	Richardson	Wise
Lloyd	Ridge	Wolpe
Long	Roe	Wyden
Lowey (NY)	Roemer	Yates
Luken	Rogers	Yatron
Machtley	Rose	Young (FL)

NOT VOTING—4

de la Garza	Ray	Whitten
Dickinson		

□ 1254

The Clerk announced the following pair:

On this vote:

Mr. Dickinson for, with Mr. Ray against.

Mr. WISE changed his vote from "aye" to "no."

Mr. COX of California changed his vote from "no" to "aye."

So the amendment in the nature of a substitute, as modified, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider the amendment in the nature of a substitute consisting of the text of the bill H.R. 4287.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Chairman, pursuant to the rule, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. ROSTENKOWSKI: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Fairness and Economic Growth Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—No amendment made by this Act shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) UNDERPAYMENT OF ESTIMATED TAX.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before April 16, 1993 (March 16, 1993, in the case of a taxpayer subject to such section 6655) with respect to any underpayment to the extent such underpayment was created or increased by any amendment made by this Act. The preceding sentence shall not apply to the amendments made by section 3101.

(e) TABLE OF CONTENTS.—

SEC. 2. TREATMENT UNDER PAY-AS-YOU-GO PROCEDURES.

Any change in budget authority, outlays, or receipts resulting from the provisions of (or amendments made by) this Act shall not be considered for purposes of calculating the deficit increase or estimated deficit for any year under section 252 or 253 of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE I—MIDDLE CLASS TAX RELIEF

SEC. 1001. CREDIT FOR PORTION OF SOCIAL SECURITY TAXES.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. CREDIT FOR PORTION OF SOCIAL SECURITY TAXES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 20 percent of the taxpayer's social security taxes for the taxable year.

"(b) LIMITATION.—The amount of the credit allowable under subsection (a) to any taxpayer for any taxable year shall not exceed $200 ($400 in the case of a joint return).

"(c) SOCIAL SECURITY TAXES.—For purposes of this section—

"(1) IN GENERAL.—The term 'social security taxes' means, with respect to any taxpayer for any taxable year—

"(A) the amount of the taxes imposed by subsections (a) and (b) of section 3101 on amounts received by the taxpayer during the calendar year in which the taxable year begins,

"(B) the amount of the taxes imposed by section 3201(a) on amounts received by the

taxpayer during the calendar year in which the taxable year begins,

"(C) 50 percent of the taxes imposed by subsections (a) and (b) of section 1401 on the self-employment income of the taxpayer for the taxable year, and

"(D) 50 percent of the taxes imposed by section 3211(a)(1) on amounts received by the taxpayer during the calendar year in which the taxable year begins.

"(2) COORDINATION WITH SPECIAL REFUND OF SOCIAL SECURITY TAXES.—The term 'social security taxes' shall not include any taxes to the extent the taxpayer is entitled to a special refund of such taxes under section 6413(c).

"(3) SPECIAL RULE.—Any amounts paid pursuant to an agreement under section 3121(l) (relating to agreements entered into by American employers with respect to foreign affiliates) which are equivalent to the taxes referred to in paragraph (1)(A) shall be treated as taxes referred to in such paragraph.

"(d) YEARS TO WHICH SECTION APPLIES.—This section shall only apply to taxable years beginning after December 31, 1991, and before January 1, 1994."

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Credit for portion of social security taxes.

"Sec. 36. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1002. CREDIT FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. INTEREST ON EDUCATION LOANS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) MAXIMUM CREDIT.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for the taxable year shall not exceed $300 with respect to each individual whose qualified higher education expenses were financed by any qualified education loan to which such interest relates.

"(2) HIGHER LIMIT FOR TAXPAYERS WITH LARGE AMOUNTS OF EDUCATION LOAN INTEREST.—

"(A) IN GENERAL.—If the taxpayer's education loan interest percentage for the taxable year is at least 10 percent, paragraph (1) shall be applied by substituting the higher limit for '$300', determined in accordance with the following table:

If the education loan interest percentage is:	The higher limit is:
At least 10 but less than 11	$350
At least 11 but less than 12	400
At least 12 but less than 13	450
At least 13	500.

"(B) EDUCATION LOAN INTEREST PERCENTAGE.—For purposes of subparagraph (A), the taxpayer's education loan interest percentage is the percentage which the amount of interest paid by the taxpayer during the taxable year on qualified education loans bears to the taxpayer's modified adjusted gross income for such year.

"(3) PHASEOUT OF BENEFIT.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds the applicable limit, the dollar limitation otherwise applicable under this subsection for the taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to such limit as such excess bears to $25,000 ($12,500 in the case of a married individual filing a separate return).

"(B) APPLICABLE DOLLAR AMOUNT WHERE PARENT OF STUDENT CLAIMING CREDIT.—For purposes of subparagraph (A), if the qualified education loan was used to pay the qualified higher education expenses of an individual other than the taxpayer or his spouse, the applicable dollar amount is—

"(i) $45,000, in the case of a return of an unmarried individual,

"(ii) $75,000, in the case of a joint return, and

"(iii) $37,500 in the case of a married individual filing a separate return.

"(C) APPLICABLE DOLLAR AMOUNT WHERE STUDENT OR FORMER STUDENT CLAIMING CREDIT.—For purposes of subparagraph (A), if the qualified education loan was used to pay the qualified higher education expenses of the taxpayer or his spouse, the applicable dollar amount is—

"(i) $30,000, in the case of a return of an unmarried individual,

"(ii) $50,000, in the case of a joint return, and

"(iii) $25,000 in the case of a married individual filing a separate return.

"(4) CREDIT NOT TO EXCEED TAX ON EARNED INCOME FOR TAXPAYERS UNDER AGE 23.—If the taxpayer has not attained age 23 (or, in the case of a joint return, if neither the husband or wife have attained age 23) before the close of the calendar year ending with or within the taxable year, the credit allowed by subsection (a) for such taxable year shall not exceed the amount equal to the percentage of the taxpayer's regular tax liability for such taxable year which is the same as the percentage of the taxpayer's modified adjusted gross income for such taxable year which is attributable to earned income (as defined in section 911(d)(2)).

"(c) LIMITATIONS ON TAXPAYERS ELIGIBLE FOR CREDIT.—

"(1) CREDIT ALLOWED TO TAXPAYER ONLY IF NOT CLAIMED AS PERSONAL EXEMPTION BY ANOTHER TAXPAYER.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(2) CREDIT ALLOWED TO PARENT, ETC. ONLY IF DEPENDENT IS STUDENT AND PERSONAL EXEMPTION CLAIMED FOR DEPENDENT.—If the qualified education loan was used to pay the qualified higher education expenses of an individual other than the taxpayer or his spouse, no credit shall be allowed by this section for the taxable year with respect to interest on such loan unless—

"(A) a deduction under section 151 with respect to such individual is allowed to the taxpayer for such taxable year, and

"(B) such individual is at least a half-time student with respect to such taxable year.

"(d) LIMIT ON PERIOD CREDIT ALLOWED.—

"(1) IN GENERAL.—In the case of a qualified education loan used to pay the qualified higher education expenses of the taxpayer or his spouse, no credit shall be allowed by this section for any taxable year after the first 5 taxable years (whether or not consecutive) with respect to which the taxpayer or his spouse (as the case may be) is not at least a half-time student.

"(2) PERIODS OF INTEREST DEFERRAL NOT COUNTED.—For purposes of paragraph (1), an individual shall be treated as a half-time student during any period during which payment of interest on any qualified education loan is deferred under Federal or State law.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

"(A) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(B) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means qualified tuition and related expenses of the taxpayer, his spouse, or a dependent for attendance at an eligible educational institution (as defined in section 135(c)(3)), reduced by the amount excluded from gross income under section 135 by reason of such expenses.

"(B) QUALIFIED TUITION AND RELATED EXPENSES.—The term 'qualified tuition and related expenses' has the meaning given such term by section 117(b), except that such term shall include any reasonable living expenses while away from home.

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' has the meaning given to such term by section 86(b)(2).

"(4) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(5) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) CARRYOVER.—If the amount of interest which may be taken into account by the taxpayer under subsection (a) for the taxable year exceeds the amount necessary to produce the maximum credit under this section for such year, such excess shall be treated as interest paid by the taxpayer during the succeeding taxable year on a qualified education loan.

"(2) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.

"(g) CARRYOVER OF UNUSED CREDIT.—

"(1) IN GENERAL.—If—

"(A) the credit allowable under subsection (a) for any taxable year after the application of subsections (b), (c), and (d) exceeds

"(B) the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under sections 21, 22, and 25,

such excess shall be carried to the succeeding taxable year and shall be allowable under

subsection (a) for such succeeding taxable year. The limitations of subsections (b), (c), and (d) shall not apply to the amount allowable in any succeeding taxable year by reason of the preceding sentence.

"(2) 5-YEAR LIMIT ON CARRYFORWARD.—No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year for which the credit was originally determined."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Interest on education loans."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1003. PENALTY-FREE WITHDRAWALS FOR FIRST HOME PURCHASE, HIGHER EDUCATION EXPENSES, AND MEDICAL EXPENSES.

(a) FIRST HOME PURCHASE.—

(1) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR FIRST HOME PURCHASE.—A distribution to an individual from an individual retirement plan with respect to which the requirements of paragraph (6) are met."

(2) DEFINITIONS.—Subsection (t) of section 72 is amended by adding after paragraph (5) the following new paragraph:

"(6) REQUIREMENTS APPLICABLE TO FIRST HOME PURCHASE DISTRIBUTION.—For purposes of paragraph (2)(D)—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a distribution if the distribution meets the requirements of clauses (i), (ii), and (iii).

"(i) DOLLAR LIMIT.—A distribution meets the requirements of this clause to the extent that the amount of the distribution does not exceed the excess (if any) of—

"(I) $10,000, over

"(II) the sum of the distributions to which paragraph (2)(D) previously applied with respect to the residence (whether or not such distributions were from the individual retirement plan of the owner).

"(ii) USE OF DISTRIBUTION.—A distribution meets the requirements of this clause if the distribution—

"(I) is made to or on behalf of a qualified first home purchaser, and

"(II) is applied within 60 days of the date of distribution to the purchase or construction of a principal residence of such purchaser.

"(iii) ELIGIBLE PLANS.—A distribution meets the requirements of this clause if the distribution is not made from an individual retirement plan—

"(I) which is an inherited individual retirement plan (within the meaning of section 408(d)(3)(C)(ii)), or

"(II) any part of the contributions to which were excludable from income under section 402(a)(5), 402(a)(7), 403(a)(4), or 403(b)(8).

"(B) QUALIFIED FIRST HOME PURCHASER.—For purposes of this paragraph, the term 'qualified first home purchaser' means the individual who is the owner of the individual retirement plan or who is a child (as defined in section 151(c)(3)) of such owner, but only if—

"(i) such individual (and, if married, such individual's spouse) had no present ownership interest in a residence at any time within the 36-month period ending on the date on which the distribution is applied pursuant to subparagraph (A)(ii), and

"(ii) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from an individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account—

"(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

"(II) for purposes of subclause (II) of subparagraph (A)(i).

"(D) PRINCIPAL RESIDENCE.—For purposes of this paragraph, the term 'principal residence' has the meaning given such term by section 1034.

"(E) OWNER.—For purposes of this paragraph, the term 'owner' means, with respect to any individual retirement plan, the individual with respect to whom such plan was established."

(b) EDUCATIONAL EXPENSES.—Paragraph (2) of section 72(t) is amended by adding after subparagraph (D) the following new subparagraph:

"(E) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR HIGHER EDUCATION EXPENSES.—A distribution from an individual retirement plan (other than from an individual retirement plan referred to in subclause (I) or (II) of paragraph (6)(A)(iii)) to the owner of such plan if such distribution is used within 60 days of the date of the distribution to pay qualified higher education expenses (as defined in section 23(e)(2))."

(c) MEDICAL EXPENSES.—

(1) IN GENERAL.—Subparagraph (A) of section 72(t)(3) is amended by striking ", (B),".

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) by treating such employee's dependents as including—

"(I) all children and grandchildren of the employee or such employee's spouse, and

"(II) all ancestors of the employee or such employee's spouse.".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C), (D), or (E)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after February 1, 1992.

SEC. 1004. MODIFICATIONS OF ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) AGE LIMITATION NOT APPLICABLE TO DISABLED INDIVIDUALS.—

(1) IN GENERAL.—Paragraph (1) of section 121(a) (relating to one-time exclusion from sale of principal residence by an individual who has attained age 55) is amended to read as follows:

"(1)(A) the taxpayer has attained the age of 55 before the date of such sale or exchange, or (B) the taxpayer is permanently and totally disabled (as defined in section 22(e)(3)) as of such date, and".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 121(d) is amended by striking "the age, holding, and use requirements" and inserting "the requirements".

(b) INDEXATION OF DOLLAR LIMIT.—Subsection (b) of section 121 (relating to limitations) is amended by adding at the end thereof the following new paragraph:

"(4) COST-OF-LIVING ADJUSTMENTS.—In the case of a sale or exchange in a calendar year beginning after 1991—

"(A) the $125,000 amount set forth in paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) thereof, and

"(B) the $62,500 amount set forth in paragraph (1) shall be increased by ½ of the increase determined under subparagraph (A).

If any increase determined under subparagraph (A) is not a multiple of $100, such increase shall be rounded to the nearest multiple of $100."

(c) TREATMENT OF FARMLAND SOLD WITH RESIDENCE.—Subsection (d) of section 121 is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF FARMLAND SOLD WITH RESIDENCE.—If—

"(A) a parcel of farmland on which is located a residence with respect to which the taxpayer meets the holding and use requirements of subsection (a) is sold with such residence,

"(B) the taxpayer meets the holding requirements of subsection (a) with respect to such farmland, and

"(C) the taxpayer meets requirements similar to the requirements of section 2032A(b)(1)(C) with respect to such farmland,

notwithstanding paragraph (5), the taxpayer shall be treated as meeting the use requirements of subsection (a) with respect to so much of such parcel as does not exceed 160 acres."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1991.

SEC. 1005. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are pro-

vided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $160 per month in the case of qualified parking.

"(3) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

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

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least 1/2 of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(5) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2)).''

(c) CONFORMING AMENDMENT.—Subsection (l) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to benefits provided after December 31, 1991.

(2) PARKING LIMIT.—The limitation of subparagraph (B) of section 132(f)(2) of the Internal Revenue Code of 1986 (as amended by this section) shall only apply to benefits provided for months beginning after the date of the enactment of this Act.

SEC. 1006. EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "December 31, 1992".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 110 of the Tax Extension Act of 1991 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

TITLE II—JOB CREATION, GROWTH, AND INVESTMENT INCENTIVES

Subtitle A—Temporary Investment Incentives

SEC. 2001. TEMPORARY INCREASE IN AMOUNT OF EXPENSING FOR SMALL BUSINESSES.

Subsection (b) of section 179 is amended by adding at the end thereof the following new paragraph:

"(5) TEMPORARY INCREASE IN LIMITATION.—In the case of any taxable year beginning in 1992 or 1993, paragraph (1) shall be applied by substituting '$25,000' for '$10,000'.''

SEC. 2002. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after February 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after February 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before February 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after February 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before July 1, 1993.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after February 1, 1992, and before January 1, 1993.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after February 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).''

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.—The deduction under section 168(j) shall be allowed.''

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending on or after such date.

Subtitle B—Capital Gain Provisions

SEC. 2101. INDEXING OF CERTAIN ASSETS ACQUIRED ON OR AFTER FEBRUARY 1, 1992, FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED ON OR AFTER FEBRUARY 1, 1992, FOR PURPOSES OF DETERMINING GAIN.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 1 year, the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) SPECIAL RULE FOR RECAPTURE GAIN.—

"(A) IN GENERAL.—Paragraph (1) shall not apply for purposes of determining the

amount of recapture gain on the sale or other disposition of an indexed asset, but the amount of any such recapture gain shall increase the adjusted basis of the asset for purposes of applying paragraph (1) to determine the amount of other gain on such sale or other disposition.

"(B) RECAPTURE GAIN.—For purposes of subparagraph (A), the term 'recapture gain' means any gain treated as ordinary income under section 1245, 1250, or 1254.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) any stock in a corporation, and

"(B) any tangible property (or any interest therein),

which is a capital asset or property used in the trade or business (as defined in section 1231(b)) and the holding period of which begins on or after February 1, 1992.

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) COLLECTIBLES.—Any collectible (as defined in section 408(m)(2) without regard to section 408(m)(3)).

"(C) OPTIONS.—Any option or other right to acquire an interest in property.

"(D) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (i)(3)).

"(E) STOCK IN FOREIGN CORPORATIONS.—Stock in a foreign corporation.

"(F) STOCK IN S CORPORATIONS.—Stock in an S corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis or is authorized for trading on the national market system operated by the National Association of Securities Dealers other than—

"(A) a passive foreign corporation (as defined in section 1296), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset shall be determined by dividing—

"(A) the CPI for the calendar year preceding the calendar year in which the disposition takes place, by

"(B) the CPI for the calendar year preceding the calendar year in which the taxpayer's holding period for such asset began. The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-thousandth.

"(3) CONVENTIONS.—For purposes of paragraph (2), if any asset is disposed of during any calendar year—

"(A) such disposition shall be treated as occurring on the last day of such calendar year, and

"(B) the taxpayer's holding period for such asset shall be treated as beginning in the same calendar year as would be determined for an asset actually disposed of on such last day with a holding period of the same length as the actual holding period of the asset involved.

"(4) CPI.—For purposes of this subsection, the CPI for any calendar year shall be determined under section 1(f)(4).

"(d) SHORT SALES.—

"(1) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 1 year, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) multiplied by the applicable inflation ratio. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date on which the holding period for the asset begins and the closing date for the sale shall be treated as the date of disposition.

"(2) SHORT SALE OF SUBSTANTIALLY IDENTICAL PROPERTY.—If the taxpayer or the taxpayer's spouse sells short property substantially identical to an asset held by the taxpayer, the asset held by the taxpayer and the substantially identical property shall not be treated as indexed assets for the short sale period.

"(3) SHORT SALE PERIOD.—For purposes of this subsection, the short sale period begins on the day after property is sold and ends on the closing date for the sale.

"(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"(1) ADJUSTMENTS AT ENTITY LEVEL.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

"(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

"(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

"(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

"(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year determined without regard to this section exceeds the entity's net capital gain for such year determined with regard to this section, and

"(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

"(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

"(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

"(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

"(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

"(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets (determined without regard to the requirement that the holding period begin on or after February 1, 1992) bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(3) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

"(A) a regulated investment company (within the meaning of section 851), and

"(B) a real estate investment trust (within the meaning of section 856).

"(f) OTHER PASS-THRU ENTITIES.—

"(1) PARTNERSHIPS.—

"(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners (but only for purposes of determining the income of partners who are not corporations).

"(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

"(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

"(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

"(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

"(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants (but

only for purposes of determining the income of participants who are not corporations).

"(g) DISPOSITIONS BETWEEN RELATED PERSONS.—This section shall not apply to any sale or other disposition of property between related persons (within the meaning of section 465(b)(3)(C)) if such property, in the hands of the transferee, is of a character subject to the allowance for depreciation provided in section 167.

"(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

"(i) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) A substantial improvement to property.

"(B) In the case of stock of a corporation, a substantial contribution to capital.

"(C) Any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation ratio shall be appropriately reduced for periods during which the asset was not an indexed asset.

"(3) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) GAINS AND LOSSES FROM INDEXED ASSETS NOT TAKEN INTO ACCOUNT UNDER LIMITATION ON INVESTMENT INTEREST.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended by adding at the end thereof the following new sentences:

"Gain from the sale or other disposition of an indexed asset (as defined in section 1022) held for more than 1 year shall not be taken into account for purposes of the preceding sentence. The preceding sentence shall not apply to gain from the sale or other disposition of any such asset if the taxpayer elects to waive the benefits of section 1022 in determining the amount of such gain."

(c) RECAPTURE OF ENTIRE AMOUNT OF DEPRECIATION UNDER SECTION 1250.—Section 1250 (relating to gain from dispositions of certain depreciable realty) is amended by adding at the end thereof the following new subsection:

"(i) RECAPTURE OF ENTIRE AMOUNT OF DEPRECIATION IN CASE OF PROPERTY TO WHICH SECTION 1022 APPLIES.—

"(1) IN GENERAL.—In the case of any taxpayer other than a corporation—

"(A) subsection (a) shall be applied with respect to any disposition of section 1250 property to which section 1022 applies as if it read as follows:

" '(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

" '(1) the depreciation adjustments in respect of such property, or

" '(2) the excess of—

" '(A) the amount realized (or, in the case of a disposition other than sale, exchange, or involuntary conversion, the fair market value of such property), over

" '(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.', and

"(B) in the case of any disposition described in subparagraph (A), subsections (e) and (f) shall not apply and appropriate adjustments shall be made in the provisions of subsection (d).

"(2) SPECIAL RULES FOR CERTAIN ENTITIES.—For purposes of paragraph (1), the following shall not be treated as a corporation:

"(A) An S corporation.

"(B) A regulated investment company.

"(C) A real estate investment trust.

"(3) COORDINATION WITH SECTION 453(i).—Subsection (i) of section 453 shall be applied without regard to this subsection."

(d) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets acquired on or after February 1, 1992, for purposes of determining gain."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any property the holding period of which begins on or after February 1, 1992.

(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired on or after February 1, 1992, from a related person (as defined in section 465(b)(3)(C) of the Internal Revenue Code of 1986) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

(f) ELECTION TO RECOGNIZE GAIN ON READILY TRADABLE SECURITIES HELD ON FEBRUARY 1, 1992.—

(1) IN GENERAL.—If a taxpayer other than a corporation holds any readily tradable security on February 1, 1992, the taxpayer may elect to treat such security as having been sold on the last business day before such date for an amount equal to its closing market price on such last business day (and as having been reacquired on such last business day for an amount equal to such closing market price).

(2) TREATMENT OF GAIN OR LOSS.—

(A) Any gain resulting from an election under paragraph (1) shall be treated as received or accrued on the last business day referred to in paragraph (1).

(B) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.

(3) ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary may prescribe and shall specify the readily tradable securities for which such election is made. Such an election, once made with respect to any readily tradable security, shall be irrevocable.

(4) READILY TRADABLE SECURITY.—For purposes of this subsection, the term "readily tradable security" means any stock or other security which, as of February 1, 1992, is readily tradable on an established securities market or otherwise.

SEC. 2102. 50-PERCENT EXCLUSION FOR GAIN OF INDIVIDUALS FROM CERTAIN SMALL BUSINESS STOCK.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1202. 50-PERCENT EXCLUSION FOR GAIN OF INDIVIDUALS FROM CERTAIN SMALL BUSINESS STOCK.

"(a) GENERAL RULE.—In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(b) QUALIFIED SMALL BUSINESS STOCK.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified small business stock' means any stock in a corporation which is originally issued on or after February 1, 1992, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (d) and (e), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (d).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) IN GENERAL.—Stock issued by a corporation shall not be treated as qualified small business stock if such corporation has purchased or purchases any of its stock within the 2-year period beginning 1 year before the date of the issuance of such stock.

"(B) WAIVER WHERE BUSINESS PURPOSE.—Subparagraph (A) shall not apply where the issuing corporation establishes that there was a business purpose for the purchase of the stock and such purchase is not inconsistent with the purposes of this section.

"(C) MEMBERS OF AFFILIATED GROUP.—For purposes of this paragraph, the purchase by any corporation which is a member of the same affiliated group (within the meaning of section 1504) as the issuing corporation of any stock in any corporation which is a member of such group shall be treated as a purchase by the issuing corporation of its stock.

"(c) QUALIFIED SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation if—

"(A) the aggregate capitalization of such corporation (or any predecessor thereof) at all times on or after February 1, 1992, and before the issuance did not exceed $100,000,000, and

"(B) the aggregate capitalization of such corporation immediately after the issuance (determined by taking into account amounts to be received in the issuance) does not exceed $100,000,000.

"(2) AGGREGATE CAPITALIZATION.—For purposes of paragraph (1), the term 'aggregate capitalization' means the excess of—

"(A) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over

"(B) the aggregate amount of the short-term indebtedness of the corporation.

For purposes of the preceding sentence, the term 'short-term indebtedness' means any indebtedness which, when incurred, did not have a term in excess of 1 year.

"(3) LOOK-THRU IN CASE OF SUBSIDIARIES.—In determining whether a corporation meets the requirements of this subsection—

"(1) stock and debt of any subsidiary (as defined in subsection (d)(4)(C)) held by such corporation shall be disregarded, and

"(2) such corporation shall be treated as holding its ratable share of the assets of such subsidiary and as being liable for its ratable share of the indebtedness of such subsidiary.

"(d) ACTIVE BUSINESS REQUIREMENT.—For purposes of this section—

"(1) IN GENERAL.—For purposes of subsection (b)(2), the requirements of this subsection are met for any period if during such period—

"(A) the corporation is engaged in the active conduct of a trade or business,

"(B) substantially all of the assets of such corporation are used in the active conduct of a trade or business, and

"(C) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

such corporation shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) ELIGIBLE CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(i) any corporation predominantly engaged in a disqualified business,

"(ii) any corporation the principal activity of which is the performance of personal services,

"(iii) a DISC,

"(iv) a corporation with respect to which an election under 936 is in effect,

"(v) any regulated investment company, real estate investment trust, or REMIC, and

"(vi) any cooperative.

"(B) DISQUALIFIED BUSINESS.—The term 'disqualified business' means—

"(i) any banking, insurance, financing, or similar business,

"(ii) any farming business,

"(iii) any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 613 or 613A, and

"(iv) any business of operating a hotel, motel, or restaurant or similar business.

"(4) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consist of stock or securities in other corporations which are not subsidiaries of such corporation.

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns at least 50 percent of the combined voting power of all classes of stock entitled to vote, or at least 50 percent in value of all outstanding stock, of such corporation.

"(5) WORKING CAPITAL.—For purposes of paragraph (1)(B), any assets which—

"(A) are held for investment, and

"(B) are to be used to finance future research and experimentation or working capital needs of the corporation,

shall be treated as used in the active conduct of a trade or business.

"(6) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets is real property which is not used in the active conduct of a trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a trade or business.

"(7) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces income described in section 543(d) shall be treated as an asset used in the active conduct of a trade or business.

"(e) STOCK ACQUIRED ON CONVERSION OF PREFERRED STOCK.—If any stock is acquired through the conversion of other stock which is qualified small business stock in the hands of the taxpayer—

"(1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer, and

"(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

"(f) TREATMENT OF PASS-THRU ENTITIES.—

"(1) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity shall be treated as gain described in subsection (a) if such amount meets the requirements of paragraph (2).

"(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(g) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer of stock to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

"(A) by gift, or

"(B) at death.

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if a qualified small business stock is transferred for other stock, such transfer shall be treated as a transfer to which this subsection applies solely with respect to the person receiving such other stock.

"(B) LIMITATION.—This section shall apply to the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain (if any) which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was transferred.

"(h) BASIS RULES.—

"(1) STOCK EXCHANGED FOR PROPERTY.—For purposes of this section, in the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) BASIS OF S CORPORATION STOCK.—For purposes of this section, the adjusted basis of stock in an S corporation shall in no event be less than its adjusted basis determined without regard to any adjustment to the basis of such stock under section 1367.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups or otherwise."

(b) EXCLUSION TREATED AS PREFERENCE FOR MINIMUM TAX.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(8) EXCLUSION FOR GAINS ON SALE OF CERTAIN SMALL BUSINESS STOCK.—An amount equal to the amount excluded from gross income for the taxable year under section 1202."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(2)(B)(ii) is amended by striking "and (6)" and inserting "(6), and (8)".

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(2) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1202 shall not be taken into account."

(4) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 and" after "except that".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued on or after February 1, 1992.

Subtitle C—Real Estate Provisions

PART I—MODIFICATION OF PASSIVE LOSS RULES

SEC. 2201. MODIFICATION OF PASSIVE LOSS RULES.

(a) GENERAL RULE.—Subsection (c) of section 469 (relating to passive activity losses and credits limited) is amended by adding at the end thereof the following new paragraphs:

"(7) TAXPAYERS ENGAGED IN THE REAL PROPERTY BUSINESS.—

"(A) IN GENERAL.—In the case of a taxpayer engaged in the real property business, the determination of what constitutes an activity and whether an activity is a passive activity shall be made by treating the taxpayer's rental real property operations, undertakings, and activities in the same manner as nonrental trade or business operations, undertakings, and activities.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to—

"(i) any interest held as a limited partner, and

"(ii) any rental activity with respect to any real property originally placed in service after the date of the enactment of this paragraph (whether or not by the taxpayer).

"(C) 20 PERCENT OF ITEMS REMAIN SUBJECT TO LIMITATION.—Notwithstanding subparagraph (A), 20 percent of the items of income, gain, loss, deduction, or credit allocable to any real property rental activity shall continue to be treated as items allocable to a passive activity. Any amount disallowed by reason of the preceding sentence shall be treated as an amount allocable to a former passive activity for purposes of applying subsection (f) (as modified by subparagraph (D) of this paragraph).

"(D) TREATMENT OF SUSPENDED LOSSES.—For purposes of applying subsection (f) with respect to any rental activity which is treated as not being a passive activity by reason of this paragraph, the holding and renting of each separate property shall be treated as a separate activity which may not be aggregated with rental activities with respect to other properties or with other real property operations.

"(8) INDIVIDUALS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), an individual is engaged in the real property business if—

"(A) such individual spends at least 50 percent of such individual's working time in real property operations; and

"(B) such individual spends more than 500 hours during the taxable year in real property operations.

"(9) REAL PROPERTY OPERATIONS.—For purposes of paragraph (8), the term 'real property operations' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, brokerage, appraisal, and finance operations.

"(10) WORKING TIME.—For purposes of paragraph (8), the term 'working time' means any time spent as an employee, sole proprietor, S corporation shareholder, partner in a partnership, or beneficiary of a trust or estate.

"(11) CLOSELY HELD C CORPORATIONS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), a closely held C corporation is engaged in the real property business if—

"(A) 1 or more shareholders owning stock representing more than 50 percent (by value) of the outstanding stock of such corporation materially participate in the aggregate real property activities of such corporation; or

"(B) such corporation meets the requirements of section 465(c)(7)(C) (without regard to clause (iv)) with respect to the aggregate real property activities of such corporation."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 469(c) is amended to read as follows:

"(2) PASSIVE ACTIVITY INCLUDES CERTAIN RENTAL ACTIVITIES.—Except for rental activities treated in the same manner as nonrental trade or business activities pursuant to paragraph (7), each rental activity is a passive activity without regard to whether or not the taxpayer materially participates in the rental activity."

(2) Paragraph (4) of such section 469(c) is amended to read as follows:

"(4) MATERIAL PARTICIPATION NOT REQUIRED FOR PARAGRAPH (3).—Paragraph (3) shall be applied without regard to whether or not the taxpayer materially participates in the activity."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

PART II—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

SEC. 2211. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 10 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale out of foreclosure by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale out of foreclosure by a financial institution where—

"(I) a qualified organization acquires foreclosure property from a financial institution and the financial institution treats any income realized from the sale or exchange of the foreclosure property as ordinary income,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the foreclosure property immediately before the acquisition referred to in clause (iv), and

"(III) the value (determined as of the time of the sale) of the amount pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property does not exceed 25 percent of the value of the property (determined as of such time).

"(iii) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a member of an affiliated group (as defined in section 1504(a)) which includes an institution referred to in subclause (I) but only if such other corporation is subject to supervision and examination by the same Federal or State agency as the institution referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II).

"(iv) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured."

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(2) by striking the last sentence of subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions on or after February 1, 1992.

SEC. 2212. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 2211) is amended by adding at the end thereof the following new subparagraph:

"(I) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) interests in such partnership were offered for sale in an offering registered with the Securities and Exchange Commission,

"(II) at least 50 percent of each class of interests in such partnership is owned by individuals who are not disqualified persons, and

"(III) the principal purpose of partnership allocations is not tax avoidance.

The Secretary may disregard inadvertent failures to meet the requirements of subclause (II).

"(ii) DISQUALIFIED PERSONS.—For purposes of this subparagraph, the term 'disqualified person' means any person described in clause (iii) or (iv) of subparagraph (B) and any person who is not a United States person."

(b) REPEAL OF SPECIAL TREATMENT OF PUBLICLY TRADED PARTNERSHIPS.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

SEC. 2213. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2214. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property if—

"(A) such property was acquired by the organization from—

"(i) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(ii) the conservator or receiver of such an institution,

"(B) such property is designated by the organization within the 6-month period beginning on the date of its acquisition as property held for sale,

"(C) such sale, exchange, or disposition occurs before the date 30 months after the date of such properties acquisition, and

"(D) while such property was held by the organization, such property was not substantially improved or renovated and there were no substantial development activities with respect to such property."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired on or after February 1, 1992.

SEC. 2215. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) GENERAL RULE.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF TRUSTS DESCRIBED IN SECTION 401(a).—

"(A) LOOK-THRU TREATMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) CERTAIN RELATED TRUSTS NOT ELIGIBLE.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2)) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) COORDINATION WITH PERSONAL HOLDING COMPANY RULES.—If any entity qualifies as a real estate investment trust for any taxable year by reason of subparagraph (H), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) TREATMENT FOR PURPOSES OF UNRELATED BUSINESS TAX.—If any qualified trust holds 10 percent or more (by value) of the interests in any real estate investment trust described in subparagraph (D), any income of such qualified trust attributable to its interests in such real estate investment trust shall be taken into account under part III of subchapter F of this chapter under rules similar to the rules applicable to income attributable to interests in partnerships.

"(D) DESCRIPTION OF REAL ESTATE INVESTMENT TRUSTS.—

"(i) IN GENERAL.—A real estate investment trust is described in this subparagraph if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if—

"(I) interests in such trust are not readily tradable on an established securities market, or

"(II) interests in such trust are so tradable but such trust is predominantly held by qualified trusts.

"(ii) PREDOMINANTLY HELD.—For purposes of clause (i)(II), a real estate investment trust is predominantly held by qualified trusts if—

"(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

"(II) 1 or more qualified trusts (each of whom own at least 10 percent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

"(E) QUALIFIED TRUST.—For purposes of this paragraph (D), the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle D—Extension of Certain Expiring Tax Provisions

SEC. 2301. RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) section 28(b) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2302. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to periods after June 30, 1992.

(b) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS.—In the case of a building to which the amendments made by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election. Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act, and, once made, shall be irrevocable.

SEC. 2303. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Subsection (c) of section 51 (relating to amount of targeted jobs credit) is amended by striking paragraph (4).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after June 30, 1992.

SEC. 2304. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Paragraph (1) of section 143(a) (defining qualified mortgage bond) is amended to read as follows:

"(1) QUALIFIED MORTGAGE BOND DEFINED.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue."

(b) MORTGAGE CREDIT CERTIFICATES.—Section 25 is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(c) TREATMENT OF RESALE PRICE CONTROL AND SUBSIDY LIEN PROGRAMS.—Subsection (k) of section 143 is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF RESALE PRICE CONTROL AND SUBSIDY LIEN PROGRAMS.—

"(A) IN GENERAL.—The interest of a governmental unit in any residence by reason of financing provided under any qualified program shall not be taken into account under this section (other than subsection (m)), and the acquisition cost of the residence which is taken into account under subsection (e) shall be such cost reduced by the amount of such financing.

"(B) QUALIFIED PROGRAM.—For purposes of subparagraph (A), the term 'qualified program' means any governmental program providing second mortgage loans—

"(i) which restricts the resale of the residence to a purchaser qualifying under this section and to a price determined by an index that reflects less than the full amount of any appreciation in the residence's value, or

"(ii) which provides for deferred or reduced interest payments on such financing and grants the governmental unit a share in the appreciation of the residence,

but only if such financing is not provided directly or indirectly through the use of any private activity bond."

(d) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

(3) PROGRAMS.—The amendment made by subsection (c) shall apply to qualified mortgage bonds issued and mortgage credit certificates provided on or after the date of the enactment of this Act.

SEC. 2305. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) is amended to read as follows:

"(B) BONDS ISSUED TO FINANCE MANUFACTURING FACILITIES AND FARM PROPERTY.—Subparagraph (A) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

"(i) any manufacturing facility, or

"(ii) any land or property in accordance with section 147(c)(2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

SEC. 2306. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 127 (relating to educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 103 of the Tax Extension Act of 1991 is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after June 30, 1992.

SEC. 2307. EXCISE TAX ON CERTAIN VACCINES.

(a) TAX.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund, and

(4) whether additional vaccines should be included in the vaccine injury compensation program.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 2308. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

Subtitle E—Modifications to Minimum Tax

SEC. 2401. REPEAL OF PREFERENCE FOR CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking "(6), and (8)" and inserting "and (7)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions in taxable years beginning after December 31, 1991.

(d) ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.—The Secretary of the Treasury or his delegate shall develop and implement a procedure under which the value of donated property would be determined for Federal income tax purposes prior to the charitable transfer.

SEC. 2402. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service on or after February 1, 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending after such date.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

Subtitle F—Repeal of Certain Luxury Excise Taxes; Imposition of Tax on Diesel Fuel Used in Noncommercial Motorboats

SEC. 2501. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

"SEC. 4001. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1991, the $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100 (or, if such amount is a multiple of $50 and not of $100, such amount shall be rounded to the next highest multiple of $100).

"(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

"SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale,

after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator for a potential customer while the potential customer is in the vehicle.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) SPECIAL RULES FOR LONG-TERM LEASES.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) SEPARATE PURCHASE OF VEHICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(5) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on February 1, 1992.

SEC. 2502. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL MOTORBOATS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking "or a diesel-powered train" and inserting ", a diesel-powered train, or a diesel-powered motorboat".

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking "diesel-powered highway vehicle" each place it appears and inserting "diesel-powered highway vehicle or diesel-powered motorboat", and

(B) by striking "such vehicle" and inserting "such vehicle or motorboat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))".

(b) EXEMPTION FOR USE IN FISHERIES OR COMMERCIAL NAVIGATION.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

"(B) USES IN MOTORBOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(i) a vessel employed in the fisheries or in the whaling business, and

"(ii) a motorboat in the active conduct of—

"(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(II) any other trade or business unless the motorboat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation."

(c) RETENTION OF TAXES IN GENERAL FUND.—

(1) TAXES IMPOSED AT HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered motorboat."

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered motorboat."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1992.

Subtitle G—Urban Tax Enterprise Zones and Rural Development Investment Zones

SEC. 2601. STATEMENT OF PURPOSE.

It is the purpose of this subtitle to establish a demonstration program of providing incentives for the creation of tax enterprise zones in order—

(1) to revitalize economically and physically distressed areas, primarily by encouraging the formation of new businesses and the retention and expansion of existing businesses,

(2) to promote meaningful employment for tax enterprise zone residents, and

(3) to encourage individuals to reside in the tax enterprise zones in which they are employed.

PART I—DESIGNATION AND TAX INCENTIVES

SEC. 2602. DESIGNATION AND TREATMENT OF URBAN TAX ENTERPRISE ZONES AND RURAL DEVELOPMENT INVESTMENT ZONES.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Designation and Treatment of Tax Enterprise Zones

"Part I. Designation of tax enterprise zones.

"Part II. Incentives for tax enterprise zones.

"PART I—DESIGNATION OF TAX ENTERPRISE ZONES

"Sec. 1391. Designation procedure.

"Sec. 1392. Eligibility and selection criteria.

"Sec. 1393. Definitions and special rules.

"SEC. 1391. DESIGNATION PROCEDURE.

"(a) IN GENERAL.—For purposes of this title, the term 'tax enterprise zone' means any area which is, under this part—

"(1) nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone, and

"(2) designated by—

"(A) the Secretary of Housing and Urban Development in the case of an urban tax enterprise zone, and

"(B) the Secretary of Agriculture, in consultation with the Secretary of Commerce, in the case of a rural development investment zone.

"(b) NUMBER OF DESIGNATIONS.—

"(1) AGGREGATE LIMIT.—The appropriate Secretaries may designate in the aggregate 35 nominated areas as tax enterprise zones under this section, subject to the availability of eligible nominated areas. Not more than 10 urban tax enterprise zones may be designated and not more than 25 rural development investment zones may be designated. Such designations may be made only during the calendar years 1993, 1994, and 1995.

"(2) ANNUAL LIMITS.—

"(A) URBAN TAX ENTERPRISE ZONES.—The number of urban tax enterprise zones designated under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 5,

"(ii) in calendar year 1994 shall not exceed the sum of 3 plus the carryover amount for such year, and

"(iii) in calendar year 1995 shall not exceed the sum of 2 plus the carryover amount for such year.

"(B) RURAL DEVELOPMENT INVESTMENT ZONES.—The number of rural development investment zones designated under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 12,

"(ii) in calendar year 1994 shall not exceed the sum of 7 plus the carryover amount for such year, and

"(iii) in calendar year 1995 shall not exceed the sum of 6 plus the carryover amount for such year.

"(C) CARRYOVER AMOUNT.—For purposes of subparagraphs (A) and (B), the carryover amount for any calendar year shall be equal to the amount by which—

"(i) the limitation under such subparagraph for the preceding calendar year, exceeds

"(ii) the number of designations made under paragraph (1) for the type of tax enterprise zone to which such subparagraph relates in such preceding calendar year.

"(3) ADVANCE DESIGNATIONS PERMITTED.—For purposes of this subchapter, a designation during any calendar year shall be treated as made on January 1 of the following calendar year if the appropriate Secretary, in making such designation, specifies that such designation is effective as of such January 1.

"(c) LIMITATIONS ON DESIGNATIONS.—The appropriate Secretary may not make any designation under subsection (a) unless—

"(1) the local governments and the State in which the nominated area is located have the authority—

"(A) to nominate the area for designation as a tax enterprise zone, and

"(B) to provide assurances satisfactory to the appropriate Secretary that the commitments under section 1392(c) will be fulfilled,

"(2) the local governments and the State in which the nominated area is located—

"(A) have designated a governmental official with responsibility for making allocations under section 1397A (relating to overall limitation on zone incentives), and

"(B) have established procedures to ensure that allocations under section 1397A are made in a manner designed primarily to increase economic activity in the tax enterprise zone over that which would otherwise have occurred,

"(3) a nomination of the area is submitted in a reasonable time before the calendar year for which designation as a tax enterprise zone is sought,

"(4) the appropriate Secretary determines that any information furnished is reasonably accurate, and

"(5) the State and local governments certify that no portion of the area nominated is already included in a tax enterprise zone or in an area otherwise nominated to be a tax enterprise zone.

"(d) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a tax enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 15th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided for in their nomination, or

"(C) the date the appropriate Secretary revokes the designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—

"(A) IN GENERAL.—The appropriate Secretary shall revoke the designation of an area as a tax enterprise zone if such Secretary determines that the local government or the State in which it is located—

"(i) has significantly modified the boundaries of the area, or

"(ii) is not complying substantially with the State and local commitments pursuant to section 1392(c).

"(B) APPLICABLE PROCEDURES.—A designation may be revoked by the appropriate Secretary under subparagraph (A) only after a hearing on the record involving officials of the State or local government involved.

"SEC. 1392. ELIGIBILITY AND SELECTION CRITERIA.

"(a) IN GENERAL.—The appropriate Secretary may make a designation of any nominated area under section 1391 only on the basis of the eligibility and selection criteria set forth in this section.

"(b) ELIGIBILITY CRITERIA.—

"(1) URBAN TAX ENTERPRISE ZONES.—A nominated area which is not a rural area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the most recent census data available) of not less than 4,000.

"(B) DISTRESS.—The nominated area is one of pervasive poverty, unemployment, and general distress.

"(C) SIZE.—The nominated area—

"(i) does not exceed 12 square miles,

"(ii) has a boundary which is continuous, or consists of not more than 3 noncontiguous parcels, and

"(iii) is located entirely within 1 State.

"(D) UNEMPLOYMENT RATE.—The unemployment rate (as determined by the appropriate available data) is not less than 1.5 times the national unemployment rate.

"(E) POVERTY RATE.—The poverty rate (as determined by the most recent census data available) for not less than 90 percent of the population census tracts (or where not tracted, the equivalent county divisions as defined by the Bureau of the Census for the purposes of defining poverty areas) within the nominated area is not less than 20 percent.

"(F) COURSE OF ACTION.—There has been adopted for the nominated area a course of action which meets the requirements of subsection (c).

"(2) RURAL DEVELOPMENT INVESTMENT ZONES.—A nominated area which is a rural area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the most recent census data available) of not less than 1,000.

"(B) DISTRESS.—The nominated area is one of general distress.

"(C) SIZE.—The nominated area—

"(i) does not exceed 10,000 square miles,

"(ii) consists of areas within not more than 4 contiguous counties,

"(iii) has a boundary which is continuous, or consists of not more than 3 noncontiguous parcels, and

"(iv) except in the case of nominated areas located in 1 or more Indian reservations, is located entirely within 1 State.

"(D) ADDITIONAL CRITERIA.—Not less than 2 of the following criteria:

"(i) UNEMPLOYMENT RATE.—The criterion set forth in paragraph (1)(D).

"(ii) POVERTY RATE.—The criterion set forth in paragraph (1)(E).

"(iii) JOB LOSS.—The amount of wages attributable to employment in the area, and subject to tax under section 3301 during the preceding calendar year, is not more than 95 percent of such wages during the 5th preceding calendar year.

"(iv) OUT-MIGRATION.—The population of the area decreased (as determined by the most recent census data available) by 10 percent or more between 1980 and 1990.

"(E) COURSE OF ACTION.—There has been adopted for the nominated area a course of action which meets the requirements of subsection (c).

"(c) REQUIRED STATE AND LOCAL COURSE OF ACTION.—

"(1) IN GENERAL.—No nominated area may be designated as a tax enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is a tax enterprise zone, the governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in the area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both governments and private nongovernmental entities, may not be funded from proceeds of any Federal program, and may include—

"(A) a reduction of tax rates or fees applying within the tax enterprise zone,

"(B) an increase in the level, or efficiency of delivery, of local public services within the tax enterprise zone,

"(C) actions to reduce, remove, simplify, or streamline government paperwork requirements applicable within the tax enterprise zone,

"(D) the involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area,

"(E) the giving of special preference to contractors owned and operated by members of any minority,

"(F) the gift (or sale at below fair market value) of surplus land in the tax enterprise zone to neighborhood organizations agreeing to operate a business on the land,

"(G) the establishment of a program under which employers within the tax enterprise zone may purchase health insurance for their employees on a pooled basis,

"(H) the establishment of a program to encourage local financial institutions to satisfy their obligations under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by making loans to tax enterprise zone businesses, with emphasis on startup and other small-business concerns (as defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a)),

"(I) the giving of special preference to qualified low-income housing projects located in tax enterprise zones, in the allocation of the State housing credit ceiling applicable under section 42, and

"(J) the giving of special preference to facilities located in tax enterprise zones, in the allocation of the State ceiling on private activity bonds applicable under section 146.

"(3) RECOGNITION OF PAST EFFORTS.—In evaluating courses of action agreed to by any State or local government, the appropriate Secretary shall take into account the past efforts of the State or local government in reducing the various burdens borne by employers and employees in the area involved.

"(4) PROHIBITION OF ASSISTANCE FOR BUSINESS RELOCATIONS.—

"(A) IN GENERAL.—The course of action implemented under paragraph (1) may not include any action to assist any establishment in relocating from 1 area to another area.

"(B) EXCEPTION.—The limitation established in subparagraph (A) shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if the appropriate Secretary—

"(i) finds that the establishment of the new branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where the existing business entity conducts business operations, and

"(ii) has no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

"(d) SELECTION CRITERIA.—From among the nominated areas eligible for designation under subsection (b) by the appropriate Secretary, such appropriate Secretary shall make designations of tax enterprise zones on the basis of the following factors (each of which is to be given equal weight):

"(1) STATE AND LOCAL CONTRIBUTIONS.—The strength and quality of the contributions which have been promised as part of the course of action relative to the fiscal ability of the nominating State and local governments.

"(2) IMPLEMENTATION OF COURSE OF ACTION.—The effectiveness and enforceability of the guarantees that the course of action will actually be carried out.

"(3) PRIVATE COMMITMENTS.—The level of commitments by private entities of additional resources and contributions to the economy of the nominated area, including the creation of new or expanded business activities.

"(4) AVERAGE RANKINGS.—The average ranking with respect to—

"(A) the criteria set forth in subparagraphs (D) and (E) of subsection (b)(1), in the case of an area which is not a rural area, or

"(B) the 2 criteria set forth in subsection (b)(2)(D) that give the area a higher average ranking, in the case of a rural area.

"(5) REVITALIZATION POTENTIAL.—The potential for the revitalization of the nominated area as a result of zone designation, taking into account particularly the number of jobs to be created and retained.

"SEC. 1393. DEFINITIONS AND SPECIAL RULES.

"For purposes of this subchapter—

"(1) URBAN TAX ENTERPRISE ZONE.—The term 'urban tax enterprise zone' means a tax enterprise zone which meets the requirements of section 1392(b)(1).

"(2) RURAL DEVELOPMENT INVESTMENT ZONE.—The term 'rural development investment zone' means a tax enterprise zone which meets the requirements of section 1392(b)(2).

"(3) GOVERNMENTS.—If more than 1 local government seeks to nominate an area as a tax enterprise zone, any reference to, or requirement of, this subchapter shall apply to all such governments.

"(4) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

"(5) NOMINATED AREA.—

"(A) IN GENERAL.—The term 'nominated area' means an area which is nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone under this subchapter.

"(B) INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to the area.

"(6) RURAL AREA.—The term 'rural area' means any area which is—

"(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(B) determined by the Secretary of Agriculture, after consultation with the Secretary of Commerce, to be a rural area.

"(7) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) the Secretary of Housing and Urban Development in the case of urban tax enterprise zones, and

"(B) the Secretary of Agriculture in the case of rural development investment zones.

"(8) STATE-CHARTERED DEVELOPMENT CORPORATIONS.—An area shall be treated as nominated by a State and a local government if it is nominated by an economic development corporation chartered by the State.

"PART II—INCENTIVES FOR TAX ENTERPRISE ZONES

"Subpart A—Enterprise Zone Employment Credit

"SEC. 1394. ENTERPRISE ZONE EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the enterprise zone employment credit determined under this section with respect to any small employer for any taxable year is 7.5 percent of the qualified zone wages paid or incurred during such taxable year.

"(2) LIMITATION.—The amount of the enterprise zone employment credit of any small employer for any taxable year with respect to any tax enterprise zone shall not exceed the employment credit amount allocated to such employer for such taxable year under section 1397A with respect to such zone.

"(b) QUALIFIED ZONE WAGES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified zone wages' means any wages paid or incurred by a small employer for services performed by an employee while such employee is a qualified zone employee.

"(2) COORDINATION WITH TARGETED JOBS CREDIT.—The term 'qualified wages' shall not include wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer if any portion of such wages are qualified wages (as defined in section 51(b)).

"(c) QUALIFIED ZONE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified zone employee' means, with respect to any period, any employee of a small employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within a tax enterprise zone in a trade or business of the employer, and

"(B) the principal place of abode of such employee while performing such services is within such tax enterprise zone.

"(2) CREDIT ALLOWED ONLY FOR FIRST 5 YEARS.—An employee shall not be treated as a qualified zone employee for any period after the date 5 years after the day on which such employee first began work for the employer (whether or not in a tax enterprise zone).

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified zone employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services in a tax enterprise zone) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1992 at the same time and in the same manner as under section 415(d).

"(4) CERTAIN INDIVIDUALS NOT ELIGIBLE.—The term 'qualified zone employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1), and

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)).

"(d) SMALL EMPLOYER.—For purposes of this section, the term 'small employer' means, with respect to any taxable year, any employer if the average number of individuals employed full-time (within the meaning of the last sentence of section 44(b)) during such taxable year by such employer does not exceed 100.

"(e) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) 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 taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(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.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer 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 taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"SEC. 1395. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) WAGES.—For purposes of this subpart, the term 'wages' has the same meaning as when used in section 51 except that paragraph (4) of section 51(c) shall not apply.

"(b) CONTROLLED GROUPS.—For purposes of this subpart—

"(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

"(2) the credit (if any) determined under section 1394 with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

"(c) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"Subpart B—Investment Incentives

"Sec. 1396. Enterprise zone stock.

"Sec. 1397. Additional first-year depreciation allowance.

"SEC. 1396. ENTERPRISE ZONE STOCK.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction an amount equal to the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of enterprise zone stock.

"(b) LIMITATIONS.—

"(1) CEILING.—

"(A) IN GENERAL.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed whichever of the following is the least for the taxable year:

"(i) $25,000.

"(ii) The enterprise zone stock amount allocated under section 1397A to the taxpayer for such taxable year.

"(iii) The excess of $250,000 over the amount allowed as a deduction under this section to the taxpayer for all prior taxable years.

"(B) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under subparagraph (A)—

"(i) the amount of such excess shall be treated as an amount paid to which subsection (a) applies during the next taxable year, and

"(ii) the deduction allowed for any taxable year shall be allocated among the enterprise zone stock purchased by such person in accordance with the purchase price per share.

"(2) AGGREGATION WITH FAMILY MEMBERS.—The taxpayer and members of the taxpayer's family (as defined in section 267(c)(4)) shall be treated as one person for purposes of clauses (i) and (iii) of paragraph (1)(A), and the limitations contained in such clauses shall be allocated among the taxpayer and such members in accordance with their respective purchases of enterprise zone stock.

"(c) DISPOSITIONS OF STOCK.—

"(1) GAIN TREATED AS ORDINARY INCOME.—Except as otherwise provided in regulations, if a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a), the amount realized on such disposition—

"(A) shall be recognized notwithstanding any other provision of this subtitle, and

"(B) to the extent such amount does not exceed the amount allowed as a deduction under subsection (a) with respect to such stock, shall be treated as ordinary income.

"(2) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a) before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date such stock was disposed of by the taxpayer,

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disposed of.

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(3) EXCEPTION FOR TRANSFERS AT DEATH.—This subsection shall not apply to a transfer at death.

"(d) DISQUALIFICATION.—

"(1) ISSUER OR STOCK CEASES TO QUALIFY.—If, during the 10-year period beginning on the date enterprise zone stock was purchased by the taxpayer—

"(A) the issuer of such stock ceases to be a qualified issuer (determined without regard to subsection (f)(1)(C)), or

"(B) the proceeds from the issuance of such stock fail or otherwise cease to be invested by the issuer in qualified enterprise zone property,

then, notwithstanding any provision of this subtitle other than paragraph (2), the taxpayer shall be treated for purposes of subsection (c) as disposing of such stock during the taxable year during which such cessation or failure occurs at its fair market value as of 1st day of such taxable year.

"(2) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—A corporation

shall not fail to be treated as a qualified issuer for purposes of paragraph (1) solely by reason of the termination or revocation of a tax enterprise zone designation.

"(e) ENTERPRISE ZONE STOCK.—For purposes of this section,

"(1) IN GENERAL.—The term 'enterprise zone stock' means stock of a corporation if—

"(A) such stock was acquired on original issue from the corporation, and

"(B) such corporation was, at the time of issue, a qualified issuer.

"(2) PROCEEDS MUST BE INVESTED IN QUALIFIED ENTERPRISE ZONE PROPERTY.—Such term shall include such stock only to the extent that the amount of proceeds of such issuance are used by such issuer during the 12-month period beginning on the date of issuance to acquire qualified enterprise zone property.

"(3) $5,000,000 LIMIT.—Not more than $5,000,000 of stock of such corporation and all related persons may be enterprise zone stock.

"(f) QUALIFIED ISSUER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified issuer' means any domestic C corporation if—

"(A) such corporation does not have more than one class of stock,

"(B) such corporation meets the enterprise zone business requirements of paragraph (2),

"(C) the sum of—

"(i) the money,

"(ii) the aggregate unadjusted bases of property owned by such corporation, and

"(iii) the value of property leased to the corporation (as determined under regulations prescribed by the Secretary),

does not exceed $5,000,000, and

"(D) more than 20 percent of the total voting power, and 20 percent of the total value, of the stock of such corporation is owned by individuals or estates or indirectly by individuals through partnerships or trusts.

"(2) ENTERPRISE ZONE BUSINESS REQUIREMENTS.—

"(A) IN GENERAL.—A corporation meets the enterprise zone business requirements of this paragraph for any taxable year if—

"(i) at least 80 percent of the total gross income of such corporation for the taxable year is derived from the active conduct of a trade or business within a tax enterprise zone,

"(ii) less than 10 percent of the average of the aggregate unadjusted bases of the property of the corporation during such taxable year is attributable to securities (as defined in section 165(g)(2)),

"(iii) substantially all of the use of the tangible property of the corporation (whether owned or leased) is within a tax enterprise zone,

"(iv) substantially all of the services performed for the corporation by the employees of such corporation are performed in a tax enterprise zone, and

"(v) no more than an insubstantial portion of the property of the corporation constitutes collectibles (as defined in section 408(m)(2)), unless such collectibles constitute property held primarily for sale to customers in the ordinary course of such trade or business.

"(B) SPECIAL RULES.—

"(i) RENTAL REAL PROPERTY.—For purposes of subparagraph (A), real property located within a tax enterprise zone and held for use by customers other than related persons shall be treated as the active conduct of a trade or business.

"(ii) EXCESSIVE PROPERTY OR SERVICES PROVIDED TO OR BY RELATED PERSONS.—A corporation shall cease to meet the requirements of this paragraph if—

"(I) more than 50 percent (by value) of the property or services acquired by the corporation during the taxable year are acquired from related persons which do not meet the requirements of this paragraph; or

"(II) more than 50 percent of the gross income of the corporation for the taxable year is attributable to property or services provided to related persons which do not meet the requirements of this paragraph.

"(iii) NEW CORPORATIONS.—In the case of a new corporation, clauses (i) and (ii) of subparagraph (A) shall not apply to the 1st taxable year of such corporation.

"(3) QUALIFIED ENTERPRISE ZONE PROPERTY.—The term 'qualified enterprise zone property' means property to which section 168 applies—

"(A) the original use of which commences with the qualified issuer, and

"(B) substantially all of the use of which is in a tax enterprise zone.

"(4) RELATED PERSON.—A person shall be treated as related to another person if—

"(A) the relationship of such persons is described in section 267(b) or 707(b)(1), or

"(B) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of subparagraph (A), in applying section 267(b) or 707(b)(1), '33 percent' shall be substituted for '50 percent'.

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, the taxpayer's basis (without regard to this subsection) for the enterprise zone stock shall be reduced by the deduction allowed under subsection (a) with respect to such stock.

"SEC. 1397. ADDITIONAL FIRST-YEAR DEPRECIATION ALLOWANCE.

"(a) IN GENERAL.—In the case of any qualified zone property—

"(1) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 25 percent of the adjusted basis of such property, and

"(2) the adjusted basis of such property shall be reduced by the amount of such allowance before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(b) QUALIFIED ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone property' means any property to which section 168 applies—

"(A) which is section 1245 property (as defined in section 1245(a)(3)),

"(B) the original use of which commences with the taxpayer in a tax enterprise zone, and

"(C) substantially all of the use of which is in a tax enterprise zone and is in the active conduct of a trade or business by the taxpayer in such zone.

"(2) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified zone property' does not include any property to which the alternative depreciation system under section 168(g) applies, determined—

"(A) without regard to section 168(g)(7) (relating to election to use alternative depreciation system), and

"(B) after application of section 280F(b) (relating to listed property with limited business use).

"(c) LIMITATION.—The aggregate adjusted bases of property which may be taken into account under subsection (a) by any taxpayer for any taxable year with respect to any tax enterprise zone shall not exceed the additional first-year depreciation amount allocated to such taxpayer for such taxable year under section 1397A with respect to such zone.

"(d) SPECIAL RULES FOR SALE-LEASEBACKS.—For purposes of subsection (b)(1)(B), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback.

"(e) COORDINATION WITH SECTION 280F.—

"(1) AUTOMOBILES.—In the case of a passenger automobile (within the meaning of section 280F(d)(5)) which is qualified zone property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the allowance under subsection (a).

"(2) LISTED PROPERTY.—The allowance under subsection (a) shall be taken into account in computing any recapture amount under section 280F(b)(2).

"(f) COORDINATION WITH SECTION 169(j).—In the case of property for which a deduction would (but for this subsection) be allowable under section 168(j) and this section, section 168(j) shall not apply and this section shall be applied by substituting '40 percent' for '25 percent' in subsection (a).

"Subpart C—General Provisions

"SEC. 1397A. OVERALL LIMITATION ON ZONE INCENTIVES.

"(a) GENERAL RULE.—The allocating official of each tax enterprise zone shall make allocations of—

"(1) employment credit amounts,

"(2) enterprise zone stock amounts, and

"(3) additional first-year depreciation amounts.

"(b) LIMITATION ON AGGREGATE AMOUNTS ALLOCATED.—

"(1) LIMITATION.—

"(A) IN GENERAL.—No amount may be allocated under subsection (a) by the allocating official of any tax enterprise zone if such allocation would result in the zone limit for the calendar year of the allocation (or any succeeding calendar year) being reduced below zero.

"(B) COORDINATION WITH INCREASE.—For purposes of applying subparagraph (A) to an allocation during any calendar year, it shall be assumed that no increase in the zone limit will be made under paragraph (2)(B) for any succeeding calendar year unless—

"(i) the allocating official provides assurances satisfactory to the Secretary that the zone will be entitled to such an increase for such succeeding calendar year, and

"(ii) the allocating official agrees to such recapture provisions as the Secretary may require in cases where the zone is not entitled to such increase.

"(2) ZONE LIMIT.—For purposes of this section—

"(A) BASIC AMOUNT.—Except as otherwise provided in this paragraph, the zone limit for any tax enterprise zone for any calendar year is—

"(i) $13,000,000 in the case of an urban tax enterprise zone, and

"(ii) $5,000,000 in the case of a rural development investment zone.

"(B) INCREASE IN LIMIT FOR CERTAIN STATE OR LOCAL EXPENDITURES.—

"(i) IN GENERAL.—The amount of the zone limit for any tax enterprise zone for any cal-

endar year shall be increased by the lesser of—

"(I) 10 percent of the limit determined under subparagraph (A), or

"(II) the amount determined under clause (ii) with respect to such zone for such calendar year.

"(ii) AMOUNT OF INCREASE.—For purposes of clause (i), the amount determined under this clause with respect to any tax enterprise zone for any calendar year is the sum of—

"(I) the State and local business incentives with respect to such zone for the preceding calendar year, and

"(II) the qualified State and local governmental expenditures with respect to such zone for the preceding calendar year.

"(C) CARRYOVER OF UNUSED AMOUNTS.—

"(i) IN GENERAL.—Before the end of any calendar year, the allocating official of any tax enterprise zone may elect—

"(I) to reduce the zone limit applicable to such zone for such year, and

"(II) to increase the zone limit applicable to such zone for the succeeding calendar year by an amount equal to such reduction.

"(ii) LIMITATION.—The increase in a zone limit under clause (i)(II) for any calendar year shall not exceed 70 percent of the zone limit otherwise applicable to the tax enterprise zone for such year.

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

"(A) STATE AND LOCAL BUSINESS INCENTIVES.—The State and local business incentives with respect to any tax enterprise zone for any calendar year is the sum of—

"(i) the aggregate of property tax or sales tax abatements provided during State or local fiscal years ending in such calendar year with respect to otherwise taxable property or sales in such tax enterprise zone,

"(ii) the aggregate grants made by any State or local government during such fiscal years to startup and other small business concerns in such tax enterprise zone, plus

"(iii) 5 percent of the total outstanding balance (as of the close of such fiscal years) of loans made by any State or local government to startup and other small business concerns in such tax enterprise zone.

No amount shall be taken into account under the preceding sentence if such amount consists of assistance which would be prohibited under section 1392(c)(4) (relating to prohibition of assistance for business relocations). No loan shall be taken into account under clause (iii) unless the State or local government bears the risk of any default with respect to such loan.

"(B) QUALIFIED STATE AND LOCAL GOVERNMENTAL EXPENDITURES.—

"(i) IN GENERAL.—The qualified State and local governmental expenditures with respect to any tax enterprise zone for any calendar year shall be the excess (if any) of—

"(I) the specified expenditures during State or local fiscal years ending in such calendar year with respect to such zone, over

"(II) the adjusted base period expenditures for such zone.

"(ii) SPECIFIED EXPENDITURES.—For purposes of this subparagraph, the term 'specified expenditures' means—

"(I) any expenditures by any State or local government for the acquisition, construction, repair, or maintenance of public improvements or facilities in the tax enterprise zone, plus

"(II) any expenditures by any State or local government for police or fire protection to the extent allocable to the tax enterprise zone.

"(iii) ADJUSTED BASE PERIOD EXPENDITURES.—For purposes of this subparagraph, the term 'adjusted base period expenditures' means, with respect to any calendar year—

"(I) the aggregate specified expenditures during State or local fiscal years ending in calendar year 1991 with respect to the tax enterprise zone, increased by

"(II) the cost-of-living adjustment for the calendar year for which the increase is being determined (as determined under section 1(f)(3) by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) of such section).

"(iv) ADJUSTMENT FOR CERTAIN CAPITAL EXPENDITURES.—For purposes of clause (iii)(I), the appropriate Secretary may disregard any expenditures if such Secretary determines that such expenditures were unusual and not recurring and that inclusion of such expenditures would not be consistent with the purposes of this section.

"(C) DETERMINATIONS BY APPROPRIATE SECRETARY.—The amount of the State and local business incentives and qualified State or local governmental expenditures with respect to any tax enterprise zone for any calendar year shall be determined by the appropriate Secretary with respect to such zone and certified to the Secretary of the Treasury or his delegate.

"(D) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning given such term by section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

"(c) ALLOCATION PREFERENCE FOR SMALL BUSINESS CONCERNS.—In making allocations under subsection (a), the allocating official of each tax enterprise zone shall give preference to small business concerns (as defined in subsection (b)(3)(D)).

"(d) OPERATING RULES.—For purposes of this section—

"(1) EMPLOYMENT CREDIT AMOUNT.—Any allocation of an employment credit amount—

"(A) shall specify the employer and taxable year to which such allocation applies, and

"(B) shall reduce the zone limit for the calendar year in which such taxable year begins by 67 cents for each dollar of the amount so allocated.

"(2) ENTERPRISE ZONE STOCK AMOUNT.—Any allocation of an enterprise zone stock amount—

"(A) shall specify the stock purchases to which the allocation relates, and

"(B) shall reduce the zone limit for the calendar year in which such taxable year begins by 35 cents for each dollar of the amount so allocated.

"(3) ADDITIONAL FIRST-YEAR DEPRECIATION AMOUNT.—Any allocation of an additional first-year depreciation amount—

"(A) shall specify the adjusted basis of the property to which such allocation applies, and

"(B) shall reduce the zone limit for the calendar year in which the property is placed in service by 1.5 cents for each dollar so allocated.

"(e) RETROACTIVE ALLOCATIONS NOT EFFECTIVE.—

"(1) IN GENERAL.—No retroactive allocation under subsection (a) shall be effective.

"(2) RETROACTIVE ALLOCATION.—For purposes of subsection (a), the term 'retroactive allocation' means any allocation of—

"(A) an employment credit amount after the beginning of the taxable year to which such allocation applies,

"(B) an enterprise zone stock amount after the stock involved is acquired, or

"(C) an additional first-year depreciation amount after the property involved is placed in service.

"(f) ALLOCATING OFFICIAL.—For purposes of this section, the term 'allocating official' means the official designated as provided in section 1391(c)(2) as the official responsible for making allocations under this section.

"SEC. 1397B. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including—

"(1) regulations limiting the benefit of this part in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government, and

"(2) regulations preventing avoidance of the provisions of this part."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"Subchapter U. Designation and treatment of tax enterprise zones."

SEC. 2603. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ALTERNATIVE MINIMUM TAX.—

(1) ENTERPRISE ZONE STOCK.—Subsection (b) of section 56 (relating to adjustments to the alternative minimum taxable income of individuals) is amended by adding at the end thereof the following new paragraph:

"(4) ENTERPRISE ZONE STOCK.—Section 1396 shall not apply."

(2) ADDITIONAL FIRST-YEAR DEPRECIATION.—Subparagraph (A) of section 56(a)(1) (relating to adjustments in computing alternative minimum taxable income), as amended by section 2002, is amended—

(A) in clause (i), by striking "or (iii)" and inserting ", (iii), or (iv)", and

(B) by adding at the end thereof the following new clause:

"(iv) ADDITIONAL FIRST-YEAR DEPRECIATION FOR QUALIFIED TAX ENTERPRISE ZONE PROPERTY.—The allowance provided by section 1397(a) for qualified zone property shall be allowed."

(b) ENTERPRISE ZONE EMPLOYMENT CREDIT PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end the following new paragraph:

"(8) in the case of a small employer (as defined in section 1394(d)), the enterprise zone employment credit determined under section 1394(a)."

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO ENTERPRISE ZONE EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended—

(A) by striking "the amount of the credit determined for the taxable year under section 51(a)" and inserting "the sum of the credits determined for the taxable year under sections 51(a) and 1394(a)", and

(B) by striking "TARGETED JOBS CREDIT" in the subsection heading and inserting "EMPLOYMENT CREDITS".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) the enterprise zone employment credit determined under section 1394(a)."

(d) OTHER AMENDMENTS.—

(1) Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions)

is amended by adding at the end the following new paragraph:

"(26) ENTERPRISE ZONE PROVISIONS.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subchapter U, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of subchapter U in respect of the distributor or transferor corporation."

(2) Paragraph (1) of section 1371(d) (relating to coordination with investment credit recapture) is amended by inserting before the period at the end the following "and for purposes of sections 1394(e)(3)".

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (23); by striking the period at the end of paragraph (24) and inserting "; and"; and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 1396(g), in the case of stock with respect to which a deduction was allowed under section 1396(a).".

SEC. 2604. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this part shall take effect on the date of the enactment of this Act.

(b) REQUIREMENT FOR REGULATIONS.—Not later than the date 4 months after the date of the enactment of this Act, the appropriate Secretaries shall issue regulations—

(1) establishing the procedures for nominating areas for designation as tax enterprise zones,

(2) establishing a method for comparing the factors listed in section 1392(d) of the Internal Revenue Code of 1986 (as added by this part), and

(3) establishing recordkeeping requirements necessary or appropriate to assist the studies required by part III.

PART II—STUDIES

SEC. 2611. STUDIES OF EFFECTIVENESS OF TAX ENTERPRISE ZONE INCENTIVES.

(a) IN GENERAL.—The Secretary of the Treasury and the Comptroller General shall each conduct studies of the effectiveness of the incentives provided by this subtitle in achieving the purposes of this subtitle in tax enterprise zones.

(b) REPORTS.—The Secretary of the Treasury and the Comptroller General shall each submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(1) not later than July 1, 1996, an interim report setting forth the findings as a result of such studies, and

(2) not later than July 1, 2001, a final report setting forth the findings as a result of such studies.

TITLE III—REVENUE INCREASES

Subtitle A—Treatment of Wealthy Individuals

SEC. 3001. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $35,800	15% of taxable income.
Over $35,800 but not over $86,500.	$5,370, plus 28% of the excess over $35,800.
Over $86,500 but not over $145,000.	$19,566, plus 31% of the excess over $86,500.
Over $145,000	$37,701, plus 35% of the excess over $145,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $28,750	15% of taxable income.
Over $28,750 but not over $74,150.	$4,312.50, plus 28% of the excess over $28,750.
Over $74,150 but not over $125,000.	$17,024.50, plus 31% of the excess over $74,150.
Over $125,000	$32,788.50, plus 35% of the excess over $125,000.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $21,450	15% of taxable income.
Over $21,450 but not over $51,900.	$3,217.50, plus 28% of the excess over $21,450.
Over $51,900 but not over $85,000.	$11,743.50, plus 31% of the excess over $51,900.
Over $85,000	$22,004.50, plus 35% of the excess over $85,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $17,900	15% of taxable income.
Over $17,900 but not over $43,250.	$2,685, plus 28% of the excess over $17,900.
Over $43,250 but not over $72,500.	$9,783, plus 31% of the excess over $43,250.
Over $72,500	$18,850.50, plus 35% of the excess over $72,500.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,000	15% of taxable income.
Over $3,000 but not over $5,000.	$450, plus 28% of the excess over $3,000.
Over $5,000 but not over $7,000.	$1,010, plus 31% of the excess over $5,000.
Over $7,000	$1,630, plus 35% of the excess over $7,000."

(b) CONFORMING AMENDMENTS.—

(1) Section 541 is amended by striking "28 percent" and inserting "35 percent".

(2)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting "1992", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1991".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1989" and inserting "1991".

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1991".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1991".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1991".

(F) Clause (ii) of section 135(b)(2)(B) is amended by inserting ", determined by substituting 'calendar year 1989' for 'calendar year 1991' in subparagraph (B) thereof" before the period at the end thereof.

(G) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1991".

(H) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1991".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3002. INCREASE IN INDIVIDUAL MINIMUM TAX RATE.

(a) GENERAL RULE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "24 percent" and inserting "25 percent".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 897(a) is amended by striking "21" in the heading of such paragraph and in subparagraph (A) and inserting "25".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3003. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the

amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3004. 2-YEAR EXTENSION OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS.

Subsection (f) of section 68 (relating to overall limitation on itemized deductions) is amended by striking "1995" and inserting "1997".

SEC. 3005. 2-YEAR EXTENSION OF PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS.

Subparagraph (E) of section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking "1995" and inserting "1997".

SEC. 3006. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) COVERED EMPLOYEE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'covered employee' means any employee of the taxpayer who is an officer of the taxpayer.

"(B) EXCEPTION FOR EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.—The term 'covered employee' shall not include any employee-owner (as defined in section 269A(b)) of a personal service corporation (as defined in section 269A(b)).

"(C) FORMER EMPLOYEES.—The term 'covered employee' includes any former employee who had been a covered employee at any time while performing services for the taxpayer.

"(3) EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) REMUNERATION.—For purposes of subparagraph (A), the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof,

"(ii) amounts referred to in section 3121(a)(19), and

"(iii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under section 132.

"(4) TREATMENT OF CERTAIN EMPLOYERS.—

"(A) IN GENERAL.—All employers treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (n) of section 414 shall be treated as a single employer for purposes of this subsection.

"(B) CLARIFICATION OF OFFICER DEFINITION.—Any officer of any of the employers treated as a single employer under subparagraph (A) shall be treated as an officer of such single employer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Administrative Provisions

SEC. 3101. INDIVIDUAL ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Paragraph (1) of section 6654(d) (relating to amount of required installment) is amended—

(1) by striking "100 percent" in subparagraph (B)(ii) and inserting "115 percent", and

(2) by striking subparagraphs (C), (D), (E), and (F).

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

(2) SPECIAL RULE FOR 1ST INSTALLMENT IN 1992.—The amendment made by subsection (a) shall not apply for purposes of determining the amount of the 1st required installment for any taxable year beginning in 1992. Any reduction in an installment by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st succeeding required installment by the amount of such reduction.

SEC. 3102. CORPORATE ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(1) by striking "90 percent" each place it appears in paragraph (1)(B)(i) and inserting "95 percent",

(2) by striking "90 PERCENT" in the heading of paragraph (2) and inserting "95 PERCENT", and

(3) by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting in lieu thereof:

"In the case of the following required installments:	The applicable percentage is:
1st	23.75
2nd	47.5
3rd	71.25
4th	95."

(2) Clause (i) of section 6655(e)(3)(A) is amended by striking "90 percent" and inserting "95 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 3103. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If the taxpayer files a claim for credit or refund of any overpayment of tax imposed by this title—

"(A) no interest shall be allowed under subsection (a) on such overpayment if such overpayment is refunded within 45 days after the day on which such claim is filed, and

"(B) if such overpayment is not so refunded, interest shall be allowed under subsection (a) on such overpayment but only for periods after the date on which such claim is filed."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after July 1, 1992.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after July 1, 1992.

Subtitle C—Other Revenue Provisions

SEC. 3201. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending after on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 apply.

SEC. 3202. INCREASE IN RECOVERY PERIOD FOR REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) is amended by striking the items relating to residential rental property and nonresidential real property and inserting the following:

"Low income housing	27.5 years
Residential rental property other than low income housing.	31 years
Nonresidential real property.	40 years."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 168(e) is amended by adding at the end thereof the following new subparagraph:

"(C) LOW INCOME HOUSING.—The term 'low income housing' means any property with respect to which the credit under section 42 is allowable."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service by the taxpayer after February 12, 1992.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1995, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before February 13, 1992, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before February 13, 1992.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

SEC. 3203. INCREASE IN MILEAGE REQUIREMENT FOR MOVING EXPENSE DEDUCTION.

(a) GENERAL RULE.—Paragraph (1) of section 217(c) (relating to conditions for allowance of moving expense deduction) is amended by striking "35 miles" each place it appears and insert "75 miles".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid or incurred after the date of the enactment of this Act.

SEC. 3204. TAXATION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

(a) GENERAL RULE.—Subpart C of part II of subchapter K of chapter 1 (relating to distributions by a partnership) is amended by adding at the end thereof the following new section:

"SEC. 737. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

"(a) GENERAL RULE.—In the case of any distribution by a partnership to a partner, such partner shall be treated as recognizing gain in an amount equal to the lesser of—

"(1) the excess (if any) of (A) the fair market value of property (other than money) received in the distribution over (B) the adjusted basis of such partner's interest in the partnership immediately before the distribution reduced (but not below zero) by the amount of money received in the distribution, or

"(2) the net precontribution gain of the partner.

Gain recognized under the preceding sentence shall be in addition to any gain recognized under section 731. The character of such gain shall be determined by reference to the proportionate character of the net precontribution gain.

"(b) NET PRECONTRIBUTION GAIN.—For purposes of this section, the term 'net precontribution gain' means the net gain (if any) which would have been recognized by the distributee partner under section 704(c)(1)(B) if all property which—

"(1) had been contributed to the partnership by the distributee partner within 5 years of the distribution, and

"(2) is held by such partnership immediately before the distribution,

had been distributed by such partnership to another partner.

"(c) EXCEPTIONS.—

"(1) DISTRIBUTIONS OF PREVIOUSLY CONTRIBUTED PROPERTY.—If any portion of the property distributed consists of property which had been contributed by the distributee partner to the partnership, such property shall not be taken into account under subsection (a)(1) and shall not be taken into account in determining the amount of the net precontribution gain. If the property distributed consists of an interest in an entity, the preceding sentence shall not apply to the extent that the value of such interest is attributable to property contributed to such entity after such interest had been contributed to the partnership.

"(2) COORDINATION WITH SECTION 751.—This section shall not apply to the extent section 751(b) applies to such distribution."

(b) BASIS ADJUSTMENTS.—

(1) Section 732 is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENT FOR GAIN RECOGNIZED UNDER SECTION 737.—If gain is recognized by a partner under section 737 by reason of any distribution, appropriate adjustments in the adjusted basis of the distributed property other than money shall be made to reflect the gain so recognized."

(2) Subparagraph (A) of section 734(b)(1) is amended by striking "section 731(a)(1)" and inserting "section 731(a)(1) or 737".

(c) OTHER TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 704(c)(1) is amended by striking out "is distributed" in the material preceding clause (i) and inserting "is distributed (directly or indirectly)".

(2) Subsection (c) of section 731 is amended—

(A) by striking "and section 751" and inserting ", section 751", and

(B) by inserting before the period at the end thereof the following: ", and section 737 (relating to recognition of precontribution gain in case of certain distributions)".

(3) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 737. Recognition of precontribution gain in case of certain distributions to contributing partner."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after February 14, 1992.

SEC. 3205. CONFORM TAX ACCOUNTING TO FINANCIAL ACCOUNTING FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—If any dealer in securities holds any security or hedge at the close of any taxable year—

"(1) such dealer shall recognize gain or loss in the same manner as if such security or hedge were sold on the last business day of such taxable year, and

"(2) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) any security held for investment, and

"(2) any hedge of a security described in paragraph (1).

Any security or hedge shall not be treated as described in paragraph (1) or (2), as the case may be, unless such security or hedge is clearly identified in the dealer's records as being described in such paragraph before the close of the day on which it was acquired (or such earlier time as the Secretary may by regulations prescribe).

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from and sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness described in section 165(g)(2)(C);

"(D) derivative financial instrument in securities, including any option, forward contract, short position, and any similar financial instrument in securities (but not including any futures contract); and

"(E) notional principal contract and any similar financial instrument, including currency swap, option and forward contract on a notional principal contract, but not including any commodity-linked notional principal contract.

"(3) HEDGE DEFINED.—The term 'hedge' includes any long or short position in securities and commodities, including futures contracts, and any similar financial instrument, purchased, entered into or assumed by a dealer in securities in order to reduce the dealer's risk of loss with respect to securities.

"(d) SECTION 263A SHALL NOT APPLY.—The rules of section 263A shall not apply to securities and hedges to which subsection (a) applies.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Marked-to-market inventory method for dealers in securities.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1992.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary,

(C) the change in method of accounting shall be implemented by valuing the securities and hedges to which the amendments of this section apply at their fair market values on the last day of the first taxable year ending on or after December 31, 1992, and

(D) 10 percent of any increase or decrease in value by reason of subparagraph (C) shall be taken into account in each of the 10 taxable years beginning with the first taxable year ending on or after December 31, 1992.

TITLE IV—SIMPLIFICATION PROVISIONS

Subtitle A—Provisions Relating to Individuals

SEC. 4101. SIMPLIFICATION OF EARNED INCOME CREDIT.

(a) GENERAL RULE.—Section 32 (relating to earned income credit) is amended by striking subsections (a) and (b) and inserting the following:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed $5,714.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of $5,714, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(b) PERCENTAGES.—For purposes of subsection (a)—

"(1) IN GENERAL.—Except as otherwise provided in this subsection—

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
"1 qualifying child	23	16.43
"2 or more qualifying children	28.8	20.58.

"(2) TRANSITIONAL PERCENTAGES.—

"(A) In the case of a taxable year beginning in 1992:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
"1 qualifying child	17.6	12.57
"2 or more qualifying children	22.2	15.84.

"(B) In the case of a taxable year beginning in 1993:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
"1 qualifying child	18.5	13.21
"2 or more qualifying children	23.3	16.64."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 32(i)(2) is amended—

(A) by striking "subsection (b)(1)" in clause (i) and inserting "subsection (a)", and

(B) by striking "subsection (b)(1)(B)(ii)" in clause (ii) and inserting "subsection (a)(2)".

(2) Paragraph (3) of section 162(l) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(3) Section 213 is amended by striking subsection (f).

(4) Subparagraph (B) of section 3507(c)(2) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) of not more than the percentage (in effect under section 32(a)(1) for an eligible individual with 1 qualifying child) of earned income not in excess of the amount of earned income taken into account under section 32(a)(1), which

"(ii) phases out between the amount of earned income at which the phaseout begins under subsection (a)(2) of section 32 and the amount of earned income at which the credit under section 32 is phased out under such subsection for an individual with 1 qualifying child, or".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4102. SIMPLIFICATION OF RULES ON ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) RULES RELATING TO MULTIPLE SALES WITHIN ROLLOVER PERIOD.—

(1) Section 1034 (relating to rollover of gain on sale of principal residence) is amended by striking subsection (d).

(2) Paragraph (4) of section 1034(c) is amended to read as follows:

"(4) If the taxpayer, during the period described in subsection (a), purchases more than 1 residence which is used by him as his principal residence at some time within 2 years after the date of the sale of the old residence, only the first of such residences so used by him after the date of such sale shall constitute the new residence."

(3) Subsections (h)(1) and (k) of section 1034 are each amended by striking "(other than the 2 years referred to in subsection (c)(4))".

(b) TREATMENT IN CASE OF DIVORCES.—Subsection (c) of section 1034 is amended by adding at the end thereof the following new paragraph:

"(5) If—

"(A) a residence is sold by an individual pursuant to a divorce or marital separation, and

"(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,

for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 4103. DE MINIMIS EXCEPTION TO PASSIVE LOSS RULES.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended—

(1) by striking subsection (m),

(2) by redesignating subsection (l) as subsection (m), and

(3) by inserting after subsection (k) the following new subsection:

"(l) DE MINIMIS EXCEPTION.—

"(1) IN GENERAL.—In the case of a natural person, subsection (a) shall not apply to the passive activity loss for any taxable year if the amount of such loss does not exceed $200.

"(2) EXCEPTION FOR ITEMS ATTRIBUTABLE TO PUBLICLY TRADED PARTNERSHIPS.—This subsection shall not apply to items treated separately under subsection (k) (and such items shall not be taken into account in determining whether paragraph (1) applies to the taxpayer for the taxable year with respect to other items).

"(3) ESTATES ELIGIBLE.—For purposes of this subsection, an estate shall be treated as a natural person with respect to any taxable year ending less than 2 years after the death of the decedent.

"(4) MARRIED INDIVIDUALS FILING SEPARATELY.—

"(A) IN GENERAL.—This subsection shall not apply to a taxpayer who—

"(i) is a married individual filing a separate return for the taxable year, and

"(ii) does not live apart from his spouse at all times during such taxable year.

"(B) LIMITATION.—Paragraph (1) shall be applied by substituting '$100' for '$200' in the case of a married individual who files a separate return for the taxable year and to whom this subsection applies after the application of subparagraph (A)."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 58 is amended by inserting "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (4) of section 163(d) is amended by striking subparagraph (E).

(3) Subsection (d) of section 163 is amended by striking paragraph (6).

(4) Subsection (h) of section 163 is amended by striking paragraph (5).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4104. PAYMENT OF TAX BY CREDIT CARD.

(a) GENERAL RULE.—Section 6311 is amended to read as follows:

"SEC. 6311. PAYMENT BY CHECK, MONEY ORDER, OR OTHER MEANS.

"(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) checks, money orders, or any other commercially acceptable means that the Secretary deems appropriate, including payment by use of credit cards, to the extent and under the conditions provided in regulations prescribed by the Secretary.

"(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment so received is not duly paid, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

"(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a guaranteed credit card transaction) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

"(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

"(2) the amount of such money order upon all the assets of the issuer thereof, or

"(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

"(d) PAYMENT BY OTHER MEANS.—

"(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

"(A) specify which methods of payment by commercially acceptable means will be acceptable,

"(B) specify when payment by such means will be considered received,

"(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

"(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

"(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the government and is further authorized to pay any fees required by such contracts.

"(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

"(A) except as provided by regulations, subject to the provisions of section 6402, any refund due a person who makes a payment by use of a credit card shall be made directly to such person, notwithstanding any other provision of law or any contract made pursuant to paragraph (2),

"(B) any credit card transaction shall not be considered a 'sales transaction' under the Federal Truth-in-Lending Act (15 U.S.C. 1601 et seq.),

"(C) all nontax matters as defined by regulations prescribed under paragraph (1)(C), including billing errors as defined in section 161(b) of such Act, shall be resolved by the person tendering the credit card and the credit card issuer, without the involvement of the Secretary, and

"(D) the provisions of sections 161(e) and 170 of such Act shall not apply."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

"Sec. 6311. Payment by check, money order, or other means."

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

SEC. 4105. MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.

(a) ELIGIBILITY FOR ELECTION.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

"(i) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,".

(b) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(1) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(2) by amending subclause (II) of clause (ii) to read as follows:

"(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and".

(c) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking "$1,000" and inserting "twice the amount in effect for the taxable year under section 63(c)(5)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4106. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SIMPLIFIED LIMITATION FOR CERTAIN INDIVIDUALS.—

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

"(A) 25 percent of such individual's gross income for the taxable year from sources without the United States, or

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year (determined without regard to subsection (c)).

No taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued in any other taxable year under subsection (c).

"(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $200, and

"(C) such individual elects to have this subsection apply for the taxable year.

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

"(A) QUALIFIED PASSIVE INCOME.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

"(C) PAYEE STATEMENT.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) ESTATES AND TRUSTS NOT ELIGIBLE.—This subsection shall not apply to any estate or trust."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 4107. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) APPLICATION TO INDIVIDUALS.—

"(1) IN GENERAL.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) EXCLUSION FOR CERTAIN PERSONAL TRANSACTIONS.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized exceeds $200.

"(3) PERSONAL TRANSACTIONS.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4108. EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 3401(a) (defining wages) is amended by inserting before the semicolon the following: "to the extent remuneration for such service is excludable from gross income under such section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1992.

SEC. 4109. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX RETURNS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall take such actions as may be appropriate to expand access to simplified individual income tax returns and otherwise simplify the individual income tax returns.

(b) REPORT.—Not later than the date 1 year after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on his actions under subsection (a), together with such recommendations as he may deem advisable.

SEC. 4110. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in

performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4111. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) of the Internal Revenue Code of 1986 (relating to separate purchase of article and parts and accessories therefor) is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

SEC. 4201. TAXABILITY OF BENEFICIARY OF QUALIFIED PLAN.

(a) IN GENERAL.—So much of section 402 (relating to taxability of beneficiary of employees' trust) as precedes subsection (g) thereof is amended to read as follows:

"SEC. 402. TAXABILITY OF BENEFICIARY OF EMPLOYEES' TRUST.

"(a) TAXABILITY OF BENEFICIARY OF EXEMPT TRUST.—Except as otherwise provided in this section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).

"(b) TAXABILITY OF BENEFICIARY OF NONEXEMPT TRUST.—

"(1) CONTRIBUTIONS.—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of the employee's interest in the trust shall be substituted for the fair market value of the property for purposes of applying such section.

"(2) DISTRIBUTIONS.—The amount actually distributed or made available to any distributee by any trust described in paragraph (1) shall be taxable to the distributee, in the taxable year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(5) (relating to amount not received as annuities).

"(3) GRANTOR TRUSTS.—A beneficiary of any trust described in paragraph (1) shall not be considered the owner of any portion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners).

"(4) FAILURE TO MEET REQUIREMENTS OF SECTION 410(B).—

"(A) HIGHLY COMPENSATED EMPLOYEES.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under this subsection, include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), this subsection shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan.

"(C) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) RULES APPLICABLE TO ROLLOVERS FROM EXEMPT TRUSTS.—

"(1) EXCLUSION FROM INCOME.—If—

"(A) any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution,

"(B) the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and

"(C) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(2) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any eligible rollover distribution, the maximum amount transferred to which paragraph (1) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to paragraph (1)).

"(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

"(4) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' means any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified trust; except that such term shall not include—

"(A) any distribution which is part of a series of substantially equal periodic payments (not less frequently than annually) made—

"(i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and his designated beneficiary, or

"(ii) for a specified period of 10 years or more, and

"(B) any distribution to the extent such distribution is required under section 401(a)(9).

"(5) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer resulting in any portion of a distribution being excluded from gross income under paragraph (1) to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B) shall be treated as a rollover contribution described in section 408(d)(3).

"(6) SALES OF DISTRIBUTED PROPERTY.—For purposes of this subsection—

"(A) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(B) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(C) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEEDS ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money, the taxpayer may designate—

"(i) the portion of the money or other property which is to be treated as attributable to the amount not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution.

Any designation under this subparagraph for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(D) TREATMENT WHERE NO DESIGNATION.—In any case where part or all of the distribution consists of property other than money and the taxpayer fails to make a designation under subparagraph (C) within the time provided therein, then—

"(i) the portion of the money or other property which is to be treated as attributable to the amount not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution,

shall be determined on a ratable basis.

"(E) NONRECOGNITION OF GAIN OR LOSS.—In the case of any sale described in subparagraph (A), to the extent that an amount

equal to the proceeds is transferred pursuant to paragraph (1), neither gain nor loss on such sale shall be recognized.

"(7) SPECIAL RULE FOR FROZEN DEPOSITS.—

"(A) IN GENERAL.—The 60-day period described in paragraph (3) shall not—

"(i) include any period during which the amount transferred to the employee is a frozen deposit, or

"(ii) end earlier than 10 days after such amount ceases to be a frozen deposit.

"(B) FROZEN DEPOSITS.—For purposes of this subparagraph, the term 'frozen deposit' means any deposit which may not be withdrawn because of—

"(i) the bankruptcy or insolvency of any financial institution, or

"(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State.

A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (3) (without regard to this paragraph) such deposit is described in the preceding sentence.

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

"(A) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(i) an individual retirement account described in section 408(a),

"(ii) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(iii) a qualified trust, and

"(iv) an annuity plan described in section 403(a).

"(9) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTION AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, the preceding provisions of this subsection shall apply to such distribution in the same manner as if the spouse were the employee; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution.

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

"(e) OTHER RULES APPLICABLE TO EXEMPT TRUSTS.—

"(1) ALTERNATE PAYEES.—

"(A) ALTERNATE PAYEE TREATED AS DISTRIBUTEE.—For purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of the participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

"(B) ROLLOVERS.—If any amount is paid or distributed to an alternate payee who is the spouse or former spouse of the participant by reason of any qualified domestic relations order (within the meaning of section 414(p)), subsection (c) shall apply to such distribution in the same manner as if such alternate payee were the employee.

"(2) DISTRIBUTIONS BY UNITED STATES TO NONRESIDENT ALIENS.—The amount includible under subsection (a) in the gross income of a nonresident alien with respect to a distribution made by the United States in respect of services performed by an employee of the United States shall not exceed an amount which bears the same ratio to the amount includible in gross income without regard to this paragraph as—

"(A) the aggregate basic pay paid by the United States to such employee for such services, reduced by the amount of such basic pay which was not includible in gross income by reason of being from sources without the United States, bears to

"(B) the aggregate basic pay paid by the United States to such employee for such services.

In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code.

"(3) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash.

"(f) WRITTEN EXPLANATION TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—

"(1) IN GENERAL.—The plan administrator of any plan shall, when making an eligible rollover distribution, provide a written explanation to the recipient of the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution.

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

"(A) ELIGIBLE ROLLOVER DISTRIBUTION.—The term 'eligible rollover distribution' has the same meaning as when used in subsection (c) of this section or paragraph (4) of section 403(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' has the meaning given such term by subsection (c)(8)(B)."

(b) REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.—Subsection (b) of section 101 is hereby repealed.

(c) CONFORMING AMENDMENTS.—

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

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

(3) Paragraph (4) of section 72(o) (relating to special rule for treatment of rollover amount) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(4) Paragraph (2) of section 219(d) (relating to recontributed amount) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(5) Paragraph (20) of section 401(a) is amended by striking "qualified total distribution described in section 402(a)(5)(E)(i)(I)" and inserting "distribution to a distributee on account of a termination of the plan of which the trust is a part, or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan".

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

(7) Subclause (IV) of section 401(k)(2)(B)(i) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

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

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution."

(9) Section 402(g)(1) is amended by striking "subsections (a)(8)" and inserting "subsections (e)(3)".

(10) Section 402(i) is amended by striking ", except as otherwise provided in subparagraph (A) of subsection (e)(4)".

(11) Subsection (j) of section 402 is hereby repealed.

(12)(A) Clause (i) of section 403(a)(4)(A) is amended by inserting "in an eligible rollover distribution" before the comma at the end thereof.

(B) Subparagraph (B) of section 403(a)(4) is amended to read as follows:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 402(c) shall apply for purposes of subparagraph (A)."

(13)(A) Clause (i) of section 403(b)(8)(A) is amended by inserting "in an eligible rollover distribution" before the comma at the end thereof.

(B) Paragraph (8) of section 403(b) is amended by striking subparagraphs (B), (C), and (D) and inserting the following:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4), (5), (6), and (7) of section 402(c) shall apply for purposes of subparagraph (A)."

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

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

(16) Paragraph (1) of section 408(a) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(17) Clause (ii) of section 408(d)(3)(A) is amended by striking "of a qualified total distribution (as defined in section 402(a)(5)(E)(i))" and inserting "(as defined in section 402(c)(1))".

(18) Clause (ii) of section 408(d)(3)(A) is amended—

(A) by striking "the entire amount received (including money and any other property) represents the entire amount in the account or the entire value of the annuity and", and

(B) by striking "the entire amount thereof" and inserting "the entire amount received (including money and any other property)".

(19) Subparagraph (B) of section 408(d)(3) (relating to limitations) is amended by striking the second sentence thereof.

(20) Subparagraph (F) of section 408(d)(3) (relating to frozen deposits) is amended by striking "section 402(a)(6)(H)" and inserting "section 402(c)(7)".

(21) Subclause (I) of section 414(n)(5)(C)(iii) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(22) Clause (i) of section 414(q)(7)(B) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(23) Paragraph (2) of section 414(s) (relating to employer may elect to treat certain deferrals as compensation) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(24) Subparagraph (A) of section 415(b)(2) (relating to annual benefit in general) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(25) Subparagraph (B) of section 415(b)(2) (relating to adjustment for certain other forms of benefit) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(26) Paragraph (2) of section 415(c) (relating to annual addition) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(27) Subparagraph (B) of section 457(c)(2) is amended by striking "section 402(a)(8)" in clause (i) thereof and inserting "section 402(e)(3)".

(28) Section 691(c) (relating to coordination with section 402(e)) is amended by striking paragraph (5).

(29) Subparagraph (B) of section 871(a)(1) (relating to income other than capital gains) is amended by striking "402(a)(2), 403(a)(2), or".

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

(31) Paragraph (1) of section 871(k) is amended by striking "section 402(a)(4)" and inserting "section 402(e)(2)".

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

(33) Subsection (b) of section 1441 (relating to income items) is amended by striking "402(a)(2), 403(a)(2), or".

(34) Paragraph (5) of section 1441(c) (relating to special items) is amended by striking "402(a)(2), 403(a)(2), or".

(35) Subparagraph (A) of section 3121(v)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(36) Subparagraph (A) of section 3306(r)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(37) Subsection (a) of section 3405 is amended by striking "PENSIONS, ANNUITIES, ETC.—" from the heading thereof and inserting "PERIODIC PAYMENTS.—".

(38) Subsection (b) of section 3405 (relating to nonperiodic distribution) is amended—

(A) by striking "the amount determined under paragraph (2)" from paragraph (1) thereof and inserting "an amount equal to 10 percent of such distribution"; and

(B) by striking paragraph (2) (relating to amount of withholding) and redesignating paragraph (3) as paragraph (2).

(39) Paragraph (4) of section 3405(d) (relating to qualified total distributions) is hereby repealed.

(40) Paragraph (8) of section 3405(d) (relating to maximum amounts withheld) is amended to read as follows:

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property received in the distribution."

(41) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(42) Paragraph (4) of section 4980A(c) (relating to special rule where taxpayer elects income averaging) is amended to read as follows:

"(4) ONE-TIME ELECTION FOR CERTAIN DISTRIBUTIONS.—If the taxpayer elects the application of this paragraph for any calendar year, paragraph (1) shall be applied for such calendar year as if the limitation under paragraph (1) were equal to 5 times such limitation determined without regard to this paragraph. No election may be made under this paragraph by any taxpayer if this paragraph applied to the taxpayer for any preceding calendar year."

(43) Subparagraph (C) of section 7701(j)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) PHASEOUT OF PRIOR TRANSITIONAL RULES.—

(A) In the case of any lump sum distribution in any taxable year beginning after December 31, 1992, paragraph (5) of section 1122(h) of the Tax Reform Act of 1986 shall apply to the phaseout percentage of any lump sum distribution which would have been eligible for the election of those provisions.

(B) For purposes of this paragraph—

In the case of distributions during calendar year:	The phaseout percentage is:
1993	60
1994	50
1995	45
1996 and thereafter	0.

SEC. 4202. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

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

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

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

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

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

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

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

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

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

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

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

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	300
More than 55 but not more than 60	260
More than 60 but not more than 65	240
More than 65 but not more than 70	170
More than 70	120

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

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

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

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

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

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

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

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

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1992.

SEC. 4203. REQUIREMENT THAT QUALIFIED PLANS INCLUDE OPTIONAL TRUSTEE-TO-TRUSTEE TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

(a) GENERAL RULE.—Subsection (a) of section 401 (relating to requirements for qualification) is amended by inserting after paragraph (30) the following new paragraph:

"(31) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.—

"(A) IN GENERAL.—A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that if the distributee of any eligible rollover distribution—

"(i) elects to have such distribution paid directly to an eligible retirement plan, and

"(ii) specifies the eligible retirement plan to which such distribution is to be paid (in such form and at such time as the plan administrator may prescribe),

such distribution shall be made in the form of a direct trustee-to-trustee transfer to the eligible retirement plan so specified.

"(B) LIMITATION.—Subparagraph (A) shall apply only to the extent that the eligible rollover distribution would be includible in gross income if not transferred as provided in subparagraph (A) (determined without regard to sections 402(c) and 403(a)(4)).

"(C) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this paragraph, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A).

"(D) ELIGIBLE RETIREMENT PLAN.—For purposes of this paragraph, the term 'eligible retirement plan' has the meaning given such term by section 402(c)(8)(B), except that a qualified trust shall be considered an eligible

retirement plan only if it is a defined contribution plan, the terms of which permit the acceptance of rollover distributions."

(b) EMPLOYEE'S ANNUITIES.—Paragraph (2) of section 404(a) (relating to employee's annuities) is amended by striking "and (27)" and inserting "(27), and (31)".

(c) EXCLUSION FROM INCOME.—

(1) QUALIFIED TRUSTS.—Subsection (e) of section 402 (relating to taxability of beneficiary of employees' trust), as amended by section 3201, is amended by adding at the end the following new paragraph:

"(4) DIRECT TRUSTEE-TO-TRUSTEE TRANSFERS.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(2) EMPLOYEE ANNUITIES.—Subsection (a) of section 403 is amended by adding at the end the following new paragraph:

"(5) DIRECT TRUSTEE-TO-TRUSTEE TRANSFER.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(d) WRITTEN EXPLANATION.—Paragraph (1) of section 402(f) (as amended by section 3201) is amended to read as follows:

"(1) IN GENERAL.—The plan administrator of any plan shall, before making an eligible rollover distribution, provide a written explanation to the recipient of—

"(A) the optional direct transfer provisions provided pursuant to section 401(a)(31), and

"(B) the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 1992.

PART II—INCREASED ACCESS TO PENSION PLANS

SEC. 4211. SALARY REDUCTION ARRANGEMENTS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) SALARY REDUCTION ARRANGEMENTS.—

(1) IN GENERAL.—Paragraph (6) of section 408(k) (relating to salary reduction arrangements) is amended to read as follows:

"(6) EMPLOYEE MAY ELECT SALARY REDUCTION ARRANGEMENT.—

"(A) QUALIFIED ARRANGEMENTS.—A simplified employee pension shall not fail to meet the requirements of this subsection for a year merely because, under the terms of the pension, the employees may participate in a qualified salary reduction arrangement.

"(B) CERTAIN EMPLOYERS NOT ELIGIBLE.—This paragraph shall not apply with respect to any year in the case of a simplified employee pension maintained by an employer with more than 100 employees who were eligible to participate (or would have been required to be eligible to participate if a pension was maintained) at any time during the preceding year.

"(C) QUALIFIED SALARY REDUCTION ARRANGEMENT.—For purposes of this paragraph, the term 'qualified salary reduction arrangement' means a written arrangement of an eligible employer which meets the requirements of subparagraphs (D), (E), and (F) and under which—

"(i) an employee may elect to have the employer make payments—

"(I) as elective employer contributions to the simplified employee pension on behalf of the employee, or

"(II) to the employee directly in cash, and

"(ii) the amount which an employee may elect under clause (i) for any year may not exceed a total of $3,000 for any year.

An arrangement meets the requirements of clause (ii) only if, under the arrangement, the employer may not place a limit on the percentage of compensation an employee may elect to contribute.

"(D) NONELECTIVE CONTRIBUTIONS.—An arrangement meets the requirements of this subparagraph if, under the arrangement, the employer is required (without regard to whether the employee makes an elective contribution) to make a contribution to the simplified employee pension on behalf of each employee eligible to participate for the year in an amount equal to 1 percent of the employee's compensation (not in excess of $100,000) for the year.

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

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

"(ii) SERVICE CREDIT.—A qualified plan maintained by an employer shall provide that, in computing the accrued benefit of any employee, no credit shall be given with respect to any year for which such employee was eligible to participate in a qualified salary reduction arrangement of such employer.

"(F) RULES RELATING TO MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—An arrangement meets the requirements of this subparagraph only if, under the arrangement, the employer is required to make a matching contribution described in clause (ii) to the simplified employee pension on behalf of each employee who makes elective contributions under subparagraph (C)(i)(I).

"(ii) RATES OF MATCHING CONTRIBUTIONS.—The level of an employer's matching contribution shall be equal to the sum of—

"(I) so much of the employee's elective contribution as does not exceed 3 percent of the employee's compensation, plus

"(II) an amount equal to 50 percent of so much of the employee's elective contribution as exceeds 3 percent of the employee's compensation but does not exceed 5 percent of the employee's compensation.

"(G) STATE AND LOCAL GOVERNMENTS NOT ELIGIBLE.—This paragraph shall not apply to a simplified employee pension maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof.

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

"(I) COMPENSATION.—For purposes of this paragraph, the term compensation has the same meaning as in section 414(q)(5)."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 408(k)(7) is amended by striking "paragraph (2)(C)" and inserting "paragraphs (2)(C) and (6)(H)".

(b) COST-OF-LIVING ADJUSTMENTS.—Paragraph (8) of section 408(k) is amended to read as follows:

"(8) COST-OF-LIVING ADJUSTMENTS.—

"(A) IN GENERAL.—The Secretary shall adjust each of the following amounts at the same time and in the same manner as under section 415(d):

"(i) The $300 amount in paragraph (2)(C).

"(ii) The $200,000 amount in paragraph (3)(C).

"(iii) The $3,000 amount in paragraph (6)(C)(ii).

"(iv) The $100,000 amount in paragraph (6)(D)(i).

"(B) EXCEPTIONS.—

"(i) COORDINATION WITH SECTION 401(a)(17).—The amount described in clause (ii) of subparagraph (A) (as adjusted under such subparagraph) shall not exceed 100 percent of the amount in effect under section 401(a)(17).

"(ii) BASE PERIOD.—The base period taken into account under section 415(d) for the amounts described in clauses (iii) and (iv) of subparagraph (A) shall be the calendar quarter beginning October 1, 1991."

(c) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Section 408(l) is amended by adding at the end thereof the following new paragraph:

"(2) QUALIFIED SALARY REDUCTION ARRANGEMENTS UNDER SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) IN GENERAL.—The employer maintaining any simplified employee pension established pursuant to a qualified salary reduction arrangement under subsection (k)(6) shall each year prepare, and provide to each employee eligible to participate in the arrangement, a description containing the following information:

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

"(ii) The requirements for eligibility for participation.

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

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

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

"(B) TIME REPORT PROVIDED.—The description under subparagraph (A) for any year shall be provided to each employee during the 30-day period preceding the first date during such year on which the employee may make an election with respect to the arrangement."

(2) CONFORMING AMENDMENT.—Section 408(l) is amended by striking "An employer" and inserting—

"(1) IN GENERAL.—An employer".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1991.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to a simplified employee pension which was in effect on the date of the enactment of this Act and which maintained a salary reduction arrangement on such date, unless the employer elects to have such amendments apply for any year and all subsequent years.

SEC. 4212. TAX EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

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

"(B) STATE AND LOCAL GOVERNMENTS NOT ELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This subparagraph shall not apply to a rural cooperative plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan

years beginning on or after December 31, 1992, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 4213. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) IN GENERAL.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) DUTIES RELATING TO PLAN AMENDMENT, NOTIFICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or his delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans, and

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

PART III—MISCELLANEOUS SIMPLIFICATION

SEC. 4221. MODIFICATION TO DEFINITION OF LEASED EMPLOYEE.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under any significant direction or control by the recipient."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1992, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 4222. SIMPLIFICATION OF NONDISCRIMINATION TESTS APPLICABLE UNDER SECTIONS 401(k) AND 401(m).

(a) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(1) by striking "such year" and inserting "the plan year", and

(2) by striking "for such plan year" and inserting "the preceding plan year".

(b) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(1) by inserting "for such plan year" after "highly compensated employee", and

(2) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii).

(c) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the average deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the average deferral percentage of nonhighly compensated employees determined for such first plan year."

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(d) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) AND 401(m) NONDISCRIMINATION TESTS.—

(1) SECTION 401(k).—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end thereof the following new paragraph:

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

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

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount not less than—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to employer contributions.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other qualified plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement."

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

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

"(ii) meets the notice requirements of subsection (k)(11)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

SEC. 4223. DEFINITION OF HIGHLY COMPENSATED EMPLOYEE.

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

"(q) HIGHLY COMPENSATED EMPLOYEE.—

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who, during the year or the preceding year—

"(A) was a 5-percent owner, or

"(B) received compensation from the employer in excess of $50,000.

The Secretary shall adjust the $50,000 amount specified in subparagraph (B) at the same time and in the same manner as under section 415(d).

"(2) SPECIAL RULE FOR CURRENT YEAR.—In the case of the year for which the relevant determination is being made, an employee not described in subparagraph (B) of paragraph (1) for the preceding year (without regard to this paragraph) shall not be treated as described in such subparagraph for the year for which the determination is being made unless such employee is a member of the group consisting of the 100 employees paid the highest compensation during the year for which such determination is being made.

"(3) 5-PERCENT OWNER.—An employee shall be treated as a 5-percent owner for any year if at any time during such year such employee was a 5-percent owner (as defined in section 416(i)(1)) of the employer.

"(4) SPECIAL RULE IF NO EMPLOYEE DESCRIBED IN PARAGRAPH (1).—

"(A) IN GENERAL.—If no employee is treated as a highly compensated employee under paragraph (1), the employee who has the highest compensation for the year shall be treated as a highly compensated employee.

"(B) EXCEPTION.—This paragraph shall not apply to any plan—

"(i) which is maintained by an organization exempt from tax under this subtitle,

"(ii) which provides a nonforfeitable right to 100 percent of an employee's accrued benefit,

"(iii) which covers a fair cross section of employees, determined on the basis of their compensation, and

"(iv) which was in effect on February 1, 1992, and at all times thereafter.

"(5) COMPENSATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'compensation' means compensation within the meaning of section 415(c)(3).

"(B) CERTAIN PROVISIONS NOT TAKEN INTO ACCOUNT.—The determination under subparagraph (A) shall be made—

"(i) without regard to sections 125, 402(e)(3), 402(h)(1)(B), and 414(h)(2), and

"(ii) in the case of employer contributions made pursuant to a salary reduction agreement, without regard to sections 403(b) and 457.

"(6) FORMER EMPLOYEES.—A former employee shall be treated as a highly compensated employee if—

"(A) such employee was a highly compensated employee when such employee separated from service, or

"(B) such employee was a highly compensated employee at any time after attaining age 55.

"(7) COORDINATION WITH OTHER PROVISIONS.—Subsections (b), (c), (m), (n), and (o) shall be applied before the application of this section.

"(8) SPECIAL RULE FOR NONRESIDENT ALIENS.—For purposes of this subsection, any employee described in subsection (r)(9)(F) shall not be treated as an employee."

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 414(r) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

"(F) 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)).

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(2) Paragraph (2) of section 414(s) is amended to read as follows:

"(2) EMPLOYER MAY ELECT TO TREAT CERTAIN DEFERRALS AS COMPENSATION.—An employer may elect to include all of the following amounts as compensation:

"(A) Amounts not includible in the gross income of the employee under section 125, 402(e)(3), 402(h)(1)(B), or 414(h)(2).

"(B) Amounts contributed by the employer under a salary reduction agreement and not includible in gross income under section 403(b) or 457".

(3) Paragraph (17) of section 401(a) is amended by striking the last sentence.

(4) Subsection (l) of section 404 is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4224. MODIFICATIONS OF COST-OF-LIVING ADJUSTMENTS.

(a) IN GENERAL.—Section 415(d) (relating to cost-of-living adjustments) is amended to read as follows:

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary shall adjust annually—

"(A) the $90,000 amount in subsection (b)(1)(A), and

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

"(2) METHOD.—

"(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall provide for adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(B) PERIODS FOR ADJUSTMENT OF DOLLAR AMOUNT.—For purposes of paragraph (1)—

"(i) IN GENERAL.—The adjustment with respect to any calendar year shall be based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year over such index as of the close of the base period.

"(ii) BASE PERIOD.—For purposes of clause (i), the base period taken into account is—

"(I) for purposes of subparagraph (A) of paragraph (1), the calendar quarter beginning October 1, 1986, and

"(II) for purposes of paragraph (1)(B), the last calendar quarter of the calendar year preceding the calendar year in which the participant separated from service.

"(3) ROUNDING.—Any amount determined under paragraph (1) (or by reference to this subsection) shall be rounded to the nearest $1,000, except that the amounts under sections 402(g)(1), 408(k)(8)(A)(i) and (iii), and 457(e)(14) shall be rounded to the nearest $100."

(b) EFFECTIVE DATE.—The amendments made by this section apply to adjustments with respect to calendar years beginning after December 31, 1992.

SEC. 4225. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1992.

SEC. 4226. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively, and by adding after paragraph (7) the following new paragraph:

"(8) ALTERNATIVE FULL-FUNDING LIMITATION.—

"(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

"(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to subparagraph (A)(i)(I) thereof.

"(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

"(I) as of the 1st day of the election period, the accrued liability of participants accruing benefits under the plan is at least 90 percent of the plan's total accrued liability,

"(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

"(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

"(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

"(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

"(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure period described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

"(D) REQUIREMENTS RELATING TO ELECTION.—The requirements of this subparagraph are met if—

"(i) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) at least 425 days before the 1st day of the election period.

"(ii) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

"(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

"(F) OTHER CONSEQUENCES OF ELECTION.—

"(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

"(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plans years beginning after the close of the last election period for such plan.

"(G) DEFINITIONS.—For purposes of this paragraph—

"(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

"(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(H) PROCEDURES IF ALTERNATIVE FUNDING LIMITATION REDUCES NET FEDERAL REVENUES.—

"(i) IN GENERAL.—At least once with respect to each fiscal year, the Secretary shall estimate whether the application of this paragraph will result in a net reduction in Federal revenues for such fiscal year.

"(ii) ADJUSTMENT OF FULL-FUNDING LIMITATION IF REVENUE SHORTFALL.—If the Secretary estimates that the application of this paragraph will result in a more than insubstantial net reduction in Federal revenues for any fiscal year, the Secretary—

"(I) shall make the adjustment described in clause (iii), and

"(II) to the extent such adjustment is not sufficient to reduce such reduction to an insubstantial amount, shall make the adjustment described in clause (iv).

Such adjustments shall apply only to defined benefit plans with respect to which an election under this paragraph is not in effect.

"(iii) REDUCTION IN LIMITATION BASED ON 150 PERCENT OF CURRENT LIABILITY.—The adjustment described in this clause is an adjustment which substitutes a percentage (not lower than 140 percent) for the percentage described in paragraph (7)(A)(i)(I) determined by reducing the percentage of current liability taken into account with respect to participants who are not accruing benefits under the plan.

"(iv) REDUCTION IN LIMITATION BASED ON ACCRUED LIABILITY.—The adjustment described in this clause is an adjustment which reduces the percentage of accrued liability taken into account under paragraph (7)(A)(i)(II). In no event may the amount of accrued liability taken into account under such paragraph after the adjustment be less than 140 of current liability."

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking "provide—" and all that follows through "(iii) for" and inserting "provide for".

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

SEC. 4227. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS AFTER AGE 59½.—Section 401(k)(7) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) merely by reason of a distribution to a participant after attainment of age 59½."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

SEC. 4228. SPECIAL RULES FOR PLANS COVERING PILOTS.

(a) GENERAL RULE.—

(1) Subparagraph (B) of section 410(b)(3) is amended to read as follows:

"(B) in the case of a plan established or maintained by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots."

(2) Paragraph (3) of section 410(b) is amended by striking the last sentence and inserting the following new sentence: "Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1992.

SEC. 4229. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) of the Internal Revenue Code of 1986 (relating to minimum vesting standards) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1993, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1995.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 4230. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

"(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election."

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457 is amended by adding at the end thereof the following new paragraph:

"(14) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d) with respect to months after 1991."

(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. 4231. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) DEFINITION OF COMPENSATION.—Subsection (k) of section 415 (regarding limitations on benefits and contributions under qualified plans) is amended by adding immediately after paragraph (2) thereof the following new paragraph:

"(3) DEFINITION OF COMPENSATION FOR GOVERNMENTAL PLANS.—For purposes of this section, in the case of a governmental plan (as

defined in section 414(d)), the term 'compensation' includes, in addition to the amounts described in subsection (c)(3)—

"(A) any elective deferral (as defined in section 402(g)(3)), and

"(B) any amount which is contributed by the employer at the election of the employee and which is not includible in the gross income of an employee under section 125 or 457."

(b) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply."

(c) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end thereof the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end thereof the following new paragraph:

"(15) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan."

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking the word "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting the words ", and", and by inserting immediately thereafter the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(d) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(e) REVOCATION OF GRANDFATHER ELECTION.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end thereof the following new sentence: "An election made pursuant to the preceding sentence to have the provisions of this paragraph applied to the plan may be revoked not later than the last day of the 3rd plan year beginning after the date of enactment with respect to all plan years as to which such election has been applicable and all subsequent plan years; provided that any amount paid by the plan in a taxable year ending after revocation of such election in respect of benefits attributable to a taxable year during which such election was in effect shall be includible in income by the recipient in accordance with the rules of this chapter in the taxable year in which such amount is received (except that such amount shall be treated as received for purposes of the limitations imposed by this section in the earlier taxable year or years to which such amount is attributable)."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning on or after the date of the enactment of this Act. The amendments made by subsection (e) shall apply with respect to election revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), such plan shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 4232. USE OF EXCESS ASSETS OF BLACK LUNG BENEFIT TRUSTS FOR HEALTH CARE BENEFITS.

(a) GENERAL RULE.—Paragraph (21) of section 501(c) is amended to read as follows:

"(21)(A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"(i) the purpose of such trust or trusts is exclusively—

"(I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,

"(II) to pay premiums for insurance exclusively covering such liability,

"(III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

"(IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits; and

"(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(I) the purposes described in clause (i),

"(II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or

"(III) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

"(B) No deduction shall be allowed under this chapter for any payment described in subparagraph (A)(i)(IV) from such trust.

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the lesser of—

"(i) the excess (if any) (as of the close of the preceding taxable year) of—

"(I) the fair market value of the assets of the trust, over

"(II) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person, or

"(ii) the excess (if any) of—

"(I) the sum of a similar excess determined as of the close of the last taxable year ending before the date of the enactment of this subparagraph plus earnings thereon as of the close of the taxable year preceding the taxable year involved, over

"(II) the aggregate payments described in subparagraph (A)(i)(IV) made from the trust during all taxable years beginning after the date of the enactment of this subparagraph.

The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A)) each of which is reasonable and which are reasonable in the aggregate.

"(D) For purposes of this paragraph:

"(i) The term 'Black Lung Acts' means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to that pneumoconiosis.

"(ii) The term 'qualified investments' means—

"(I) public debt securities of the United States,

"(II) obligations of a State or local government which are not in default as to principal or interest, and

"(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6)

of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States.

"(iii) The term 'miner' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

"(iv) The term 'incidental expenses' includes legal, accounting, actuarial, and trustee expenses.".

(b) EXCEPTION FROM TAX ON SELF-DEALING.—Section 4951(f) is amended by striking "clause (i) of section 501(c)(21)(A)" and inserting "subclause (I) or (IV) of section 501(c)(21)(A)(i)".

(c) TECHNICAL AMENDMENT.—Paragraph (4) of section 192(c) is amended by striking "clause (ii) of section 501(c)(21)(B)" and inserting "subclause (II) of section 501(c)(21)(A)(ii)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4233. TREATMENT OF EMPLOYER REVERSIONS REQUIRED BY CONTRACT TO BE PAID TO THE UNITED STATES.

(a) IN GENERAL.—Subparagraph (B) of section 4980(c)(2) (defining employer reversion) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end thereof the following new clause:

"(iii) any distribution to the employer to the extent that the distribution is paid within a reasonable period to the United States in satisfaction of a Federal claim for an equitable share of the plan's surplus assets, as determined pursuant to Federal contracting regulations."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to reversions on or after the date of the enactment of this Act.

SEC. 4234. CONTINUATION HEALTH COVERAGE FOR EMPLOYEES OF FAILED FINANCIAL INSTITUTIONS.

(a) ENFORCEMENT OF CONTINUATION OF HEALTH PLAN REQUIREMENTS OF SUCCESSORS OF FAILED DEPOSITORY INSTITUTIONS.—Subsection (f) of section 4980B (relating to continuation of coverage requirements of group health plans) is amended by adding after paragraph (8) the following new paragraph:

"(9) SPECIAL RULES FOR SUCCESSORS OF FAILED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any successor of a failed depository institution—

"(i) shall have the same obligation to provide a group health plan meeting the requirements of this subsection with respect to former employees of such institution in the same manner as the failed depository institution would have had but for its failure, and

"(ii) shall be treated as the employer of such former employees for purposes of this section.

"(B) TAX NOT TO APPLY IF FDIC OR RTC PROVIDE CONTINUATION COVERAGE.—Subparagraph (A) shall not apply if the Federal Deposit Insurance Corporation or the Resolution Trust Corporation are, outside of their respective capacities as successors of a failed depository institution, providing a group health plan meeting the requirements of this subsection to former employees of a failed depository institution.

"(C) SUCCESSOR.—For purposes of this paragraph, an entity is a successor of a failed depository institution during any period if—

"(i) such entity holds substantially all of the assets or liabilities of such institution, and

"(ii)(I) such entity is a bridge bank, or

"(II) such entity acquired such assets or liabilities from the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, or a bridge bank.

"(D) FAILED DEPOSITORY INSTITUTION.—For purposes of this section, the term 'failed depository institution' means any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act) for which a receiver or conservator has been appointed."

(b) TREATMENT OF DEPOSITORY INSTITUTION FAILURES AS QUALIFYING EVENTS FOR RETIREES OF SUCH INSTITUTIONS.—

(1) IN GENERAL.—Subparagraph (F) of section 4908B(f)(3) is amended—

(A) by striking "A proceeding" and inserting "(i) A proceeding",

(B) by striking the period at the end and inserting ", or", and

(C) by inserting after clause (i) the following new clause:

"(ii) the appointment of a receiver or conservator for a failed depository institution from whose employment the covered employee retired at any time."

(2) CONFORMING AMENDMENT.—Subclause (III) of section 4980B(f)(2)(B)(i) is amended—

(A) by inserting "OR FAILURES OF DEPOSITORY INSTITUTIONS" after "PROCEEDINGS" in the heading, and

(B) by inserting "and failures of depository institutions" after "proceedings".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 as of the date of the enactment of such Act.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 4301. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end thereof the following new part:

"PART IV—SPECIAL RULES FOR LARGE PARTNERSHIPS

"SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to a large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) GENERAL RULE.—In determining the income tax of a partner of a large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain (or net capital loss)—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) tax-exempt interest,

"(5) applicable net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(6) general credits,

"(7) low-income housing credit determined under section 42,

"(8) rehabilitation credit determined under section 47,

"(9) foreign income taxes, and

"(10) the credit allowable under section 29.

"(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) TREATMENT AT PARTNER LEVEL.—

"(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

"(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

"(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

"(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

"(d) OPERATING RULES.—For purposes of this section—

"(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

"(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

"(3) APPLICABLE NET AMT ADJUSTMENT.—

"(A) IN GENERAL.—The applicable net AMT adjustment is—

"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

"(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

"(4) TREATMENT OF CAPITAL GAINS AND LOSSES.—

"(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be) shall be excluded.

"(B) ALLOCATION RULES.—The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

"(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

"(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

"(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in a large partnership other than as a limited partner—

"(1) paragraph (2) of subsection (c) shall not apply to such partner, and

"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) GENERAL RULE.—

"(1) TAXABLE INCOME.—The taxable income of a large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) ELECTIONS.—All elections affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be made by the partnership; except that the election under section 901 shall be made by each partner separately.

"(3) LIMITATIONS, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be applied at the partnership level (and not at the partner level).

"(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

"(i) Section 68 (relating to overall limitation on itemized deductions).

"(ii) Sections 49 and 465 (relating to at risk limitations).

"(iii) Section 469 (relating to limitation on passive activity losses and credits).

"(iv) Any other provision specified in regulations.

"(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

"(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of a large partnership—

"(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

"(A) The deduction for personal exemptions provided in section 151.

"(B) The net operating loss deduction provided in section 172.

"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

"(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

"(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

"(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If a large partnership has income from the discharge of any indebtedness—

"(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

"(2) in determining the income tax of any partner of such partnership—

"(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

"(B) the provisions of section 108 shall be applied without regard to this part.

"SEC. 774. OTHER MODIFICATIONS.

"(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of a large partnership—

"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

"(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

"(b) DEFERRED SALE TREATMENT OF CONTRIBUTED PROPERTY.—

"(1) TREATMENT OF PARTNERSHIP.—In the case of any contribution of property to which this subsection applies—

"(A) the basis of such property to the partnership shall be its fair market value as of the time of such contribution, and

"(B) section 704(c) shall not apply to such property.

"(2) TREATMENT OF CONTRIBUTING PARTNER.—

"(A) IN GENERAL.—In the case of any partner who makes a contribution of property to which this subsection applies—

"(i) such partner shall recognize the precontribution gain or loss from such property as provided in this paragraph, and

"(ii) appropriate adjustments to the basis of such partner's interest in the partnership shall be made for the amounts recognized under this paragraph.

"(B) CHARACTER.—The character of any gain or loss recognized under this paragraph shall be determined by reference to the character which would have resulted if the property had been sold to the partnership at the time of the contributions; except that any gain or loss recognized under subparagraph (C)(i) shall be treated as ordinary income or loss, as the case may be.

"(C) TRANSACTIONS AT PARTNERSHIP LEVEL.—

"(i) DEPRECIATION, ETC.—If any partnership deduction for depreciation, depletion, or amortization is increased by reason of an increase in the basis of any property under paragraph (1), the contributing partner shall recognize so much of the precontribution gain with respect to such property as does not exceed the increase in such deduction. If there is a precontribution loss, a similar rule shall apply to any decrease in such a deduction.

"(ii) DISPOSITIONS.—

"(I) IN GENERAL.—Except as otherwise provided in this clause, any precontribution gain or loss with respect to any property (to the extent not previously taken into account under this paragraph) shall be recognized by the contributing partner if the partnership makes any disposition of the property.

"(II) DISTRIBUTIONS TO CONTRIBUTING PARTNER.—No gain or loss shall be recognized under subclause (I) by reason of any distribution of the contributed property to the contributing partner (and subparagraph (D)(ii) shall not apply to any such distribution). In any such case, no adjustment shall be made under section 734 on account of such distribution and the adjusted basis of such property in the hands of the contributing partner shall be its adjusted basis immediately before the contribution properly adjusted for gain or loss previously recognized under this paragraph.

"(iii) YEAR FOR WHICH AMOUNT TAKEN INTO ACCOUNT.—Any amount recognized under this subparagraph shall be taken into account for the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

"(D) TRANSACTIONS AT PARTNER LEVEL.—

"(i) IN GENERAL.—If the contributing partner makes a disposition of any portion of his interest in the partnership, a corresponding portion of any precontribution gain or loss which was not previously taken into account under this paragraph shall be recognized for the partner's taxable year in which the disposition occurs. The preceding sentence shall not apply to a disposition at death.

"(ii) TREATMENT OF CERTAIN DISTRIBUTIONS.—If—

"(I) the amount of cash and the fair market value of property distributed to a partner, exceeds

"(II) the adjusted basis of such partner's interest in the partnership immediately be-

fore the distribution (determined without regard to any adjustment under subparagraph (A)(ii) resulting from such distribution),

the contributing partner shall recognize so much of any precontribution gain as does not exceed such excess.

"(iii) SPECIAL RULE.—Except as provided in clause (ii)(II), any basis adjustment under subparagraph (A)(ii) resulting from any gain or loss recognized under this subparagraph shall be treated as occurring immediately before the disposition or distribution involved.

"(E) SECTION 267 AND 707(b) PRINCIPLES TO APPLY.—No loss shall be recognized under subparagraph (C)(ii) or (D) by reason of any disposition (directly or indirectly) to a person related (within the meaning of section 267(b) or 707(b)(1)) to the contributing partner.

"(F) TREATMENT OF CERTAIN NONTAXABLE EXCHANGES.—

"(i) SECTION 1031 AND 1033 TRANSACTIONS.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is an exchange described in section 1031 or a compulsory or involuntary conversion within the meaning of section 1033—

"(I) the amount of gain or loss recognized by the contributing partner under such subclause (I) shall not exceed the gain or loss recognized by the partnership on the disposition, and

"(II) the replacement property shall be treated as the contributed property for purposes of this paragraph.

For purposes of the preceding sentence, the term 'replacement property' means the property the basis of which is determined under section 1031(d) or 1033(b), whichever is applicable.

"(ii) CONTRIBUTIONS TO CONTROLLED PARTNERSHIP.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is a contribution of the property to another partnership which is a controlled partnership—

"(I) the rules of subclause (I) of clause (i) shall apply, and

"(II) the partnership shall be treated as continuing to hold the contributed property so long as the other partnership continues to be a controlled partnership and continues to hold such property.

For purposes of the preceding sentence, the term 'controlled partnership' means any partnership in which the partnership making the disposition owns more than 50 percent of the capital interest or profits interest.

"(3) PRECONTRIBUTION GAIN OR LOSS.—For purposes of this subsection—

"(A) PRECONTRIBUTION GAIN.—The term 'precontribution gain' means the excess (if any) of—

"(i) the fair market value of the contributed property as of the time of the contribution, over

"(ii) the adjusted basis of such property immediately before such contribution.

"(B) PRECONTRIBUTION LOSS.—The term 'precontribution loss' means the excess (if any) of the amount referred to in clause (ii) of subparagraph (A) over the amount referred to in clause (i) of subparagraph (A).

"(4) CONTRIBUTIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any contribution of property (other than cash) which is made by any partner to a partnership if—

"(A) as of the time of such contribution, such partnership is a large partnership, or

"(B) such contribution is to a partnership reasonably expected to become a large partnership.

This subsection shall not apply to any contribution made before the date of the enactment of this part.

"(c) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

"(1) IN GENERAL.—In the case of a large partnership—

"(A) any credit recapture shall be taken into account by the partnership, and

"(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

"(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—A large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

"(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in a large partnership.

"(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

"(d) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to a large partnership.

"(e) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to a large partnership and shall not be taken into account by the partners of such partnership:

"(1) The credit provided by section 34.

"(2) Any credit or refund under section 852(b)(3)(D).

"(f) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any large partnership—

"(1) all interests in such partnership shall be treated as held by disqualified organizations,

"(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

"(3) subparagraph (D) of section 860E(e)(6) shall not apply.

"(g) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of a large partnership—

"(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

"(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

"SEC. 775. LARGE PARTNERSHIP.

"(a) GENERAL RULE.—For purposes of this part—

"(1) IN GENERAL.—Except as otherwise provided in this section or section 776, the term 'large partnership' means, with respect to any partnership taxable year, any partnership if the number of persons who were partners in such partnership in such taxable year or any preceding partnership taxable year beginning after December 31, 1992, equaled or exceeded 250. To the extent provided in regulations, a partnership shall cease to be treated as a large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

"(2) ELECTION FOR PARTNERSHIPS WITH AT LEAST 100 PARTNERS.—If a partnership makes an election under this paragraph, paragraph (1) shall be applied by substituting '100' for '250'. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

"(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

"(2) EXCLUSION.—For purposes of this part, the term 'large partnership' does not include any partnership if substantially all the partners of such partnership—

"(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

"(B) are retired partners who had performed such substantial services, or

"(C) are spouses of partners who are performing (or had previously performed) such substantial services.

"(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

"(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, the term 'large partnership' does not include any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

"(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as a large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

"(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIGNIFICANT OIL AND GAS PROPERTIES.—

"(1) IN GENERAL.—For purposes of this part, the term 'large partnership' shall not include any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.

"(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES WHERE PART APPLIES.—

"(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of a large partnership, except as provided in paragraph (2)—

"(A) the allowance for depletion under section 611 with respect to any partnership oil

or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

"(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without respect to paragraph (1) of section 613A(d), and

"(C) paragraph (3) of section 705(a) shall not apply.

"(2) TREATMENT OF CERTAIN PARTNERS.—

"(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

"(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—

"(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

"(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

"(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Part IV. Special rules for large partnerships."

SEC. 4302. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER D—TREATMENT OF LARGE PARTNERSHIPS

"Part I. Treatment of partnership items and adjustments.

"Part II. Partnership level adjustments.

"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.

"Sec. 6241. Partner's return must be consistent with partnership return.

"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) GENERAL RULE.—This subchapter shall only apply to large partnerships and partners in such partnerships.

"(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

"(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any large partnership other than in its capacity as a partner in another partnership which is not a large partnership.

"(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If a large partnership is a partner in another partnership which is not a large partnership—

"(A) subchapter C of this chapter shall apply to items of such large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) GENERAL RULE.—A partner of any large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

"(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

"(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) PERIOD OF LIMITATIONS.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is a large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

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

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

"(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

"(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

"(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment,

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and—

"(i) if such netting results in a net increase in income, by treating such net increase as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, or

"(ii) if such netting results in a net decrease in income, by treating such net decrease as an overpayment equal to such net decrease multiplied by such highest rate, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

"(3) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of a large partnership.

"(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by a large partnership under this section.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A—Adjustments by Secretary

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

"(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

"(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

"(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) SPECIAL RULE.—If a large partnership is a partner in another large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership

adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

"(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) COORDINATION WITH SUBPART A.—

"(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"PART III—DEFINITIONS AND SPECIAL RULES

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) LARGE PARTNERSHIP.—The term 'large partnership' has the meaning given to such term by section 775 without regard to section 776(a).

"(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

"(1) DESIGNATION OF PARTNER.—Each large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Sec-

retary may select any partner as the partner with such authority.

"(2) BINDING EFFECT.—A large partnership and all partners of such partnership shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) TREATMENT WHERE PARTNERSHIP CEASES TO EXIST.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) DATE DECISION BECOMES FINAL.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Treatment of large partnerships."

SEC. 4303. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end thereof the following new sentence: "In the case of a large partnership (as defined in sections 775 and 776(a)), such information shall be furnished on or before the first March 15 following the close of such taxable year."

(b) TREATMENT AS INFORMATION RETURN.—Section 6724 is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return."

SEC. 4304. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply in the case of the partnership return of a large partnership (as defined in sections 775 and 776(a)) or any other partnership with 250 or more partners."

SEC. 4305. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this part shall apply to partnership taxable years ending on or after December 31, 1992.

(b) SPECIAL RULE FOR SECTION 3304.—In the case of a partnership which is not a large partnership (as defined in sections 775 and 776(a) of the Internal Revenue Code of 1986, as added by this part), the amendment made by section 3304 shall only apply to partnership taxable years ending on or after December 31, 1993.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

SEC. 4311. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end thereof the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) GENERAL RULE.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) FAILURE TO FILE PETITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) LIMITATIONS PERIOD.—

"(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

"(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding

under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

"(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

"(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

"(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

"(B) a notice of final partnership administrative adjustment has been issued and—

"(i) no petition has been filed under section 6226 and the time for doing so has expired, or

"(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

"(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

"(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

"(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

"(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c)."

(b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.—Section 6211 (defining deficiency) is amended by adding at the end thereof the following new subsection:

"(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 63 is amended by adding at the end thereof the following new item:

"Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4312. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) IN GENERAL.—Section 6231 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) PARTNERSHIP RETURN TO BE DETERMINATIVE OF WHETHER SUBCHAPTER APPLIES.—

"(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

"(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4313. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) SUSPENSION OF STATUTE WHERE UNTIMELY PETITION FILED.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows "section 6226" and inserting the following: "(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and".

(b) SUSPENSION OF STATUTE DURING BANKRUPTCY PROCEEDING.—Section 6229 is amended by adding at the end thereof the following new subsection:

"(h) SUSPENSION DURING PENDENCY OF BANKRUPTCY PROCEEDING.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

"(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

"(2) for 60 days thereafter."

(c) TAX MATTERS PARTNER IN BANKRUPTCY.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE WITH RESPECT TO DEBTORS IN TITLE 11 CASES.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary."

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 4314. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) IN GENERAL.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

"(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4315. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1 YEAR LIMITATION ON ASSESSMENT.

(a) IN GENERAL.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking "(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If" and inserting the following:

"(f) SPECIAL RULES.—

"(1) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If",

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4316. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) IN GENERAL.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) SPECIAL RULE IN CASE OF EXTENSION OF PERIOD OF LIMITATIONS UNDER SECTION 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

"(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

"(2) for 6 months thereafter."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4317. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) IN GENERAL.—Subsection (a) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

"(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice and demand (or notice of computational adjustment) is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph."

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

"(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice and demand (or notice of computational adjustment) referred to in subsection (a)(3)(A).

"(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4318. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates,", and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 3317, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 3317, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 3317, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item."

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) UNDER PARAGRAPH (1)(A) or (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end thereof the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive.

Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment."

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

SEC. 4319. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition."

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end thereof the following new sentence:

"Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion."

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

(1) Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(2) Paragraph (3) of section 6512(b) is amended by adding at the end thereof the following new sentence:

"In the case of a credit or refund relating to an affected item (within the meaning of section 6229), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d)."

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6234(c)—

"(i) the legal residence of the petitioner if the petitioner is not a corporation, and

"(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation."

(2) The last sentence of section 7482(b) is amended by striking "or 6228(a)" and inserting ", 6228(a), or 6234(c)"

(e) OTHER PROVISIONS.—

(1) Subsection (c) of section 7459 is amended by striking "or section 6228(a)" and inserting ", 6228(a), or 6234(c)".

(2) Subsection (o) of section 6501 is amended by adding at the end thereof the following new paragraph:

"(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4320. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF PREMATURE PETITIONS.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 4321. BONDS IN CASE OF APPEALS FROM TEFRA PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4322. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM TEFRA SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end thereof the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

Subtitle D—Foreign Provisions

PART I—SIMPLIFICATION OF TREATMENT OF PASSIVE FOREIGN CORPORATIONS

SEC. 4401. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) EXEMPTION OF FOREIGN CORPORATIONS FROM ACCUMULATED EARNINGS TAX AND PERSONAL HOLDING COMPANY RULES.—

(1) ACCUMULATED EARNINGS TAX.—Subsection (b) of section 532 (relating to exceptions) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) a foreign corporation, or",

(B) by striking ", or" at the end of paragraph (3) and inserting a period, and

(C) by striking paragraph (4).

(2) PERSONAL HOLDING COMPANY RULES.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(c) TREATMENT OF CERTAIN SERVICE CONTRACTS UNDER SUBPART F.—

(1) Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end thereof the following new subparagraph:

"(F) PERSONAL SERVICE CONTRACTS.—

"(i) Amounts received under a contract under which the corporation is to furnish personal services, if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract.

"(ii) Amounts received from the sale or other disposition of such contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services. For purposes of the preceding sentence, the attribution rules of section 544 shall apply, determined as if any reference to section 543(a)(7) were a reference to this subparagraph."

(2) Clause (iii) of section 904(d)(2)(A) is amended by striking "and" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", and", and by adding at the end thereof the following new subclause:

"(V) any income described in section 954(c)(1)(F) (relating to personal service contracts)."

SEC. 4402. REPLACEMENT FOR PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—Part VI of subchapter P of chapter 1 (relating to treatment of certain passive foreign investment companies) is amended to read as follows:

"PART VI—TREATMENT OF PASSIVE FOREIGN CORPORATIONS

"Subpart A. Current taxation rules.

"Subpart B. Interest on holdings to which subpart A does not apply.

"Subpart C. General provisions.

"Subpart A—Current Taxation Rules

"Sec. 1291. Stock in certain passive foreign corporations marked to market.

"Sec. 1292. Inclusion of income of certain passive foreign corporations.

"SEC. 1291. STOCK IN CERTAIN PASSIVE FOREIGN CORPORATIONS MARKED TO MARKET.

"(a) GENERAL RULE.—In the case of marketable stock in a passive foreign corporation which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) BASIS ADJUSTMENTS.—

"(1) IN GENERAL.—The adjusted basis of stock in a passive foreign corporation—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock , and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign corporation which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) CHARACTER AND SOURCE RULES.—

"(1) ORDINARY TREATMENT.—

"(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign corporation, shall be treated as ordinary income.

"(B) LOSS.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign corporation to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign corporation.

"(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign corporation, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1293.

"(e) COORDINATION WITH SECTION 1292.—This section shall not apply with respect to any stock in a passive foreign corporation—

"(1) which is U.S. controlled,

"(2) which is a qualified electing fund with respect to the United States person for the taxable year, or

"(3) in which the United States person is a 25-percent shareholder.

"(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN CORPORATIONS.—In the case of a foreign corporation which is a controlled foreign corporation (or is treated as a controlled foreign corporation under section 1292) and which owns (or is treated under subsection (g) as owning) stock in a passive foreign corporation—

"(1) this section (other than subsection (c)(2) thereof) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign corporation.

"(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) TRANSITION RULES.—

"(1) INDIVIDUALS BECOMING SUBJECT TO U.S. TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1992, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign corporation owned (or treated as owned under subsection (g)) by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.

"(2) MARKETABLE STOCK HELD BEFORE EFFECTIVE DATE.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a United States person on the first day of such person's first taxable year, beginning after December 31, 1992—

"(i) paragraph (2) of section 1294(a) shall apply to such stock as if it became marketable during such first taxable year; except that—

"(I) section 1293 shall not apply to the amount included in gross income under subsection (a) to the extent such amount is attributable to increases in fair market value during such first taxable year, and

"(II) the taxpayer's holding period shall be treated as having ended on the last day of the preceding taxable year for purposes of allocating amounts under section 1293(a)(1)(A), and

"(ii) such person may elect to extend the time for the payment of the applicable section 1293 deferred tax as provided in subparagraph (B).

"(B) ELECTION TO EXTEND TIME FOR PAYMENT.—

"(i) IN GENERAL.—At the election of the taxpayer, the time for the payment of the applicable section 1293 deferred tax shall be extended to the extent and subject to the limitations provided in this subparagraph.

"(ii) TERMINATION OF EXTENSION.—

"(I) DISTRIBUTIONS.—If any distribution is received with respect to any stock to which an extension under clause (i) relates and such distribution would be an excess distribution within the meaning of section 1293 if such section applied to such stock, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which the distribution is received.

"(II) REVERSAL OF INCLUSION.—If an amount is allowable as a deduction under subsection (a)(2) with respect to any stock to which an extension under clause (i) relates and the amount so allowable is allocable to the amount which gave rise to the applicable section 1293 deferred tax, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of the tax for the taxable year for which such deduction is allowed.

"(III) DISPOSITIONS, ETC.—If stock in a passive foreign corporation is disposed of during the taxable year, all extensions under clause (i) for payment of the applicable section 1293 deferred tax attributable to such stock which have not expired before the date of such disposition shall expire on the last date prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which such disposition occurs. To the extent provided in regulations, the preceding sentence shall not apply in the case of a disposition in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the person acquiring such stock in such transaction shall succeed to the treatment under this section of the person making such disposition.

"(iii) OTHER RULES.—

"(I) ELECTION.—The election under clause (i) shall be made not later than the time prescribed by law (including extensions) for filing the return of tax imposed by this chapter for the first taxable year referred to in subparagraph (A).

"(II) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this subparagraph, any loan by a passive foreign corporation (directly or indirectly) to a shareholder of such corporation shall be treated as a distribution to such shareholder.

"(C) CROSS REFERENCE.—

"For provisions providing for interest for the period of the extension under this paragraph, see section 6601.

"(D) APPLICABLE SECTION 1293 DEFERRED TAX.—For purposes of this paragraph, the term 'applicable section 1293 deferred tax' means the deferred tax amount determined under section 1293 with respect to the amount which, but for section 1293, would have been included in gross income for the first taxable year referred to in subparagraph (A). Such term also includes the tax imposed by this chapter for such first taxable year to the extent attributable to the amounts allocated under section 1293(a)(1)(A) to a period described in section 1293(a)(1)(B)(ii).

"(3) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a regulated investment company on the first day of such company's first taxable year beginning after December 31, 1992—

"(i) section 1293 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1293(c)(3) if section 1293 were applied without regard to this subparagraph.

"(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"SEC. 1292. CURRENT INCLUSION OF INCOME OF CERTAIN PASSIVE FOREIGN CORPORATIONS.

"(a) PASSIVE FOREIGN CORPORATIONS WHICH ARE U.S. CONTROLLED.—

"(1) TREATMENT UNDER SUBPART F.—

"(A) IN GENERAL.—If a passive foreign corporation is United States controlled, then for purposes of subpart F of part III of subchapter N—

"(i) such corporation, if not otherwise a controlled foreign corporation, shall be treated as a controlled foreign corporation,

"(ii) the term 'United States shareholder' means, with respect to such corporation, any United States person who owns (within the meaning of section 958(a)) any stock in such corporation,

"(iii) the entire gross income of such corporation shall, after being reduced under the principles of paragraph (5) of section 954(b), be treated as foreign base company income, and

"(iv) sections 970 and 971 shall not apply.

Except as provided in regulations, the preceding sentence shall also apply for purposes of section 904(d).

"(B) SPECIAL RULES.—If any taxpayer is treated as being a United States shareholder in a controlled foreign corporation solely by reason of this section—

"(i) section 954(b)(4) (relating to exception for certain income subject to high foreign taxes) shall not apply for purposes of determining the amount included in the gross income of such taxpayer under section 951 by reason of being so treated with respect to such corporation, and

"(ii) the amount so included in the gross income of such taxpayer under section 951 with respect to such corporation shall be treated as long-term capital gain to the extent attributable to the net capital gain of such corporation.

"(2) U.S. CONTROLLED.—For purposes of this subpart, a passive foreign corporation is United States controlled if—

"(A) such corporation is a controlled foreign corporation determined without regard to this subsection, or

"(B) at any time during the taxable year more than 50 percent of—

"(i) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of the stock of such corporation,

is owned directly or indirectly by 5 or fewer United States persons.

"(3) CONSTRUCTIVE OWNERSHIP RULES FOR PURPOSES OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B), the attribution rules provided in section 544 shall apply, determined as if any reference to a personal holding company were a reference to a corporation described in paragraph (2)(B) (and any reference to the stock ownership requirement provided in section 542(a)(2) were a reference to the requirement of paragraph (2)(B)); except that—

"(A) subsection (a)(4) of such section shall be applied by substituting 'Paragraphs (1), (2), and (3)' for 'Paragraphs (2) and (3)',

"(B) stock owned by a nonresident alien individual shall not be considered by reason of attribution through family membership as owned by a citizen or resident alien individual who is not the spouse of the nonresident alien individual and who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules other than attribution through family membership), and

"(C) stock of a corporation owned by any foreign person shall not be considered by reason of attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules and subparagraph (A), other than attribution through partners).

"(b) TAXPAYERS ELECTING CURRENT INCLUSION AND 25-PERCENT SHAREHOLDERS.—

"(1) IN GENERAL.—If a passive foreign corporation which is not United States controlled is a qualified electing fund with respect to any taxpayer or the taxpayer is a 25-percent shareholder in such corporation, then for purposes of subpart F of part III of subchapter N—

"(A) such passive foreign corporation shall be treated as a controlled foreign corporation with respect to such taxpayer,

"(B) such taxpayer shall be treated as a United States shareholder in such corporation, and

"(C) the modifications of clauses (iii) and (iv) of subsection (a)(1)(A) and of subparagraph (B) of subsection (a)(1) shall apply in determining the amount included under such subpart F in the gross income of such taxpayer (and the character of the amount so included).

For purposes of section 904(d), any amount included in the gross income of the taxpayer under the preceding sentence shall be treated as a dividend from a foreign corporation which is not a controlled foreign corporation.

"(2) QUALIFIED ELECTING FUND.—For purposes of this subpart, the term 'qualified electing fund' means any passive foreign corporation if—

"(A) an election by the taxpayer under paragraph (3) applies to such corporation for the taxable year of the taxpayer, and

"(B) such corporation complies with such requirements as the Secretary may prescribe for purposes of carrying out the purposes of this subpart.

"(3) ELECTION.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph with respect to any passive foreign corporation for any taxable year of the taxpayer. Such an election, once made with respect to any corporation, shall apply to all subsequent taxable years of the taxpayer with respect to such corporation unless revoked by the taxpayer with the consent of the Secretary.

"(B) WHEN MADE.—An election under this subsection may be made for any taxable year of the taxpayer at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believes that the corporation was not a passive foreign corporation.

"(4) 25-PERCENT SHAREHOLDER.—For purposes of this subpart, the term '25-percent shareholder' means, with respect to any passive foreign corporation, any United States person who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of section 958(b), 25 percent or more (by vote or value) of the stock of such corporation.

"SUBPART B—INTEREST ON HOLDINGS TO WHICH SUBPART A DOES NOT APPLY

"Sec. 1293. Interest on tax deferral.

"Sec. 1294. Definitions and special rules.

"SEC. 1293. INTEREST ON TAX DEFERRAL.

"(a) TREATMENT OF DISTRIBUTIONS AND STOCK DISPOSITIONS.—

"(1) DISTRIBUTIONS.—If a United States person receives an excess distribution in respect of stock to which this section applies, then—

"(A) the amount of the excess distribution shall be allocated ratably to each day in the taxpayer's holding period for the stock,

"(B) with respect to such excess distribution, the taxpayer's gross income for the current year shall include (as ordinary income) only the amounts allocated under subparagraph (A) to—

"(i) the current year, or

"(ii) any period in the taxpayer's holding period before the first day of the first taxable year of the corporation which begins after December 31, 1986, and for which it was a passive foreign corporation, and

"(C) the tax imposed by this chapter for the current year shall be increased by the deferred tax amount (determined under subsection (c)).

"(2) DISPOSITIONS.—If the taxpayer disposes of stock to which this section applies, then the rules of paragraph (1) shall apply to any gain recognized on such disposition in the same manner as if such gain were an excess distribution.

"(3) DEFINITIONS.—For purposes of this subpart—

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1291 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1291 so applied.

"(B) CURRENT YEAR.—The term 'current year' means the taxable year in which the excess distribution or disposition occurs.

"(b) EXCESS DISTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess distribution' means any distribution in respect of stock received during any taxable year to the extent such distribution does not exceed its ratable portion of the total excess distribution (if any) for such taxable year.

"(2) TOTAL EXCESS DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'total excess distribution' means the excess (if any) of—

"(i) the amount of the distributions in respect of the stock received by the taxpayer during the taxable year, over

"(ii) 125 percent of the average amount received in respect of such stock by the taxpayer during the 3 preceding taxable years (or, if shorter, the portion of the taxpayer's holding period before the taxable year).

For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B).

"(B) NO EXCESS FOR FIRST YEAR.—The total excess distributions with respect to any stock shall be zero for the taxable year in which the taxpayer's holding period in such stock begins.

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary—

"(A) determinations under this subsection shall be made on a share-by-share basis, except that shares with the same holding period may be aggregated,

"(B) proper adjustments shall be made for stock splits and stock dividends,

"(C) if the taxpayer does not hold the stock during the entire taxable year, distributions received during such year shall be annualized,

"(D) if the taxpayer's holding period includes periods during which the stock was

held by another person, distributions received by such other person shall be taken into account as if received by the taxpayer,

"(E) if the distributions are received in a foreign currency, determinations under this subsection shall be made in such currency and the amount of any excess distribution determined in such currency shall be translated into dollars,

"(F) proper adjustment shall be made for amounts not includable in gross income by reason of section 959(a) or for which a deduction is allowable under section 245(c), and

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign corporation.

For purposes of subparagraph (F), any amount not includible in gross income by reason of section 551(d) (as in effect on January 1, 1992) or 1293(c) (as so in effect) shall be treated as an amount not includable in gross income by reason of section 959(a).

"(c) DEFERRED TAX AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred tax amount' means, with respect to any distribution or disposition to which subsection (a) applies, an amount equal to the sum of—

"(A) the aggregate increases in taxes described in paragraph (2), plus

"(B) the aggregate amount of interest (determined in the manner provided under paragraph (3)) on such increases in tax.

Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year.

"(2) AGGREGATE INCREASES IN TAXES.—For purposes of paragraph (1)(A), the aggregate increases in taxes shall be determined by multiplying each amount allocated under subsection (a)(1)(A) to any taxable year (other than the current year) by the highest rate of tax in effect for such taxable year under section 1 or 11, whichever applies.

"(3) COMPUTATION OF INTEREST.—

"(A) IN GENERAL.—The amount of interest referred to in paragraph (1)(B) on any increase determined under paragraph (2) for any taxable year shall be determined for the period—

"(i) beginning on the due date for such taxable year, and

"(ii) ending on the due date for the taxable year with or within which the distribution or disposition occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

"(B) DUE DATE.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(C) SPECIAL RULE.—For purposes of determining the amount of interest referred to in paragraph (1)(B), the amount of any increase in tax determined under paragraph (2) shall be determined without regard to any reduction under section 1294(d) for a tax described in paragraph (2)(A)(ii) thereof.

"SEC. 1294. DEFINITIONS AND SPECIAL RULES.

"(a) STOCK TO WHICH SECTION 1293 APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph, section 1293 shall apply to any stock in a passive foreign corporation unless—

"(A) such stock is marketable stock as of the time of the distribution or disposition involved, or

"(B)(i) with respect to each of such corporation's taxable years which begin after December 31, 1992, and include any portion of the taxpayer's holding period in such stock—

"(I) such corporation was U.S. controlled (within the meaning of section 1292(a)(2)), or

"(II) such corporation was treated as a controlled foreign corporation under section 1292(b) with respect to the taxpayer, and

"(ii) with respect to each of such corporation's taxable years which begin after December 31, 1986, and before January 1, 1993, and include any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part (as in effect on January 1, 1992) with respect to the taxpayer.

"(2) TREATMENT WHERE STOCK BECOMES MARKETABLE.—If any stock in a passive foreign corporation becomes marketable stock after the beginning of the taxpayer's holding period in such stock, section 1293 shall apply to—

"(A) any distributions with respect to, or disposition of, such stock in the taxable year of the taxpayer in which it becomes so marketable, and

"(B) any amount which, but for section 1293, would have been included in gross income under section 1291(a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(3) ELECTION TO RECOGNIZE GAIN WHERE COMPANY BECOMES SUBJECT TO CURRENT INCLUSIONS.—

"(A) IN GENERAL.—If—

"(i) a passive foreign corporation first meets the requirements of clause (i) of paragraph (1)(B) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(ii) the taxpayer holds stock in such company on the first day of such taxable year, and

"(iii) the taxpayer establishes to the satisfaction of the Secretary the fair market value of such stock on such first day,

the taxpayer may elect to recognize gain as if he sold such stock on such first day for such fair market value.

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign corporation first meets the requirements of subclause (I) of paragraph (1)(B)(i) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(II) the taxpayer holds stock in such corporation on the first day of such taxable year, and

"(III) such corporation is a controlled foreign corporation without regard to this part,

the taxpayer may elect to be treated as receiving a dividend on such first day in an amount equal to the portion of the post-1986 earnings and profits of such corporation attributable (under regulations prescribed by the Secretary) to the stock in such corporation held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under section 1293(a)(1)(A) only two days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of the corporation beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the corporation was a passive foreign corporation.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount treated as a dividend under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph.

"(b) RULES RELATING TO STOCK ACQUIRED FROM A DECEDENT.—

"(1) BASIS.—In the case of stock of a passive foreign corporation acquired by bequest, devise, or inheritance (or by the decedent's estate), notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this paragraph).

"(2) DEDUCTION FOR ESTATE TAX.—If stock in a passive foreign corporation is acquired from a decedent, the taxpayer shall, under regulations prescribed by the Secretary, be allowed (for the taxable year of the sale or exchange) a deduction from gross income equal to that portion of the decedent's estate tax deemed paid which is attributable to the excess of (A) the value at which such stock was taken into account for purposes of determining the value of the decedent's gross estate, over (B) the basis determined under paragraph (1).

"(3) EXCEPTIONS.—This subsection shall not apply to any stock in a passive foreign corporation if—

"(A) section 1293 would not have applied to a disposition of such stock by the decedent immediately before his death, or

"(B) the decedent was a nonresident alien at all times during his holding period in such stock.

"(c) RECOGNITION OF GAIN.—Except as otherwise provided in regulations, in the case of any transfer of stock in a passive foreign company to which section 1293 applies, where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of property for gain recognized under the preceding sentence.

"(d) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign corporation—

"(A) the amount of such distribution shall be determined for purposes of section 1293 with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in section 1293(a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904 and not below zero) the increase in tax determined under section 1293(c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

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

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248.

"(e) ATTRIBUTION OF OWNERSHIP.—For purposes of this subpart—

"(1) ATTRIBUTION TO UNITED STATES PERSONS.—This subsection—

"(A) shall apply to the extent that the effect is to treat stock of a passive foreign corporation as owned by a United States person, and

"(B) except as provided in paragraph (3) or in regulations, shall not apply to treat stock owned (or treated as owned under this subsection) by a United States person as owned by any other person.

"(2) CORPORATIONS.—

"(A) IN GENERAL.—If 50 percent or more in value of the stock of a corporation (other than an S corporation) is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned directly or indirectly by or for such corporation in that proportion which the value of the stock which such person so owns bears to the value of all stock in the corporation.

"(B) 50-PERCENT LIMITATION NOT TO APPLY IN CERTAIN CASES.—For purposes of determining whether a shareholder of a passive foreign corporation (or whether a United States shareholder of a controlled foreign corporation which is not a passive foreign corporation) is treated as owning stock owned directly or indirectly by or for such corporation, subparagraph (A) shall be applied without regard to the 50-percent limitation contained therein.

"(C) FAMILY AND PARTNER ATTRIBUTION FOR 50-PERCENT LIMITATION.—For purposes of determining whether the 50-percent limitation of subparagraph (A) is met, the constructive ownership rules of section 544(a)(2) shall apply in addition to the other rules of this subsection.

"(3) PARTNERSHIPS, ETC.—Except as provided in regulations, stock owned, directly or indirectly, by or for a partnership, S corporation, estate, or trust shall be considered as being owned proportionately by its partners, shareholders, or beneficiaries (as the case may be).

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

"(5) SUCCESSIVE APPLICATION.—Stock considered to be owned by a person by reason of the application of paragraph (2), (3), or (4) shall, for purposes of applying such paragraphs, be considered as actually owned by such person.

"(f) OTHER SPECIAL RULES.—For purposes of this subpart—

"(1) TIME FOR DETERMINATION.—Stock held by a taxpayer shall be treated as stock in a passive foreign corporation if, at any time during the holding period of the taxpayer with respect to such stock, such corporation (or any predecessor) was a passive foreign corporation. The preceding sentence shall not apply if the taxpayer elects to recognize gain (as of the last day of the last taxable year for which the company was a passive foreign corporation) under rules similar to the rules of subsection (a)(3)(A).

"(2) APPLICATION OF SUBPART WHERE STOCK HELD BY OTHER ENTITY.—Under regulations—

"(A) IN GENERAL.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of subsection (e)—

"(i) any transaction which results in the United States person being treated as no longer owning such stock,

"(ii) any disposition of such stock by the person owning such stock, and

"(iii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign corporation.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) in respect of stock which the taxpayer is treated as owning under subsection (e).

"(C) COORDINATION WITH SECTION 951.—If, but for this subparagraph, an amount would be taken into account under section 1293 by reason of subparagraph (A) and such amount would also be included in the gross income of the taxpayer under section 951, such amount shall only be taken into account under section 1293.

"(3) DISPOSITIONS.—Except as provided in regulations, if a taxpayer uses any stock in a passive foreign corporation as security for a loan, the taxpayer shall be treated as having disposed of such stock.

"SUBPART C—GENERAL PROVISIONS

"Sec. 1296. Passive foreign corporation.

"Sec. 1297. Special rules.

"SEC. 1296. PASSIVE FOREIGN CORPORATION.

"(a) IN GENERAL.—For purposes of this part, except as otherwise provided in this subpart, the term 'passive foreign corporation' means any foreign corporation if—

"(1) 60 percent or more of the gross income of such corporation for the taxable year is passive income,

"(2) the average percentage of assets (by value) held by such corporation during the taxable year which produce passive income or which are held for the production of passive income is at least 50 percent, or

"(3) such corporation is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2), either as a management company or as a unit investment trust.

A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.

"(b) PASSIVE INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c) without regard to paragraph (3) thereof.

"(2) EXCEPTIONS.—Except as provided in regulations, the term 'passive income' does not include any income—

"(A) derived in the active conduct of a banking business by an institution licensed to do business as a bank in the United States (or, to the extent provided in regulations, by any other corporation),

"(B) derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation,

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income, or

"(D) any foreign trade income of a FSC.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3).

"(3) TREATMENT OF INCOME FROM CERTAIN ASSETS.—To the extent that any asset is properly treated as not held for the production of passive income for purposes of subsection (a)(2), all income from such asset shall be treated as income which is not passive income.

"(c) LOOK-THROUGH IN CASE OF 25-PERCENT OWNED CORPORATION.—If a foreign corporation owns (directly or indirectly) at least 25 percent (by value) of the stock of another corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, such foreign corporation shall be treated as if it—

"(1) held its proportionate share of the assets of such other corporation, and

"(2) received directly its proportionate share of the income of such other corporation.

"SEC. 1297. SPECIAL RULES.

"(a) UNITED STATES PERSON.—For purposes of this part, the term 'United States person' has the meaning given to such term by section 7701(a)(30).

"(b) CONTROLLED FOREIGN CORPORATION.—For purposes of this part, the term 'controlled foreign corporation' has the meaning given such term by section 957(a).

"(c) MARKETABLE STOCK.—For purposes of this part—

"(1) IN GENERAL.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part, and

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value.

"(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign corporation which it owns (or is treated under section 1291(g) as owning) shall be treated as marketable stock for purposes of this part. Except as provided in regulations, a similar rule shall apply in the case of any other regulated investment company.

"(d) OTHER SPECIAL RULES.—For purposes of this part—

"(1) CERTAIN CORPORATIONS NOT TREATED AS PASSIVE.—A corporation shall not be treated as a passive foreign corporation for the 1st taxable year such corporation has gross income (hereinafter in this paragraph referred to as the 'start-up year') if—

"(A) no predecessor of such corporation was a passive foreign corporation,

"(B) it is established to the satisfaction of the Secretary that such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the start-up year, and

"(C) such corporation is not a passive foreign corporation for either of the 1st 2 taxable years following the start-up year.

"(2) CERTAIN CORPORATIONS CHANGING BUSINESSES.—A corporation shall not be treated as a passive foreign corporation for any taxable year if—

"(A) neither such corporation (nor any predecessor) was a passive foreign corporation for any prior taxable year,

"(B) it is established to the satisfaction of the Secretary that—

"(i) substantially all of the passive income of the corporation for the taxable year is attributable to proceeds from the disposition of 1 or more active trades or businesses, and

"(ii) such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the taxable year, and

"(C) such corporation is not a passive foreign corporation for either of such 2 taxable years.

For purposes of section 1296(c), any passive income referred to in subparagraph (B)(i) shall be treated as income which is not passive income and any assets which produce income so described shall be treated as assets producing income other than passive income.

"(3) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If a foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust.

"(4) TREATMENT OF CORPORATION WHICH WAS A PFIC.—A corporation shall be treated as a passive foreign corporation for any taxable year beginning before January 1, 1993, if and only if such corporation was a passive foreign investment company under this part as in effect for such taxable year.

"(5) SEPARATE INTERESTS TREATED AS SEPARATE CORPORATIONS.—Under regulations prescribed by the Secretary, where necessary to carry out the purposes of this part, separate classes of stock (or other interests) in a corporation shall be treated as interests in separate corporations.

"(e) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of section 1296(a)(2)—

"(1) IN GENERAL.—Any tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF VALUE.—

"(A) IN GENERAL.—The value of any asset to which paragraph (1) applies shall be the lesser of—

"(i) the fair market value of such property, or

"(ii) the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A)(ii) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in the last sentence of section 1296(b)(2)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this part.

"(f) ELECTION BY CERTAIN PASSIVE FOREIGN CORPORATIONS TO BE TREATED AS A DOMESTIC CORPORATION.—

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

"(A) a passive foreign corporation would qualify as a regulated investment company under part I of subchapter M if such passive foreign corporation were a domestic corporation,

"(B) such passive foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this title on such passive foreign corporation are paid, and

"(C) such passive foreign corporation makes an election to have this paragraph apply and waives all benefits which are granted by the United States under any treaty and to which such corporation would otherwise be entitled by reason of being a resident of another country,

such corporation shall be treated as a domestic corporation.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4)(A), and (5) of section 953(d) shall apply with respect to any corporation making an election under paragraph (1).

"(g) SPECIAL RULES FOR CERTAIN TAXPAYERS.—

"(1) TAX-EXEMPT ORGANIZATIONS.—In the case of any organization exempt from tax under section 501—

"(A) this part shall apply to any stock in a passive foreign corporation owned (or treated as owned under section 1294(e)) by such organization only to the extent that a dividend on such stock would be taken into account in determining the unrelated business taxable income of such organization, and

"(B) to the extent that this part applies to any such stock, this part shall be applied in the same manner as if such organization were not exempt from tax under section 501(a).

"(2) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign corporation is owned (or treated as owned under section 1294(e)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(A) section 1293 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1293) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(B) subpart A shall not apply with respect to such stock, and

"(C) in determining whether section 1293 applies to any distribution in respect of such stock, such stock shall be treated as failing to qualify for the exceptions under section 1294(a)(1).

"(h) INFORMATION FROM SHAREHOLDERS.—Every United States person who owns stock in any passive foreign corporation shall furnish with respect to such corporation such information as the Secretary may prescribe.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations—

"(1) providing that gross income shall be determined without regard to section 1293 for such purposes as may be specified in such regulations, and

"(2) to prevent avoidance of the provisions of this part through changes in citizenship or residence status."

(b) INSTALLMENT SALES TREATMENT NOT AVAILABLE.—Paragraph (2) of section 453(k) is amended by striking "or" at the end of subparagraph (A), by inserting "or" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

"(C) stock in a passive foreign corporation (as defined in section 1296) if section 1293 applies to such sale,".

(c) TREATMENT OF MARK-TO-MARKET GAIN UNDER SECTION 4982.—

(1) Subsection (e) of section 4982 is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF GAIN RECOGNIZED UNDER SECTION 1291.—For purposes of determining a regulated investment company's ordinary income—

"(A) notwithstanding paragraph (1)(C), section 1291 shall be applied as if such company's taxable year ended on October 31, and

"(B) any ordinary gain or loss from an actual disposition of stock in a passive foreign corporation during the portion of the calendar year after October 31 shall be taken into account in determining such company's ordinary income for the following calendar year.

In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(2) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULE FOR CERTAIN LOSSES ON STOCK IN PASSIVE FOREIGN CORPORATIONS.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year."

(3) Subsection (c) of section 852 is amended by inserting after "October 31 of such year" the following: ", without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after December 31 of such year,".

(d) TREATMENT OF CERTAIN PREVIOUSLY TAXED AMOUNTS.—Subsection (e) of section 959 is amended—

(1) by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of amounts included in gross income under section 1293 (as in effect on January 1, 1992).", and

(2) by striking "AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248" in the subsection heading and inserting "CERTAIN PREVIOUSLY TAXED AMOUNTS".

SEC. 4403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 171(c) is amended—

(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

(B) by striking ", or a foreign personal holding company".

(2) Section 312 is amended by striking subsection (j).

(3) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)" and inserting "or a passive foreign corporation (as defined in section 1296)".

(4) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(5) Clause (ii) of section 465(c)(7)(B) is amended to read as follows:

"(ii) a passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met, or".

(6) Subsection (b) of section 535 is amended by striking paragraph (9).

(7) Subsection (d) of section 535 is hereby repealed.

(8) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(9) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

(10) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

(11) Paragraph (2) of section 751(d) is amended by striking "subsection (a) of section 1246 (relating to gain on foreign investment company stock)" and inserting "section 1291 (relating to stock in certain passive foreign corporations marked to market)".

(12) Subsection (b) of section 851 is amended by striking the sentence following paragraph (4)(B) which contains a reference to section 1293(a).

(13) Subsection (d) of section 904 is amended by striking paragraphs (2)(A)(ii), (2)(E)(iii), and (3)(I).

(14)(A) Subparagraph (A) of section 904(g)(1) is amended to read as follows:

"(A) Any amount included in gross income under section 951(a) (relating to amounts included in gross income of United States shareholders)."

(B) The paragraph heading of paragraph (2) of section 904(g) is amended by striking "AND FOREIGN PERSONAL HOLDING OR PASSIVE FOREIGN INVESTMENT COMPANY".

(15) Section 951 is amended by striking subsections (c), (d), and (f), and by redesignating subsection (e) as subsection (c).

(16) Paragraph (1) of section 986(c) is amended by striking "or 1293(c)".

(17) Paragraph (3) of section 989(b) is amended by striking ", 551(a), or 1293(a)".

(18) Paragraph (5) of section 1014(b) is hereby repealed.

(19) Subsection (a) of section 1016 is amended by striking paragraph (13) and by redesignating the following paragraphs accordingly.

(20) Paragraph (3) of section 1212(a) is amended—

(A) by striking subparagraph (A),

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(C) by amending subparagraph (D) to read as follows:

"(C) for which it is a passive foreign corporation."

(21) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(22) Subsection (d) of section 1248 is amended by striking paragraphs (5) and (7).

(23)(A) Subsection (a) of section 6035 is amended by striking "foreign personal holding company (as defined in section 552)" and inserting "passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met".

(B) The section heading for section 6035 is amended by striking **"foreign personal holding companies" and inserting "closely held passive foreign corporations",.**

(C) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking "foreign personal holding companies" in the item relating to section 6035 and inserting 'closely-held passive foreign corporations".

(24) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(25) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed."

(26) Section 4947 and section 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(3) The table of parts for subchapter P of chapter 1 is amended by striking the item relating to part VI and inserting the following:

"Part VI. Treatment of passive foreign corporations."

SEC. 4404. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this part shall apply to—

(1) taxable years of United States persons beginning after December 31, 1992, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

(b) DENIAL OF INSTALLMENT SALES TREATMENT.—The amendment made by section 3402(b) shall apply to dispositions after December 31, 1992.

(c) BASIS RULE.—The amendments made by this part shall not affect the determination of the basis of any stock acquired from a decedent in a taxable year beginning before January 1, 1993.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

SEC. 4411. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(f) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

"(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.".

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act

SEC. 4412. AUTHORITY TO PRESCRIBE SIMPLIFIED METHOD FOR APPLYING SECTION 960(b)(2).

(a) GENERAL RULE.—Paragraph (2) of section 960(b) is amended by adding at the end thereof the following new sentence: "The Secretary may prescribe regulations requiring the use of simplified methods set forth in such regulations for determining the amount of the increase referred to in the preceding sentence."

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

SEC. 4413. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

"(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1992.

(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ETC.—

(1) IN GENERAL.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—If by reason of—

"(1) a transaction to which section 304 applies,

"(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

"(3) other circumstances,

there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 4414. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) SECTION 902 CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:

"(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN LOWER TIER CORPORATIONS.—

"(1) IN GENERAL.—If—

"(A) any foreign corporation is a member of a qualified group, and

"(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,

such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.

"(2) QUALIFIED GROUP.—For purposes of paragraph (1), the term 'qualified group' means—

"(A) the foreign corporation described in subsection (a), and

"(B) any other foreign corporation if—

"(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

"(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

"(iii) such other corporation is not below the sixth tier in such chain,

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 902(c)(3) is amended by adding "or" at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation."

(B) Subparagraph (B) of section 902(c)(4) is amended by striking "3rd foreign corporation" and inserting "sixth tier foreign corporation".

(C) The heading for paragraph (3) of section 902(c) is amended by striking "WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION" and inserting "WHERE FOREIGN CORPORATION FIRST QUALIFIES".

(D) Paragraph (3) of section 902(c) is amended by striking "ownership" each place it appears.

(b) SECTION 960 CREDIT.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

"(1) DEEMED PAID CREDIT.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B))."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.

(2) SPECIAL RULE.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.

PART III—OTHER PROVISIONS

SEC. 4421. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) ACCRUED TAXES TRANSLATED BY USING AVERAGE RATE FOR YEAR TO WHICH TAXES RELATE.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

"(a) FOREIGN INCOME TAXES.—

"(1) TRANSLATION OF ACCRUED TAXES.—

"(A) IN GENERAL.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

"(B) EXCEPTION FOR TAXES NOT PAID WITHIN FOLLOWING 2 YEARS.—

"(i) Subparagraph (A) shall not apply to any foreign income taxes paid after the date 2 years after the close of the taxable year to which such taxes relate.

"(ii) Subparagraph (A) shall not apply to taxes paid before the beginning of the taxable year to which such taxes relate.

"(C) EXCEPTION FOR INFLATIONARY CURRENCIES.—To the extent provided in regulations, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency determined to be an inflationary currency under such regulations.

"(D) CROSS REFERENCE.—

"For adjustments where tax is not paid within 2 years, see section 905(c).

"(2) TRANSLATION OF TAXES TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

"(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of such taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

"(3) FOREIGN INCOME TAXES.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States."

(2) ADJUSTMENT WHEN NOT PAID WITHIN 2 YEARS AFTER YEAR TO WHICH TAXES RELATE.—Subsection (c) of section 905 is amended to read as follows:

"(c) ADJUSTMENTS TO ACCRUED TAXES.—

"(1) IN GENERAL.—If—

"(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

"(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

"(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

"(2) SPECIAL RULE FOR TAXES NOT PAID WITHIN 2 YEARS.—In making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1). Any such taxes if subsequently paid shall be taken into account for the taxable year in which paid and no redetermination under this section shall be made on account of such payment.

"(3) ADJUSTMENTS.—The amount of tax due on any redetermination under paragraph (1) (if any) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

"(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

"(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period."

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to foreign taxes) is amended by adding at the end thereof the following new paragraph:

"(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment."

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period."

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after December 31, 1991.

SEC. 4422. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1992, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 4423. MODIFICATION OF SECTION 1491.

(a) GENERAL RULE.—So much of chapter 5 (relating to tax on transfers to avoid income tax) as precedes section 1492 is amended to read as follows:

"CHAPTER 5—TREATMENT OF TRANSFERS TO AVOID INCOME TAX

"Sec. 1491. Recognition of gain.

"Sec. 1492. Exceptions.

"SEC. 1491. RECOGNITION OF GAIN.

"In the case of any transfer of property by a United States person to a foreign corporation as paid-in surplus or as a contribution to capital, to a foreign estate or trust, or to a foreign partnership, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor."

(b) CONFORMING AMENDMENTS.—

(1) Section 1057 is hereby repealed.

(2) Section 1492 is amended to read as follows:

"SEC. 1492. EXCEPTIONS.

"The provisions of section 1491 shall not apply—

"(1) If the transferee is an organization exempt from income tax under part I of subchapter F of chapter 1 (other than an organization described in section 401(a)),

"(2) To a transfer described in section 367, or

"(3) To any other transfer, to the extent provided in regulations in accordance with principles similar to the principles of section 367 or otherwise consistent with the purpose of section 1491."

(3) Section 1494 is hereby repealed.

(4) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(5) The table of chapters for subtitle A is amended by striking "Tax on" in the item relating to chapter 5 and inserting "Treatment of".

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

SEC. 4424. MODIFICATION OF SECTION 367(b).

(a) GENERAL RULE.—Paragraph (1) of section 367(b) is amended to read as follows:

"(1) IN GENERAL.—In the case of any transaction described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a general condition for nonrecognition by 1 or more of the parties to the transaction, income shall be required to be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This subsection shall not apply to a transaction in which the foreign corporation is not treated as a corporation under subsection (a)(1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1993.

Subtitle E—Treatment of Intangibles

SEC. 4501. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) GENERAL RULE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

"(a) GENERAL RULE.—A taxpayer shall be entitled to an amortization deduction with respect to any amortizable section 197 intangible. The amount of such deduction shall be determined by amortizing the adjusted basis (for purposes of determining gain) of such intangible ratably over the 14-year period beginning with the month in which such intangible was acquired.

"(b) NO OTHER DEPRECIATION OR AMORTIZATION DEDUCTION ALLOWABLE.—Except as provided in subsection (a), no depreciation or amortization deduction shall be allowable with respect to any amortizable section 197 intangible.

"(c) AMORTIZABLE SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'amortizable section 197 intangible' means any section 197 intangible—

"(A) which is acquired by the taxpayer after the date of the enactment of this section, and

"(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

"(2) EXCLUSION OF SELF-CREATED INTANGIBLES, ETC.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible—

"(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and

"(B) which is created by the taxpayer.

This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(3) ANTI-CHURNING RULES.—

"For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).

"(d) SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'section 197 intangible' means—

"(A) goodwill,

"(B) going concern value,

"(C) any of the following intangible items:

"(i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment,

"(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

"(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

"(iv) any customer-based intangible,

"(v) any supplier-based intangible, and

"(vi) any other similar item,

"(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

"(E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly) of an interest in a trade or business or substantial portion thereof, and

"(F) any franchise, trademark, or trade name.

"(2) CUSTOMER-BASED INTANGIBLE.—

"(A) IN GENERAL.—The term 'customer-based intangible' means—

"(i) composition of market,

"(ii) market share, and

"(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.

"(B) SPECIAL RULE FOR FINANCIAL INSTITUTIONS.—In the case of a financial institution, the term 'customer-based intangible' includes deposit base and similar items.

"(3) SUPPLIER-BASED INTANGIBLE.—The term 'supplier-based intangible' means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

"(e) EXCEPTIONS.—For purposes of this section, the term 'section 197 intangible' shall not include any of the following:

"(1) FINANCIAL INTERESTS.—Any interest—

"(A) in a corporation, partnership, trust, or estate, or

"(B) under an existing futures contract, foreign currency contract, notional principal contract, interest rate swap, or other similar financial contract.

"(2) LAND.—Any interest in land.

"(3) COMPUTER SOFTWARE.—Any—

"(A) computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and

"(B) other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

For purposes of the preceding sentence, the term 'computer software' means any program designed to cause a computer to perform a desired function; except that such term shall not include any data base or similar item.

"(4) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—Any of the following not acquired in a transaction (or series of related transactions) referred to in paragraph (3)(B):

"(A) Any interest in a film, sound recording, video tape, book, or similar property.

"(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.

"(C) Any interest in a patent or copyright.

"(5) INTERESTS UNDER LEASES AND DEBT INSTRUMENTS.—Any interest under—

"(A) an existing lease of tangible property, or

"(B) except as provided in subsection (d)(2)(B), any existing indebtedness.

"(6) TREATMENT OF SPORTS FRANCHISES.—A franchise to engage in professional football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.

"(f) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN DISPOSITIONS, ETC.—If there is a disposition of any amortizable section 197 intangible acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and one or more other amortizable section 197 intangibles acquired in such transaction or series of related transactions are retained—

"(A) no loss shall be recognized by reason of such disposition (or such worthlessness), and

"(B) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under subparagraph (A).

All persons treated as a single taxpayer under section 41(f) shall be so treated for purposes of the preceding sentence.

"(2) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—In the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 721, 731, 1031, or 1033, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

"(3) TREATMENT OF AMOUNTS PAID PURSUANT TO COVENANTS NOT TO COMPETE, ETC.—Any amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

"(4) TREATMENT OF FRANCHISES, ETC.—

"(A) FRANCHISE.—The term 'franchise' has the meaning given to such term by section 1253(b)(1).

"(B) TREATMENT OF RENEWALS.—Any renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

"(5) TREATMENT OF CERTAIN REINSURANCE TRANSACTIONS.—In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of—

"(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

"(B) the amount required to be capitalized under section 848 in connec*COM003*tion with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

"(6) TREATMENT OF CERTAIN SUBLEASES.—For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

"(7) TREATMENT AS DEPRECIABLE.—For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a character subject to the allowance for depreciation provided in section 167.

"(8) TREATMENT OF CERTAIN INCREMENTS IN VALUE.—This section shall not apply to any increment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

"(9) ANTI-CHURNING RULES.—For purposes of this section—

"(A) IN GENERAL.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1)

(or for which depreciation or amortization would not have been allowable but for this section) and which is acquired by the taxpayer after the date of the enactment of this section, if—

"(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

"(ii) the intangible was acquired from a person who held such intangible at any time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary.

"(B) RELATED PERSON DEFINED.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(ii) TIME FOR MAKING DETERMINATION.—A person shall be treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

"(C) ACQUISITIONS BY REASON OF DEATH.—Subparagraph (A) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

"(D) SPECIAL RULE FOR PARTNERSHIPS.—With respect to any increase in the basis of partnership property under section 732, 734, or 743, determinations under this paragraph shall be made at the partner level and each partner shall be treated as having owned and used such partner's proportionate share of the partnership assets.

"(E) ANTI-ABUSE RULES.—The term 'amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to prevent avoidance of the purposes of this section through related persons or otherwise."

(b) MODIFICATIONS TO DEPRECIATION RULES.—

(1) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—Section 167 (relating to depreciation deduction) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—

"(1) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

"(B) COMPUTER SOFTWARE.—For purposes of this section, the term 'computer software' has the meaning given to such term by the last sentence of section 197(e)(3); except that such term shall not include any such software which is an amortizable section 197 intangible.

"(2) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B) or (C) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary."

(2) ALLOCATION OF BASIS IN CASE OF LEASED PROPERTY.—Subsection (c) of section 167 is amended to read as follows:

"(c) BASIS FOR DEPRECIATION.—

"(1) IN GENERAL.—The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

"(2) SPECIAL RULE FOR PROPERTY SUBJECT TO LEASE.—If any property is acquired subject to a lease—

"(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

"(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease."

(c) AMENDMENTS TO SECTION 1253.—Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(2) OTHER PAYMENTS.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

"(3) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(d) AMENDMENT TO SECTION 848.—Subsection (g) of section 848 is amended by striking "this section" and inserting "this section or section 197".

(e) AMENDMENTS TO SECTION 1060.—

(1) Paragraph (1) of section 1060(b) is amended by striking "goodwill or going concern value" and inserting "section 197 intangibles".

(2) Paragraph (1) of section 1060(d) is amended by striking "goodwill or going concern value (or similar items)" and inserting "section 197 intangibles".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

"(g) CROSS REFERENCE.—

"(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

"(2) For amortization of goodwill and certain other intangibles, see section 197."

(2) Subsection (f) of section 642 is amended by striking "section 169" and inserting "sections 169 and 197".

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking "193, or 1253(d) (2) or (3)" and inserting "or 193".

(5) Paragraph (3) of section 1245(a) is amended by striking "section 185 or 1253(d) (2) or (3)".

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Amortization of goodwill and certain other intangibles."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(3) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED IN ALL OPEN YEARS.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after the date referred to in subparagraph (B),

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) shall be applied with respect to the taxpayer by treating the date referred to in subparagraph (B) as the date of the enactment of such section,

(iii) subsection (f)(9) of such section 197 shall not apply with respect to any property acquired by the taxpayer on or before July 25, 1991, and

(iv) in applying subsection (f)(9) of such section 197 with respect to property acquired by the taxpayer after July 25, 1991, and on or before the date of the enactment of this Act, the modifications to such subsection contained in clauses (ii) and (iii) of paragraph (2)(A) shall apply.

(B) DATE.—For purposes of subparagraph (A), the date referred to in this subparagraph is the first day of the first taxable year in a series of consecutive taxable years all of which are open years. For purposes of the preceding sentence, a taxable year is an open year if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of any tax for such taxable year had not expired before July 25, 1991 (determined without regard to subparagraph (C)(iii)).

(C) EFFECT OF ELECTION.—

(i) 17-YEAR AMORTIZATION PERIOD.—If an election under this paragraph applies to the taxpayer, section 197(a) of the Internal Revenue Code of 1986 shall be applied with respect to all property to which the amendments made by this section apply and which are acquired by the taxpayer on or before the date of the enactment of this Act by substituting "17-year period" for "14-year period".

(ii) NO INTEREST ALLOWED ON REFUNDS.—No interest shall be payable on any refund of tax resulting from the provisions of this paragraph.

(iii) EXTENSION OF STATUTE.—If the assessment of any deficiency of tax attributable to an election under this paragraph is barred on the date of the enactment of this Act or at any time within the 2-year period beginning on the date on which such election is made by any law or rule of law, such deficiency may, nevertheless, be assessed if such assessment is made within such 2-year period. If credit or refund of any tax attributable to an election under this paragraph is barred on the date of the enactment of this Act or at any time within the 2-year period beginning on the date on which such election is made by any law or rule of law, such credit or refund may, nevertheless, be allowed or made if claim therefore is made within such 2-year period.

(D) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(E) SPECIAL RULE FOR CERTAIN ACQUISITIONS IN CLOSED YEARS.—If—

(i) an election under this paragraph applies to the taxpayer,

(ii) there was an agreement between the taxpayer and the Internal Revenue Service with respect to the amortization of any intangibles which were acquired by the taxpayer before the date referred to in subparagraph (B), and

(iii) as of February 14, 1992, there was an active dispute between the taxpayer and the Internal Revenue Service by reason of the Internal Revenue Service taking a position inconsistent with such agreement,

the amortization of such intangibles in open years shall be made in accordance with the agreement referred to in clause (ii).

(4) ELECTIVE BINDING CONTRACT EXCEPTION.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on February 14, 1992, and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) or (3) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

SEC. 4502. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply only if—

"(A) capital is not a material income-producing factor for the partnership, and

"(B) the retiring or deceased partner was a general partner in the partnership."

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.—

(1) IN GENERAL.—Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking "sections 731, 736, and 741" each place they appear and inserting ", sections 731 and 741 (but not for purposes of section 736)", and

(B) by striking "section 731, 736, or 741" each place it appears and inserting "section 731 or 741".

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 751 is amended by striking "sections 731, 736, and 741" and inserting "sections 731 and 741".

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of partners retiring or dying after February 14, 1992.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring after February 14, 1992, if a written contract to purchase such partner's interest in the partnership was binding on February 14, 1992, and at all times thereafter before such purchase.

Subtitle F—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

SEC. 4601. DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.

(a) GENERAL RULE.—Paragraph (4) of section 1361(c) is amended to read as follows:

"(4) DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.—For purposes of subsection (b)(1)(D), a corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation confer identical rights to distributions and liquidation proceeds. The preceding sentence shall apply whether or not there are differences in voting rights among such shares."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 4602. AUTHORITY TO VALIDATE CERTAIN INVALID ELECTIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

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

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

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

SEC. 4603. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

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

(1) Subparagraph (A) of section 1366(d)(1) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 is amended by adding at the end thereof the following new sentence:

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

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

"(C) NET LOSS FOR YEAR DISREGARDED.—

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

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative ad-

justment' means, with respect to any taxable year, the excess (if any) of—

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

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

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

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

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

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1991.

SEC. 4604. OTHER MODIFICATIONS.

(a) TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.—Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

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

(b) S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.—

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

(2) CONFORMING AMENDMENTS.—

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

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

"(8) An S corporation."

(c) ELIMINATION OF PRE-1983 EARNINGS AND PROFITS.—

(1) IN GENERAL.—If—

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

(B) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1991,

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

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 1362(d) is amended—

(i) by striking "subchapter C" in the paragraph heading and inserting "accumulated",

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

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

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

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

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

(iii) The section heading for section 1375 is amended by striking "subchapter c" and inserting "accumulated".

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

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

(d) ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end thereof the following new paragraph:

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

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

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

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply in the case of decedents dying after the date of the enactment of this Act.

PART II—ACCOUNTING PROVISIONS

SEC. 4611. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

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

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which such election is made or during any subsequent taxable year."

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end thereof the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 4612. SIMPLIFIED METHOD FOR CAPITALIZING CERTAIN INDIRECT COSTS.

(a) GENERAL RULE.—Subsection (i) of section 263A (relating to regulations) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following:

"(3) regulations providing that allocations of costs of any administrative, service, or support function or department may be made on the basis of the base period percentage of the current costs of such function or department.

For purposes of paragraph (3), the term 'base period percentage' means, with respect to any function or department, the percentage of the costs of such function or department during a base period specified in regulations which were allocable to property to which this section applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

PART III—PROVISIONS RELATING TO REGULATED INVESTMENT COMPANIES

SEC. 4621. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) GENERAL RULE.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding "and"

at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) TECHNICAL AMENDMENTS.—

(1) The material following paragraph (3) of section 851 (as redesignated by subsection (a)) is amended—

(A) by striking out "paragraphs (2) and (3)" and inserting "paragraph (2)", and

(B) by striking out the last sentence thereof.

(2) Subsection (c) of section 851 is amended by striking "subsection (b)(4)" each place it appears (including the heading) and inserting "subsection (b)(3)".

(3) Subsection (d) of section 851 is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(4) Paragraph (1) of section 851(e) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(5) Paragraph (4) of section 851(e) is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) is amended—

(A) by striking "851(b)(4)" in subparagraph (A) and inserting "851(b)(3)", and

(B) by striking "851(b)(4)(A)(i)" in subparagraph (B) and inserting "851(b)(3)(A)(i)".

(9) Section 1092(f)(2) is amended by striking "Except for purposes of section 851(b)(3), the" and inserting "The".

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

SEC. 4622. BASIS RULES FOR SHARES IN OPEN-END REGULATED INVESTMENT COMPANIES.

(a) ADDITIONAL REPORTING REQUIREMENT.—Section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new subsection:

"(f) ADDITIONAL INFORMATION REQUIRED WITH RESPECT TO OPEN-END REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If any person is required under subsection (a) to make a return regarding the gross proceeds from any disposition of stock in an open-end regulated investment company, such return shall include for each such disposition—

"(A) the basis of the stock disposed of (determined by reference to the average basis of all of the stock in the account from which the disposition was made immediately before the disposition), and

"(B) the portion of such gross proceeds attributable to stock held for more than 1 year and the portion not so attributable.

Determinations under subparagraph (B) shall be made on a first-in, first-out, basis and determinations of basis and holding period shall be made in such manner as the Secretary may prescribe.

"(2) OPEN-END REGULATED INVESTMENT COMPANY.—For purposes of this subsection, the term 'open-end regulated investment company' means any regulated investment company which is offering for sale or has outstanding any redeemable security (as defined in section 2(a)(32) of the Investment Company Act of 1940) of which it is the issuer.

"(3) INFORMATION TRANSFERS.—To the extent provided in regulations, there shall be such exchanges of information between brokers as such regulations may require for purposes of enabling brokers to meet the requirements of this subsection.

"(4) APPLICATION OF SUBSECTION.—This subsection shall not apply with respect to stock in any account—

"(A) which was established before January 1, 1994, or

"(B) which includes any stock not acquired by purchase."

(b) BASIS FOR INCOME TAX PURPOSES.—Section 1012 of such Code is amended—

(1) by striking "The basis" and inserting "(a) GENERAL RULE.—The basis", and

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

"(b) SPECIAL RULES FOR STOCK IN OPEN-END REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—In the case of any disposition of stock from a covered account—

"(A) the basis of such stock shall be determined by reference to the average basis of all of the stock in such account immediately before such disposition, and

"(B) the determination of which stock in such account is so disposed of shall be made on a first-in, first-out, basis.

"(2) COVERED ACCOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'covered account' means any account of stock in an open-end regulated investment company if section 6045(f) applies to such account.

"(B) ELECTION OUT.—The term 'covered account' shall not include any account if, on the taxpayer's return for his first taxable year in which a disposition from such account occurs, the taxpayer elects to have this subsection not apply to such account."

(c) TECHNICAL AMENDMENT.—Section 6724 of such Code is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN REPORTS WITH RESPECT TO STOCK IN OPEN END REGULATED INVESTMENT COMPANIES.—For purposes of sections 6721(e)(2)(B) and 6722(c)(1)(B), the amount required to be reported under section 6045 shall be determined without regard to subsection (f) thereof."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to returns and statements required for calendar year 1994 and subsequent calendar years.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to dispositions on or after December 31, 1993.

SEC. 4623. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If—

"(A) a common trust fund transfers substantially all of its assets to a regulated investment company in exchange solely for stock in such company, and

"(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

"(2) BASIS RULES.—

"(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

"(B) PARTICIPANTS.—The basis of any stock in a regulated investment company which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged.

"(3) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

PART IV—TAX-EXEMPT BOND PROVISIONS

SEC. 4631. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 4632. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end thereof the following new clause:

"(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirments of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue."

SEC. 4633. AUTOMATIC EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.

Subsection (c) of section 148 (relating to temporary period exception) is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.—If—

"(A) at least 85 percent of the available construction proceeds (as defined in subsection (f)(4)(C)) of a construction issue (as defined in such subsection) are spent as of the close of the initial temporary period (determined without regard to this paragraph), and

"(B) the issuer reasonably expects (as of the close of such period) that the remaining available construction proceeds of such issue will be spent within 1 year after the close of such period,

then such initial temporary period shall be extended 1 year."

SEC. 4634. AGGREGATION OF ISSUES RULES NOT TO APPLY TO TAX OR REVENUE ANTICIPATION BONDS.

Section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(f) TAX OR REVENUE ANTICIPATION BONDS TREATED AS SEPARATE ISSUES.—For purposes of this part, if—

"(1) all of the bonds which are part of an issue are qualified 501(c)(3) bonds or bonds which are not private activity bonds, and

"(2) any portion of such issue consists of tax or revenue anticipation bonds which are reasonably expected to meet the requirements of section 148(f)(4)(B)(iii),

then such portion shall, subject to appropriate allocations specified in regulations prescribed by the Secretary, be treated as a separate issue."

SEC. 4635. REPEAL OF DISPROPORTIONATE PRIVATE BUSINESS USE TEST.

(a) IN GENERAL.—Subsection (b) of section 141 (relating to private business tests) is amended by striking paragraph (3) and by redesignating paragraphs (4) through (9) as paragraphs (3) through (8), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 141(d) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(2) Paragraph (2) of section 142(c) is amended by striking "section 141(b)(6)" and inserting "section 141(b)(5)".

(3) Subsections (k)(3) and (m)(1) of section 146 and section 149(f)(4)(B)(i) are each amended by striking "section 141(b)(5)" and inserting "section 141(b)(4)".

SEC. 4636. EXPANDED EXCEPTION FROM REBATE FOR ISSUERS ISSUING $10,000,000 OR LESS OF BONDS.

Subparagraph (D) of section 148(f) (relating to exception for governmental units issuing $5,000,000 or less of bonds) is amended by striking "$5,000,000" each place it appears (including the heading) and inserting "$10,000,000".

SEC. 4637. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

SEC. 4638. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraph (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 4639. CLARIFICATION OF INVESTMENT-TYPE PROPERTY.

Subparagraph (D) of section 148(b)(2) is amended to read as follows:

"(D) any investment-type property, or".

SEC. 4640. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

(b) SMALL ISSUER EXPANSION.—The amendment made by section 4636 shall apply to bonds issued in calendar years beginning after the date of the enactment of this Act.

(c) INVESTMENT-TYPE PROPERTY.—The amendment made by section 4639 shall take effect as if included in the amendments made by section 1301 of the Tax Reform Act of 1986.

PART V—ELECTION OF ALTERNATIVE TAXABLE YEARS

SEC. 4641. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) LIMITATION ON TAXABLE YEAR WHICH MAY BE ELECTED.—Subsection (b) of section 444 (relating to limitations on taxable years which may be elected) is amended to read as follows:

"(b) LIMITATION ON TAXABLE YEAR WHICH MAY BE ELECTED.—An election may be made under subsection (a) only if the annual financial statements of the entity used for credit purposes or provided to shareholders, partners, or other proprietors, if any, are based on a fiscal year ending in the same month as the taxable year elected."

(b) EFFECT OF ELECTION.—Subsection (c) of section 444 (relating to effect of election) is amended to read as follows:

"(c) EFFECT OF ELECTION.—If an entity makes an election under subsection (a), then—

"(1) in the case of a partnership or S corporation, such entity shall make the payments required by section 7519(b) for each taxable year for which an election under this section is in effect,

"(2) in the case of a partnership or S corporation making or changing an election under subsection (a), such entity shall make the initial payment required by section 7519(c) for the 1st taxable year for which such election is in effect, and

"(3) in the case of a personal service corporation, such corporation shall be subject to the deduction limitations of section 280H."

(c) PERIOD OF ELECTION.—Paragraph (2) of section 444(d) (relating to period of election) is amended by striking subparagraph (B) and inserting the following:

"(B) NO FURTHER ELECTION WITHOUT CONSENT.—Except as provided in subparagraph (C), if an election is terminated under subparagraph (A), or paragraph (3)(A), the partnership, S corporation, or personal service corporation (or any successor) may not make another election under subsection (a) without the consent of the Secretary.

"(C) SPECIAL RULE FOR ENTITIES CHANGING SECTION 444 YEAR.—An entity with respect to which an election under subsection (a) is in effect on the date of enactment of this subparagraph may terminate such election and elect a new taxable year under this section without the consent of the Secretary, if such election is made before December 31, 1993."

(d) TIERED STRUCTURES.—Paragraph (3) of section 444(d) (relating to tiered structures, etc.) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN STRUCTURES WHICH INCLUDE TRUSTS.—An entity shall not be considered to be part of a tiered structure to which subparagraph (A) applies solely because a trust which has a taxable year which is a calendar year holds an ownership interest in such entity."

(e) REGULATIONS.—Subsection (g) of section 444 (relating to regulations) is amended to read as follows:

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section, including regulations to prevent the carryback of a net operating loss arising in any short taxable year created pursuant to an election or termination of an election under this section to any preceding taxable year."

SEC. 4642. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

(a) REQUIRED PAYMENT.—Subsection (b) of section 7519 (relating to required payment) is amended to read as follows:

"(b) REQUIRED PAYMENT.—For purposes of this section, the term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to—

"(1) the excess of the product of—

"(A) the adjusted highest section 1 rate, and

"(B) the net base year income of the entity, over

"(2) the net required payment balance.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the end of the 1st required taxable year ending within such year plus 2 percentage points."

(b) INITIAL PAYMENT.—Section 7519 (relating to required payments for entities electing not to have required taxable year) is amended by redesignating subsections (c) through (g) as subsections (d) through (h), respectively, and by inserting after subsection (b) the following new subsection:

"(c) INITIAL PAYMENT.—

"(1) IN GENERAL.—For purposes of this section, the term 'initial payment' means, with respect to the 1st applicable election year of an entity, an amount equal to 75 percent of the amount of the payment determined under subsection (b) for such applicable election year.

"(2) SPECIAL RULE FOR ENTITIES CHANGING SECTION 444 YEAR.—In the case of an entity described in section 444(d)(2)(C), the term 'initial payment' means, with respect to the 1st new applicable election year of such entity, an amount equal to 75 percent of the amount by which—

"(A) the amount of the payment determined under subsection (b) for such applicable election year, exceeds

"(B) the amount of the payment determined under subsection (b) which would have been required with respect to the terminated applicable election year but for such termination."

(c) TERMINATION OF ELECTIONS.—Subparagraph (A) of section 7519(d)(2) (relating to termination of elections, etc.), as redesignated by subsection (b), is amended by inserting after "year" the following: "and the partnership or S corporation does not elect a new applicable election year".

(d) DATE REFUND PAYABLE.—Paragraph (3) of section 7519(d) (relating to date on which refund payable), as redesignated by subsection (b), is amended in the matter preceding subparagraph (A) by striking "on the later of" and inserting "by the later of".

(e) APPLICABLE PERCENTAGE.—Subsection (e) of section 7519 (relating to net base year income), as redesignated by subsection (b), is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(f) DEFINITIONS AND SPECIAL RULES.—Subsection (f) of section 7519 (relating to other definitions and special rules), as redesignated by subsection (b), is amended to read as follows:

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DEFERRAL PERIOD.—Except as provided in regulations, the term 'deferral period' means, with respect to any taxable year of the partnership or S corporation, the months between—

"(A) the beginning of such year, and

"(B) the close of the 1st required taxable year ending within such year.

"(2) YEARS.—

"(A) BASE YEAR.—The term 'base year' means, with respect to any applicable election year, the 1st 12-month (or 52- to 53-week) taxable year of the partnership or S corporation preceding such applicable election year.

"(B) APPLICABLE ELECTION YEAR.—The term 'applicable election year' means any taxable year of a partnership or S corporation with respect to which an election is in effect under section 444.

"(3) REQUIREMENT OF REPORTING.—Each partnership or S corporation which makes an election under section 444 shall include on any required return or statement such information as the Secretary shall prescribe as necessary to carry out the provisions of this section.

"(4) NET REQUIRED PAYMENT BALANCE.—The term 'net required payment balance' means the excess (if any) of—

"(A) the aggregate of the required payments under this section for all preceding applicable election years plus any initial payment, over

"(B) the aggregate amount allowable as a refund to the partnership or S corporation under subsection (c) for all preceding applicable election years.

Notwithstanding the preceding sentence, an initial payment shall not be taken into account for purposes of computing the net required payment balance until the 19th month following the due date of the initial payment."

(g) ADMINISTRATIVE PROVISIONS.—Subsection (g) of section 7519 (relating to administrative provisions), as redesignated by subsection (b), is amended to read as follows:

"(g) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection or in regulations prescribed by the Secretary, any payment required by this section shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C.

"(2) DUE DATE.—

"(A) ANNUAL REQUIRED PAYMENTS.—The amount of any payment required by this section, other than any initial payment, shall be paid on or before May 15 of the calendar year following the year in which the applicable election year begins.

"(B) INITIAL PAYMENT.—The amount of any initial payment required by this section shall be paid on or before September 15 of the calendar year in which the 1st applicable election year begins.

"(3) INTEREST.—For purposes of determining interest, any payment required by this section shall be treated as a tax; except that interest shall be allowed with respect to any refund of a payment under this section only with respect to the period from the latest date specified in subsection (d) for such refund to the actual date of payment of such refund.

"(4) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any person to pay on the date prescribed therefor any amount required by this section, other than an initial payment, there shall be imposed on such person a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of the amount of the payment required under this section over the amount (if any) of such payment paid on or before the date prescribed therefor.

"(B) INEFFECTIVE ELECTION.—In the case of any failure of a partnership or S corporation to make an initial payment required by this section on the date prescribed therefor, such entity shall be treated as having failed to make an election under section 444.

"(C) NEGLIGENCE AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by this section shall be treated as a tax.

"(D) WILLFUL FAILURE.—If any partnership or S corporation willfully fails to comply with the requirements of this section, section 444 shall cease to apply with respect to such partnership or S corporation."

(h) REGULATIONS.—Paragraph (2) of 7519(h) (relating to regulations), as redesignated by subsection (b), is amended to read as follows:

"(2) there is no base year described in subsection (f)(2)."

SEC. 4643. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS ELECTING ALTERNATIVE TAXABLE YEARS.

(a) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Subsection (b) of section 280H (relating to carryover of nondeductible amounts) is amended to read as follows:

"(b) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Any amount not allowed as a deduction for a taxable year pursuant to subsection (a) shall be allowed as a deduction in the succeeding taxable year."

(b) MINIMUM DISTRIBUTION REQUIREMENT.—Paragraph (1) of section 280H(c) (relating to minimum distribution requirement) is amended to read as follows:

"(1) IN GENERAL.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid during the deferral period of the taxable year (determined without regard to subsection (b)) equal or exceed the lesser of—

"(A) 110 percent of the product of—

"(i) the applicable amounts paid during the preceding taxable year, divided by the number of months in such taxable year, and

"(ii) the number of months in the deferral period of the taxable year, or

"(B) 110 percent of the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

If such preceding taxable year is a taxable year of less than 12 months due to a change of taxable year, then subparagraph (A)(i) shall apply to the applicable amounts paid during the preceding 12-month (or 52- to 53-week) taxable year (if any)."

(c) DISALLOWANCE OF NET OPERATING LOSS CARRYOVERS.—Subsection (e) of section 280H (relating to disallowance of net operating loss carrybacks) is amended by striking "to (or from)" and inserting "from".

(d) DEFERRAL PERIOD.—Subparagraph (A) of section 280H(f)(3) (defining deferral period) is amended by striking "section 444(b)(4)" and inserting "section 7519(f)(1)".

SEC. 4644. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after December 31, 1991.

PART VI—OTHER PROVISIONS

SEC. 4651. CERTAIN GRANTOR TRUSTS TREATED AS ESTATES FOR CERTAIN PURPOSES.

(a) CHARITABLE SET-ASIDE.—Subsection (c) of section 642 (relating to deduction for amounts paid or permanently set aside for a charitable purpose) is amended by adding at the end thereof the following new paragraph:

"(7) TREATMENT OF CERTAIN GRANTOR TRUSTS.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'estate' includes any trust—

"(i) all of which was treated under section 676 as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under the decedent's will (or, if there is no such trust, which is the trust primarily responsible for paying debts, taxes, and expenses of administration).

"(B) LIMITATIONS.—

"(i) YEARS TO WHICH SUBPARAGRAPH (A) APPLIES.—Subparagraph (A) shall apply only with respect to taxable years which end after the date of the decedent's death and which begin before the date which is 3 years and 9 months after the date of such death.

"(ii) LIMITATION ON SET-ASIDES.—In the case of a trust treated as an estate under paragraph (1), paragraph (2) shall not apply to any amount permanently set aside for a purpose described in such paragraph unless the terms of the governing instrument require that such amount shall be actually paid for such purpose before the close of the last taxable year for which such trust is treated as an estate under this paragraph."

(b) PASSIVE LOSS RULES.—Paragraph (4) of section 469(i) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF CERTAIN GRANTOR TRUSTS.—For purposes of this paragraph, the term 'estate' includes, with respect to any taxable year, any trust treated as an estate under section 642(c)(7)(A) for such taxable year. In the case of any such trust, in addition to any reduction under subparagraph (B), there shall be a similar reduction for the amount of any exemption allowable under paragraph (1) (without regard to paragraph (3)) to the actual estate of the decedent."

(c) EXEMPTION FROM TRUST THROWBACK RULES.—Section 665 is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN GRANTOR TRUSTS.—If any trust is treated an an estate under section 642(c)(7) for any taxable year, for purposes of this subpart—

"(1) any undistributed net income of such trust for such taxable year, and

"(2) any taxes imposed on such trust for such taxable year,

shall be disregarded."

(d) CONFORMING AMENDMENT TO SECTION 6654.—Subparagraph (B) of section 6654(l)(2) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) all of which was treated under section 676 as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under the decedent's will (or, if there is no such trust, which is the trust primarily responsible for paying debts, taxes, and expenses of administration)."

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

SEC. 4652. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1991.

SEC. 4653. REPEAL OF SPECIAL TREATMENT OF OWNERSHIP CHANGES IN DETERMINING ADJUSTED CURRENT EARNINGS.

(a) GENERAL RULE.—Paragraph (4) of section 56(g) (relating to adjustments) is amended by striking subparagraph (G) and by redesignating the following subparagraph as paragraph (G).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to ownership changes after the date of the enactment of this Act.

Subtitle G—Estate And Gift Tax Provisions

SEC. 4701. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of re-

covery under this subchapter with respect to such property."

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

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

SEC. 4702. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

"(1) IN GENERAL.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(a)(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

"(e) TREATMENT OF CERTAIN REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust with respect to which the decedent was the grantor during any period when the decedent held the power to revest in the decedent title to such portion shall be treated as a transfer made directly by the decedent."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

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

SEC. 4703. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end thereof the following new clause:

"(v)(i) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse."

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end thereof the following new subsection:

"(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 4704. TREATMENT OF PORTIONS OF PROPERTY UNDER MARITAL DEDUCTION.

(a) ESTATE TAX.—Subsection (b) of section 2056 (relating to limitation in case of life estate or other terminable interest) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIFIC PORTION.—For purposes of paragraphs (5), (6), and (7)(B)(iv), the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(b) GIFT TAX.—

(1) Subsection (e) of section 2523 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(2) Paragraph (3) of section 2523(f) is amended by inserting before the period at the end thereof the following: "and the rules of section 2056(b)(10) shall apply".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

(B) EXCEPTION.—The amendment made by subsection (a) shall not apply to any interest in property which passes (or has passed) to the surviving spouse of the decedent pursuant to a will (or revocable trust) in existence on the date of the enactment of this Act if—

(i) the decedent dies on or before the date 3 years after such date of enactment, or

(ii) the decedent was, on such date of enactment, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.

The preceding sentence shall not apply if such will (or revocable trust) is amended at any time after such date of enactment in any respect which will increase the amount of the interest which so passes or alters the terms of the transfer by which the interest so passes.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to gifts made after the date of the enactment of this Act.

SEC. 4705. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 4706. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

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

Subtitle H—Excise Tax Simplification
PART I—FUEL TAX PROVISIONS

SEC. 4801. REPEAL OF CERTAIN RETAIL AND USE TAXES.

(a) IN GENERAL.—Section 4041 is amended to read as follows:

"SEC. 4041. SPECIAL MOTOR FUELS AND NONCOMMERCIAL AVIATION GASOLINE.

"(a) SPECIAL MOTOR FUELS.—

"(1) IN GENERAL.—There is hereby imposed a tax on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or a motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

"(2) RATE OF TAX.—The rate of the tax imposed by this subsection shall be the aggregate rate of tax in effect under section 4081 at the time of such sale or use.

"(3) CERTAIN FUELS EXEMPT FROM TAX.—The tax imposed by this subsection shall not apply to gasoline (as defined in section 4082), diesel fuel (as defined in section 4092), kerosene, gas oil, or fuel oil.

"(4) REDUCED RATES OF TAX ON CERTAIN FUELS.—

"(A) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of any qualified methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.4 cents per gallon less than the otherwise applicable rate (6 cents per gallon less in the case of a mixture none of the alcohol in which consists of ethanol), and

"(II) the Leaking Underground Storage Tank Trust Fund financing rate applicable under paragraph (2) shall be 0.05 cent per gallon.

"(ii) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(B) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of natural gas-derived methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.75 cents per gallon, and

"(II) the deficit reduction rate applicable under paragraph (2) shall be 1.25 cents per gallon.

"(ii) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—The term 'natural-gas derived methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"(C) OTHER FUELS CONTAINING ALCOHOL.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), the Highway Trust Fund financing rate applicable under paragraph (2) shall be the comparable rate under section 4081.

"(ii) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which clause (i) applies, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(D) LIQUEFIED PETROLEUM GAS.—The rate of tax applicable under paragraph (2) to liquefied petroleum gas shall be determined without regard to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.

"(5) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—No tax shall be imposed by paragraph (1) on liquids sold for use or used in an off-highway business use (within the meaning of section 6420(f)).

"(b) NONCOMMERCIAL AVIATION GASOLINE.—

"(1) IN GENERAL.—There is hereby imposed a tax on gasoline—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft in noncommercial aviation, or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation unless there was a taxable sale of such gasoline under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed by section 4081.

"(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) on any gasoline is the excess of 15 cents a gallon over the sum of the Highway Trust Fund financing rate plus the deficit reduction rate at which tax was imposed on such gasoline under section 4081.

"(3) NONCOMMERCIAL AVIATION.—For purposes of this subsection, the term 'noncommercial aviation' means any use of an aircraft other than use in a business of transporting persons or property for compensation or hire by air. Such term includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(4) EXEMPTION FOR FUELS CONTAINING ALCOHOL.—No tax shall be imposed by this subsection on any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)).

"(5) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed by this subsection on gasoline sold for use or used in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met.

"(6) REGISTRATION.—Except as provided in regulations prescribed by the Secretary, if any gasoline is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this subsection that a tax imposed by this subsection applies to the sale of such gasoline unless the purchaser is registered in such manner (and furnished such information in respect of the use of the gasoline) as the Secretary shall by regulations provide.

"(7) GASOLINE.—For purposes of this subsection, the term 'gasoline' has the meaning given such term by section 4082.

"(8) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1995.

"(c) EXEMPTION FOR FARM USE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes (determined in accordance with paragraphs (1), (2), and (3) of section 6420(e)).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, paragraph (1) shall not apply after September 30, 1999.

"(d) EXEMPTIONS FOR STATE AND LOCAL GOVERNMENTS, SCHOOLS, EXPORTATION, AND SUPPLIES FOR VESSELS AND AIRCRAFT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use, or used, in an exempt use described in paragraph (4), (5), (6), or (7) of section 6420(b).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, after September 30, 1999, paragraph (1) shall not apply to exempt uses described in paragraph (4) and (5) of section 6420(b).

"(e) EXEMPTION FOR USE BY CERTAIN AIRCRAFT MUSEUMS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used in an exempt use described in section 6420(b)(11)."

(b) CERTAIN ADDITIONAL PURCHASERS OF FUEL TREATED AS PRODUCERS.—

(1) IN GENERAL.—Subparagraph (C) of section 4092(b)(1) is amended to read as follows:

"(C) REDUCED-TAX PURCHASERS TREATED AS PRODUCERS.—Any person to whom any fuel is sold in a sale on which the amount of tax otherwise required to be paid under section 4091 is reduced under section 4093 shall be treated as the producer of such fuel. The amount of tax imposed by section 4091 on any sale of such fuel by such person shall be reduced by the amount of tax imposed under section 4091 (and not credited or refunded) on any prior sale of such fuel."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 4093 is amended by inserting "(as defined in section 4092(b) without regard to paragraph (1)(C) thereof)" after "producer".

SEC. 4802. REVISION OF FUEL TAX CREDIT AND REFUND PROCEDURES.

(a) REFUNDS TO CERTAIN SELLERS OF DIESEL FUEL AND AVIATION FUEL.—

(1) IN GENERAL.—Paragraph (2) of section 6416(b) is amended by striking "4091 or 4121" and inserting "4121 or 4091; except that this paragraph shall apply to a person selling diesel fuel or aviation fuel for a use described in the first sentence if such person meets such requirements as the Secretary may by regulations prescribe".

(2) LIMITATIONS ON AMOUNT OF TAX ONLY HIGHWAY TRUST FUND FINANCING RATE TO BE REFUNDABLE.—Paragraph (2) of section 6416(b) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to the taxes imposed by sections 4081 and 4091 with respect to any use to the same extent that section 6420(a) does not apply to such use by reason of paragraph (1) or (2) of section 6420(c)."

(b) CONSOLIDATION OF REFUND PROVISIONS; REPEAL OF CONSENT REQUIREMENT FOR REFUND OF FUEL TAXES TO CROPDUSTERS, ETC.—Section 6420 (relating to gasoline used on farms) is amended to read as follows:

"SEC. 6420. CERTAIN TAXES ON FUELS USED FOR EXEMPT PURPOSES.

"(a) IN GENERAL.—Except as otherwise provided in this section, if any fuel on which tax was imposed under section 4041, 4081, or 4091 is used in an exempt use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel the amount equal to the

aggregate tax imposed on such fuel under such sections.

"(b) EXEMPT USES.—For purposes of this section, the term 'exempt use' means—

"(1) in the case of diesel fuel, use other than as a fuel in a diesel-powered highway vehicle or a diesel-powered motorboat,

"(2) in the case of aviation fuel, use other than as a fuel in an aircraft,

"(3) in the case of gasoline or aviation fuel, use in an aircraft other than in noncommercial aviation (as defined in section 4041(b)),

"(4) use by any State, any political subdivision of a State, or the District of Columbia,

"(5) use by a nonprofit educational organization (as defined in section 4221(d)(5)),

"(6) export,

"(7) use as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)),

"(8) use on a farm for farming purposes (within the meaning of subsection (e)),

"(9) use in an off-highway business use (within the meaning of subsection (f)),

"(10) use in qualified bus transportation (within the meaning of subsection (g)),

"(11) use by an aircraft museum (within the meaning of subsection (h)),

"(12) use in a nonpurpose use (within the meaning of subsection (i)),

"(13) use in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met, and

"(14) use in producing a mixture of a fuel if at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)) and if such mixture is sold or used in the trade or business of the person producing such mixture.

"(c) LIMITATIONS ON AMOUNT OF PAYMENT.—

"(1) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES IN CERTAIN CASES.—Subsection (a) shall not apply to so much of the taxes imposed by sections 4081 and 4091 as are attributable to a Leaking Underground Storage Tank Trust Fund financing rate in the case of—

"(A) fuel used in a train, and

"(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

"(2) NO REFUND OF DEFICIT REDUCTION TAX ON DIESEL FUEL USED IN TRAINS.—Subsection (a) shall not apply to so much of the tax imposed by section 4091 as is attributable to a deficit reduction rate in the case of diesel fuel used in a diesel-powered train.

"(3) NO REFUND OF PORTION OF TAX ON DIESEL FUEL USED IN CERTAIN BUSES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under subsection (a) with respect to diesel fuel used in qualified bus transportation (within the meaning of subsection (g)(1)) shall be 3.1 cents per gallon less than the aggregate rate of tax imposed on such fuel by section 4091.

"(B) EXCEPTION FOR SCHOOL BUS TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in transportation described in subsection (g)(1)(B).

"(C) EXCEPTION FOR CERTAIN INTRACITY TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

"(i) which is available to the general public, and

"(ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

"(D) QUALIFIED LOCAL BUS.—For purposes of this paragraph, the term 'qualified local bus' means any local bus—

"(i) which has a seating capacity of at least 20 adults (not including the driver), and

"(ii) which is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)) to furnish such transportation.

"(4) ALCOHOL FUELS.—

"(A) IN GENERAL.—In the case of a fuel used as described in subsection (b)(14) and on which tax was imposed at regular tax rate, the rate of tax taken into account under subsection (a) with respect to the fuel so used shall equal the excess of the regular tax rate over the incentive tax rate.

"(B) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(C) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(D) TERMINATION.—This paragraph shall not apply with respect to any mixture sold or used after September 30, 1995.

"(5) GASOHOL USED IN NONCOMMERCIAL AVIATION.—If—

"(A) tax is imposed by section 4081 at the rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

"(B) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(b)),

the payment under subsection (a) shall be equal to 1.4 cents (2 cents in the case of gasohol none of the alcohol in which consists of ethanol) per gallon of gasohol so used.

"(d) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), not more than one claim may be filed under this section by any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—If as of the close of any quarter of a person's taxable year, $750 or more is payable under this section to such person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter or any prior quarter of such taxable year (and for which no other claim has been filed), a claim may be filed under this section with respect to fuel so used (or qualified diesel powered highway vehicles so purchased).

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

"(3) SPECIAL RULE FOR GASOHOL CREDIT.—

"(A) IN GENERAL.—A claim may be filed for gasoline used to produce gasohol (as defined in section 4081(c)(1)) for any period—

"(i) for which $200 or more is payable by reason of subsection (b)(14), and

"(ii) which is not less than 1 week.

"(B) PAYMENT OF CLAIM.—Notwithstanding subsection (a), if the Secretary has not paid a claim filed pursuant to subparagraph (A) within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

"(e) USE ON A FARM FOR FARMING.—For purposes of subsection (b)(8)—

"(1) IN GENERAL.—Fuel shall be treated as used on a farm for farming purposes only if used—

"(A) in carrying on a trade or business,

"(B) on a farm situated in the United States, and

"(C) for farming purposes.

"(2) FARM.—The term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(3) FARMING PURPOSES.—Fuel shall be treated as used for farming purposes only if used—

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

"(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

"(C) by the owner, tenant, or operator of a farm, in connection with—

"(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market, incidental to farming operations; or

"(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the fuel, except that

"(B) if the person so using the fuel is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the fuel, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such fuel on a farm for farming purposes.

"(f) OFF-HIGHWAY BUSINESS USE.—For purposes of subsection (b)(9)—

"(1) IN GENERAL.—The term 'off-highway business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(A) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

"(B) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(2) USES IN MOTORBOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(A) a vessel employed in the fisheries or in the whaling business, and

"(B) a motorboat in the active conduct of—

"(i) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(ii) any other trade or business unless the motorboat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation.

"(g) QUALIFIED BUS TRANSPORTATION.—For purposes of subsection (b)(10)—

"(1) IN GENERAL.—Fuel is used in qualified bus transportation if it is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)).

"(2) LIMITATION IN THE CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

"(h) USE BY AN AIRCRAFT MUSEUM.—For purposes of subsection (b)(11)—

"(1) IN GENERAL.—Fuel is used by an aircraft museum if it is used in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C).

"(2) AIRCRAFT MUSEUM.—For purposes of this subsection, the term 'aircraft museum' means an organization—

"(A) described in section 501(c)(3) which is exempt from income tax under section 501(a),

"(B) operated as a museum under charter by a State or the District of Columbia, and

"(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

"(i) USE IN A NONPURPOSE USE.—For purposes of subsection (b)(12), fuel is used in a nonpurpose use if—

"(1) tax was imposed by section 4041 on the sale thereof and the purchaser—

"(A) uses such fuel other than for the use for which it is sold, or

"(B) resells such fuel, or

"(2) tax was imposed by section 4081 on any gasoline blend stock or product commonly used as an additive in gasoline and the purchaser establishes that the ultimate use of such blend stock or product is not to produce gasoline.

"(j) ADVANCE REPAYMENT OF INCREASED DIESEL FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

"(1) IN GENERAL.—Except as provided in subsection (d), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—For purposes of this subsection, the term 'diesel fuel differential amount' means—

"(A) except as provided in subparagraph (B), $102, or

"(B) in the case of a truck or van, $198.

"(4) ORIGINAL PURCHASER.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original purchaser' means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

"(B) EXCEPTION FOR CERTAIN PERSONS NOT SUBJECT TO FUELS TAX.—The term 'original purchaser' shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

"(C) TREATMENT OF DEMONSTRATION USE BY DEALER.—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

"(5) VEHICLES TO WHICH SUBSECTION APPLIES.—This subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1995.

"(6) BASIS REDUCTION.—For the purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle.

"(k) INCOME TAX CREDIT IN LIEU OF PAYMENT; OTHER SPECIAL RULES.—

"(1) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

"(A) PERSONS NOT SUBJECT TO INCOME TAX.—Payment shall be made under this section only to—

"(i) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

"(ii) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a payment of a claim filed under paragraph (2) or (3) of subsection (d).

"(C) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—

"For allowances of credit against the income tax imposed by subtitle A for fuel used by the purchaser in an exempt use, see section 34.

"(2) APPLICABLE LAWS.—

"(A) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax with respect to which a payment is claimed under this section shall, insofar as applicable and not inconsistent with this section, apply in respect of such payment to the same extent as if such payment constituted a refund of overpayments of such tax.

"(B) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(3) COORDINATION WITH SECTION 6416, ETC.—No amount shall be payable under this section to any person with respect to any fuel if the Secretary determines that the amount of tax for which such payment is sought was not included in the price paid by such person for such fuel. The amount which would (but for this sentence) be payable under this section with respect to any fuel shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any other provision of this title, to any person with respect to such fuel.

"(4) REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(l) FUELS—For purposes of this section, the terms 'gasoline', 'diesel fuel', and 'aviation fuel' have the respective meanings given such terms by sections 4082 and 4092.

"(m) TERMINATION.—Except as otherwise provided in this section, this section shall not apply to any liquid purchased after September 30, 1999. The preceding sentence shall not apply to taxes attributable to any Leaking Underground Storage Tank Trust Fund financing rate."

SEC. 4803. AUTHORITY TO PROVIDE EXCEPTIONS FROM INFORMATION REPORTING WITH RESPECT TO DIESEL FUEL AND AVIATION FUEL.

(a) RETURNS BY PRODUCERS AND IMPORTERS.—Subparagraph (A) of section 4093(c)(4) (relating to returns by producers and importers) is amended by striking "Each producer" and inserting "Except as provided by the Secretary by regulations, each producer".

(b) RETURNS BY PURCHASERS.—Subparagraph (C) of section 4093(c)(4) (relating to returns by purchasers) is amended by striking "Each person" and inserting "Except as provided by the Secretary by regulations, each person".

SEC. 4804. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Sections 6421 and 6427 are hereby repealed.

(2) Section 34 is amended to read as follows:

"SEC. 34. EXCISE TAXES ON FUEL USED FOR EXEMPT PURPOSES.

"There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the excess of—

"(1) the aggregate amount payable to the taxpayer under section 6420 (determined without regard to section 6420(k)(1)) with respect to—

"(A) exempt uses (as defined in section 6420(b)) during such taxable year, and

"(B) qualified diesel-powered highway vehicles purchased during such taxable year, over

"(2) the portion of such amount for which a claim payable under section 6420(d) is timely filed."

(3) Subsection (c) of section 40 is amended by striking "subsection (b)(2), (k), or (m)" and inserting "subsection (a)(4) or (b)(4)"

(4) Paragraph (2) of section 451(e) is amended by striking "section 6420(c)(3)" and inserting "section 6420(e)(3)".

(5) Clause (i) of section 1274(c)(3)(A) is amended by striking "section 6420(c)(2)" and inserting "section 6420(e)(2)".

(6) Sections 874(a) and 1366(f)(1) are each amended by striking "gasoline and special" and inserting "taxable".

(7) Paragraph (2) of section 882(c) is amended by striking "gasoline" and inserting "taxable fuels".

(8) Subsection (b) of section 4042 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(9) Subsection (b) of section 4082 is amended by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(10) Section 4083 is amended to read as follows:

"SEC. 4083. CROSS REFERENCE.

"For provision allowing a credit or refund for gasoline used for exempt purposes, see section 6420."

(11) Subsections (c)(2) and (d)(2) of section 4091 are each amended by striking "section 6427(f)(1)" and inserting "section 6420(b)(14)".

(12) Paragraph (1) of section 4093(c) is amended by striking "by the purchaser" and all that follows and inserting "by the purchaser in an exempt use (as defined in section 6420(b) other than paragraph (14) thereof)."

(13) Subparagraph (C) of section 4093(c)(2) is amended by striking "section 6427(b)(2)(A)" and inserting "section 6420(c)(3)(A)".

(14) Clause (i) of section 4093(c)(4)(C) is amended to read as follows:

"(i) whether such use was an exempt use (as defined in section 6420(b)) and the amount of fuel so used,".

(15) Section 4093 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) USE BY PRODUCER OR IMPORTER.—If any producer or importer uses any taxable fuel, then such producer or importer shall be liable for tax under section 4091 in the same manner as if such fuel were sold by him for such use."

(16) Subsection (f) of section 4093, as redesignated by paragraph (15), is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision allowing a credit or refund for fuel used for exempt purposes, see section 6420."

(17) Section 6206 is amended to read as follows:

"SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE FUEL TAX REFUND CLAIMS.

"Any portion of a payment made under section 6420 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if—

"(1) it were a tax imposed by the section to which the claim relates, and

"(2) the person making the claim were liable for such tax.

The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing the claim under section 6420."

(18) Subparagraph (A) of section 6416(a)(2) is amended by striking "(relating to tax on special fuels)" and inserting "(relating to special motor fuels and noncommercial aviation gasoline)".

(19) Paragraph (2) of section 6416(b) is amended—

(A) in the matter preceding subparagraph (A) by striking "subsection (a) or (d) of section 4041" and inserting "section 4041(a)", and

(B) in subparagraph (F) by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(20) Paragraph (9) of section 6504 is amended to read as follows:

"(9) Assessments to recover excessive amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, see section 6206."

(21) Subsection (h) of section 6511 is amended by striking paragraphs (5) and (6), by redesignating paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) For limitations in the case of payments under section 6420 (relating to certain taxes on fuels used for exempt purposes), see section 6420(d)."

(22) Subsection (c) of section 6612 is amended by striking "6420 (relating to payments in the case of gasoline used on the farm for farming purposes) and 6421 (relating to payments in the case of gasoline used for certain nonhighway purposes or by local transit systems)" and inserting "and 6420 (relating to certain taxes on fuels used for exempt purposes)".

(23) Subsection (a) of section 6675 is amended by striking "section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes)" and inserting "section 6420 (relating to certain taxes on fuels used for exempt purposes)".

(24) Paragraph (1) of section 6675(b) is amended by striking ", 6421, or 6427, as the case may be,".

(25) Section 7210 is amended by striking "sections 6420(e)(2), 6421(g)(2), 6427(j)(2)" and inserting "sections 6420(k)(3)(B)".

(26) Section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by striking "section 6420(e)(2), 6421(g)(2), 6427(j)(2)," each place it appears and inserting "section 6420(k)(2)(B)".

(27) Sections 7605 and 7609(c)(1) are each amended by striking "section 6420(e)(2), 6421(g)(2), or 6427(j)(2)" and inserting "section 6420(k)(2)(B)".

(28) Paragraph (1) of section 9502(b) is amended by striking "subsections (c) and (e) of section 4041 (taxes on aviation fuel)" and inserting "section 4041(b) (relating to taxes on noncommercial aviation gasoline)".

(29) Paragraph (2) of section 9502(d) is amended by striking "fuel used in aircraft" and all that follows and inserting "fuel used in aircraft, under section 6420 (relating to certain taxes on fuels used for exempt purposes)."

(30) Paragraph (1) of section 9502(e) is amended by striking "4041(c)(1) and".

(31) Subparagraph (A) of section 9503(b)(1) is amended to read as follows:

"(A) section 4041 (relating to special motor fuels and noncommercial aviation gasoline),".

(32) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041, 4081, and 4091 shall be taken into account only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(33)(A) Clause (i) of section 9503(c)(2)(A) is amended to read as follows:

"(i) the amounts paid before July 1, 1996, under section 6420 (relating to certain taxes on fuels used for exempt purposes) on the basis of claims filed for periods ending before October 1, 1995, and".

(B) For purposes of section 9503(c)(2)(A)(i) of the Internal Revenue Code of 1986, the reference to section 6420 shall be treated as including a reference to sections 6420, 6421, and 6427 of such Code as in effect before the enactment of this Act.

(34) Clause (ii) of section 9503(c)(2)(A) is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "taxable fuels".

(35) Subparagraph (D) of section 9503(c)(4) is amended by striking "section 4041(a)(2)" and inserting "section 4041(a)".

(36) Subparagraph (A) of section 9503(e)(5) is amended by striking "section 6427(g)" and inserting "section 6420(j)".

(37) Paragraph (1) of section 9508(b) is amended to read as follows:

"(1) taxes received in the Treasury under section 4041 (relating to special motor fuels and noncommercial aviation gasoline) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such section,".

(38) Subparagraph (A) of section 9508(c)(2) is amended by striking "equivalent to—" and all that follows and inserting the following: "equivalent to—

"(i) amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes), and

"(ii) credits allowed under section 34,

with respect to so much of the taxes imposed by sections 4041, 4081, and 4091 as are attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such sections."

(39) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 34 and inserting the following:

"Sec. 34. Excise taxes on fuels used for exempt purposes."

(40) The table of sections for subchapter B of chapter 31 is amended by striking the item relating to section 4041 and inserting the following:

"Sec. 4041. Special motor fuels and noncommercial aviation gasoline."

(41) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by striking the item relating to section 4083 and inserting the following:

"Sec. 4083. Cross reference."

(42) The table of sections for subchapter B of chapter 65 is amended by striking the items relating to sections 6421 and 6427 and by striking the item relating to section 6420 and inserting the following new item:

"Sec. 6420. Certain taxes on fuels used for exempt purposes."

(43) The table of sections for subchapter A of chapter 63 is amended by striking the item relating to section 6206 and inserting the following new item:

"Sec. 6206. Special rules applicable to excessive fuel tax refund claims."

SEC. 4805. EFFECTIVE DATE.

The amendments made by this part shall take effect on January 1, 1993.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 4811. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4812. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—Subsection (c) of section 5175 (relating to export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4813. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Subsection (c) of section 5207 (relating to records and reports) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4814. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, or".

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4815. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) IN GENERAL.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) section 5681 is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Subsection (c) of section 5681 is amended—

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a) or" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

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

SEC. 4816. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "UNMERCHANTABLE".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4817. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) IN GENERAL.—Subparagraph (D) of section 5384(b)(2) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4818. DOMESTICALLY-PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) IN GENERAL.—Section 5053 (relating to exemptions) is amended by inserting after subsection (f) the following new subsection:

"(g) REMOVALS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

"(1) IN GENERAL.—Subject to such regulations as the Secretary may prescribe—

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) of such section shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4819. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4820. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4821. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 5418. Beer imported in bulk."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 4831. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—The first sentence of section 4222 (relating to registration) is amended to read as follows: "Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article by or to any person who is required by the Secretary to be registered under this section and who is not so registered."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales after the 180th day after the date of the enactment of this Act.

SEC. 4832. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

Subtitle I—Administrative Provisions

PART I—GENERAL PROVISIONS

SEC. 4901. SIMPLIFICATION OF DEPOSIT REQUIREMENTS FOR SOCIAL SECURITY, RAILROAD RETIREMENT, AND WITHHELD INCOME TAXES.

(a) IN GENERAL.—Subsection (g) of section 6302 (relating to deposits of social security taxes and withheld income taxes) is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY, RAILROAD RETIREMENT, AND WITHHELD INCOME TAXES.—

"(1) GENERAL RULE.—Except as otherwise provided in this subsection—

"(A) employment taxes attributable to payments on Wednesday, Thursday, or Friday of any week shall be deposited on or before the following Tuesday, and

"(B) employment taxes attributable to payments on Saturday, Sunday, Monday, or Tuesday of any week shall be deposited on or before the following Friday.

"(2) SMALL DEPOSITORS.—

"(A) IN GENERAL.—If any person is a small depositor for any calendar quarter, such person shall make deposits of employment taxes attributable to payments during any month in such quarter on or before the 15th day of the following month.

"(B) SMALL DEPOSITOR.—For purposes of this subsection, a person is a small depositor for any calendar quarter if, for each calendar quarter in the base period, the amount of employment taxes attributable to payments made by such person during such calendar quarter was $12,000 or less. For purposes of the preceding sentence, the base period for any calendar quarter is the 4 calendar quarters ending with the second preceding calendar quarter.

"(C) CESSATION AS SMALL DEPOSITOR.—A person shall cease to be treated as a small depositor for a calendar quarter after any day on which such person is required to make a deposit under paragraph (3).

"(3) LARGE DEPOSITORS.—Notwithstanding paragraphs (1) and (2), if, on any day, any person has $100,000 or more of employment taxes for deposit, such taxes shall be deposited on or before the next day.

"(4) SAFE HARBOR.—

"(A) IN GENERAL.—A person shall be treated as depositing the required amount of employment taxes in any deposit if the shortfall does not exceed the greater of—

"(i) $100, or

"(ii) 2 percent of the amount of employment taxes required to be deposited in such deposit (determined without regard to this paragraph).

Such shortfall shall be deposited as required by the Secretary by regulations.

"(B) SHORTFALL.—For purposes of this paragraph, the term 'shortfall' means, with respect to any deposit, the excess of the amount of employment taxes required to be deposited in such deposit (determined without regard to this paragraph) over the amount (if any) thereof deposited on or before the last date prescribed therefor.

"(5) DEPOSIT REQUIRED ONLY ON BANKING DAYS.—If taxes are required to be deposited under this subsection on any day which is not a banking day, such taxes shall be treated as timely deposited if deposited on the first banking day thereafter.

"(6) EMPLOYMENT TAXES.—For purposes of this subsection, the term 'employment taxes' means the taxes imposed by chapters 21, 22, and 24.

"(7) SUBSECTION TO APPLY ONLY TO REQUIRED DEPOSITS.—This subsection shall not apply to employment taxes which are not required to be deposited under the regulations prescribed by the Secretary under this section.

"(8) REGULATIONS.—The Secretary may prescribe regulations—

"(A) specifying employment tax deposit requirements for persons who fail to comply with the requirements of this subsection,

"(B) specifying circumstances under which a person shall be treated as a small depositor for purposes of this subsection notwithstanding that such person is not described in paragraph (2)(B),

"(C) specifying modifications to the provisions of this subsection for end-of-quarter periods, and

"(D) establishing deposit requirements for taxes imposed by section 3406 which apply in lieu of the requirements of this subsection."

(b) CONFORMING AMENDMENT.—Section 226 of the Railroad Retirement Solvency Act of 1983 is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts attributable to payments made after December 31, 1992.

SEC. 4902. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) Subparagraph (B) of section 3121(a)(7) (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5);"

(2) Subparagraph (B) of section 209(a)(6) of the Social Security Act is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) The second sentence of section 3102(a) is amended—

(A) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(B) by striking "$50" and inserting "$300".

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1992, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid in calendar years after 1992.

SEC. 4903. SPECIAL RULE FOR CORPORATE ESTIMATED TAXES WHERE NO LIABILITY FOR PRECEDING YEAR.

(a) GENERAL RULES.—Paragraph (1) of section 6655(d) (relating to amount of required installments) is amended—

(1) by striking the last sentence of subparagraph (B), and

(2) by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES.—

"(i) Clause (ii) of subparagraph (B) shall apply only if the preceding taxable year was a taxable year of 12 months and the corporation filed a return for such preceding taxable year.

"(ii) If—

"(I) the requirements of clause (i) are met with respect to the preceding taxable year,

"(II) the return for such preceding taxable year does not show a liability for tax, and

"(III) the requirements of clause (i) are met with respect to the second preceding taxable year,

clause (ii) of subparagraph (B) shall be applied by substituting 'second preceding' for 'preceding' and, if the return for the second preceding taxable year does not show a liability for tax, no addition to tax shall be imposed under subsection (a) for the taxable year."

(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. 4904. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) GENERAL RULE.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end thereof the following new clause:

"(iii) EXCEPTION FOR LETTERS OR NOTICES INVOLVING SMALL AMOUNTS.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1990.

SEC. 4905. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 6724(d) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) any statement of the amount of payments to another person required to be made to the Secretary under—

"(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

"(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.)."

(2) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting a comma, and by inserting after subparagraph (S) the following new subparagraphs:

"(T) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(U) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person."

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregating $10 or more in any calendar year" after "distributions".

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end thereof the following new sentence: "No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

"(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722."

(2) Subsection (e) of section 6652 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(U)."

(3) Subsection (a) of section 6693 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(T).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1992.

SEC. 4906. USE OF REPRODUCTIONS OF RETURNS STORED IN DIGITAL IMAGE FORMAT.

(a) IN GENERAL.—Paragraph (2) of section 6103(p) (relating to procedure and recordkeeping) is amended by adding at the end thereof the following new subparagraph:

"(D) REPRODUCTION FROM DIGITAL IMAGES.—For purposes of this paragraph, the term 'reproduction' includes a reproduction from digital images."

(b) STUDY.—The Comptroller General of the United States shall conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document. Not later than 1 year after the date of the enactment of this Act, a report on the results of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 4907. REPEAL OF REQUIREMENT TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 6112 is amended by redesignating subsection (c) as subsection (d).

(2) Subsection (c) of section 6111 (as in effect before the amendment made by subsection (a)) is hereby transferred to section 6112 and inserted after subsection (b).

(3) Paragraph (1) of section 6112(b) is amended to read as follows:

"(1) any tax shelter, and".

(4) Subsection (c) of section 6112 (as added by paragraph (2)) is amended by adding at the end thereof the following new paragraph:

"(5) YEAR.—For purposes of this subsection, the term 'year' means—

"(A) the taxable year of the tax shelter, or

"(B) if the tax shelter has no taxable year, the calendar year."

(5) Section 6112 is amended by adding at the end thereof the following new subsection:

"(e) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) rules for the aggregation of similar investments offered by the same person or persons for purposes of applying subsection (c)(4),

"(2) exemptions from the treatment of an investment as a tax shelter, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section in the case of foreign tax shelters."

(6) Section 6707 (relating to failure to furnish information regarding tax shelters) is hereby repealed.

(7) The table of sections for subchapter B of chapter 61 is amended by striking the item relating to section 6111.

(8) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6707.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply with respect to any tax shelter (within the meaning of section 6111 of the Internal Revenue Code of 1986, as in effect on the day before such date) required to be registered under such section 6111 before such date of enactment.

SEC. 4908. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judicial proceedings pending on, or commenced after, the date of the enactment of this Act.

SEC. 4909. REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.

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

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

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

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

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

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

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

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

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

paragraph (1) shall not apply to such item.

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

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

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

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

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

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

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

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

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

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

(c) CONFORMING AMENDMENTS.—

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

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

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

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

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4910. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

PART II—TAX COURT PROCEDURES

SEC. 4911. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402."

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

SEC. 4912. AWARDING OF ADMINISTRATIVE COSTS.

(a) RIGHT TO APPEAL TAX COURT DECISION.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

"(3) APPEAL OF TAX COURT DECISION.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) PERIOD FOR APPLYING TO IRS FOR COSTS.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) PERIOD FOR APPLYING TO IRS FOR ADMINISTRATIVE COSTS.—An award may be made under subsection (a) for reasonable administrative costs only if the prevailing party files an application for such costs before the 91st day after the date on which the party was determined to be the prevailing party under subsection (c)(4)(B)."

(c) PERIOD FOR PETITIONING OF TAX COURT FOR REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking "appeal to" and inserting "the filing of a petition for review with", and

(2) by adding at the end the following new sentence: "If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 4913. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Paragraph (3) of section 7481(c) (relating to jurisdiction over interest determinations) is amended by striking "petition" and inserting "motion".

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

SEC. 4914. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

SEC. 4921. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

(a) GENERAL RULE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is hereby authorized to enter into cooperative agreements with State tax authorities for purposes of enhancing joint tax administration. Such agreements may provide for—

"(1) joint filing of Federal and State income tax returns,

"(2) single processing of such returns,

"(3) joint collection of taxes (other than Federal income taxes), and

"(4) such other provisions as may enhance joint tax administration.

"(b) SERVICES ON REIMBURSABLE BASIS.—Any agreement under subsection (a) may require reimbursement for services provided by either party to the agreement.

"(c) AVAILABILITY OF FUNDS.—Any funds appropriated for purposes of the administration of this title shall be available for purposes of carrying out the Secretary's responsibility under an agreement entered into under subsection (a). Any reimbursement received pursuant to such an agreement shall be credited to the amount so appropriated.

"(d) STATE TAX AUTHORITY.—For purposes of this section, the term 'State tax authority' means agency, body, or commission referred to in section 6103(d)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Cooperative agreements with State tax authorities."

TITLE V—TAXPAYER BILL OF RIGHTS

Subtitle A—Additional Safeguards To Protect Taxpayers' Rights

PART I—TAXPAYERS' ADVOCATE

SEC. 5101. ESTABLISHMENT OF POSITION OF TAXPAYERS' ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) GENERAL RULE.—Section 7802 is amended by adding at the end thereof the following new subsection:

"(d) OFFICE OF TAXPAYERS' ADVOCATE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayers' Advocate'. Such office shall be under the supervision and direction of an official to be known as the 'Taxpayers' Advocate' who

shall be appointed by the President, by and with the advice and consent of the Senate. The Taxpayers' Advocate shall be entitled to compensation at the same rate as the Chief Counsel of the Internal Revenue Service.

"(2) FUNCTIONS OF OFFICE.—

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

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

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

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate such problems, and

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

"(B) ANNUAL REPORTS.—Not later than December 31 of each calendar year after 1991, the Taxpayers' Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on its activities during the fiscal year ending during such calendar year. Any such report shall—

"(i) identify the 20 most serious problems which taxpayers have in dealing with the Internal Revenue Service,

"(ii) contain recommendations for such administrative and legislative action as may be appropriate to resolve such problems, and

"(iii) include such other information as the Taxpayers' Advocate may deem advisable.

Any such report may, before its submission, be furnished to the Secretary for comment, but the final determination of the matters to be included in such report shall be made by the Taxpayers' Advocate.

"(3) RESPONSIBILITIES OF COMMISSIONER OF INTERNAL REVENUE SERVICE.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayers' Advocate."

(b) CONFORMING AMENDMENTS.—Section 7811 (relating to taxpayer assistance orders) is amended—

(1) by striking "the Office of Ombudsman" in subsection (a) and inserting "the Office of the Taxpayers' Advocate", and

(2) by striking "Ombudsman" each place it appears (including in the headings of subsections (e) and (f)) and inserting "Taxpayers' Advocate".

(c) EFFECTIVE DATE.—

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

(2) TRANSITIONAL RULE.—The first appointment by the President of the Taxpayers' Advocate shall be made without regard to the requirement for the advice and consent of the Senate if the individual so appointed is the head of the Office of the Taxpayer Ombudsman on the date of the enactment of this Act.

SEC. 5102. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) Paragraph (2) of section 7811(b) (relating to terms of taxpayer assistance orders) is amended by striking "cease any action" and inserting "cease any action, take any action".

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

PART II—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

SEC. 5111. NOTIFICATION OF REASONS FOR TERMINATION OF INSTALLMENT AGREEMENTS.

(a) GENERAL RULE.—Subsection (b) of section 6159 is amended by adding at the end thereof the following new paragraph:

"(5) NOTICE REQUIREMENTS.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

"(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

"(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy."

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 6159(b) is amended to read as follows:

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 5112. ADMINISTRATIVE REVIEW OF DENIAL OF REQUEST FOR INSTALLMENT AGREEMENT.

(a) GENERAL RULE.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end thereof the following new subsection:

"(c) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for administrative review by the Appeals Division of the Internal Revenue Service of denials of requests for installment agreements under this section."

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

SEC. 5113. RUNNING OF FAILURE TO PAY PENALTY SUSPENDED DURING PERIOD INSTALLMENT AGREEMENT IN EFFECT.

(a) GENERAL RULE.—Section 6651 (relating to penalty for failure to file tax return or to pay tax) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF INSTALLMENT AGREEMENTS UNDER SECTION 6159.—If an agreement is entered into under section 6159 for the payment of any tax in installments, the period during which such agreement is in effect shall be disregarded in determining the amount of any addition under paragraph (2) or (3) of subsection (a) with respect to such tax."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to installment agreements entered into after the date of the enactment of this Act.

PART III—INTEREST

SEC. 5121. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 days (10 days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any notice and demand given after the date 6 months after the date of the enactment of this Act.

SEC. 5122. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended by striking "ministerial act" each place it appears and inserting "ministerial or managerial act".

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended by striking "Assessments" and inserting "Abatement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

PART IV—JOINT RETURNS

SEC. 5131. DISCLOSURE OF COLLECTION ACTIVITIES.

(a) GENERAL RULE.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end thereof the following new paragraph:

"(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing of either of such individuals, the Secretary may disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected."

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

SEC. 5132. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

PART V—COLLECTION ACTIVITIES

SEC. 5141. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end thereof the following new subsection:

"(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—If the Secretary determines that the withdrawal of a notice of a lien filed under this section would be in the best interest of the taxpayer and the United States, the Secretary may withdraw such notice and this chapter shall be applied as if

the withdrawn notice had not been filed. Any such withdrawal shall be made by filing notice thereof at the same office as the withdrawn notice.

"(2) NOTICE TO CREDIT AGENCIES, ETC.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall make reasonable efforts to notify credit reporting agencies, and financial institutions specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe."

(b) RETURN OF LEVIED PROPERTY IN CERTAIN CASES.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end thereof the following new subsection:

"(d) RETURN OF PROPERTY IN CERTAIN CASES.—If—

"(1) any property has been levied upon, and

"(2) the Secretary determines that the return of such property would be in the best interest of the taxpayer and the United States, the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon; except that no interest shall be allowed under subsection (c)."

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

SEC. 5142. OFFERS-IN-COMPROMISE.

(a) GENERAL RULE.—Subsection (a) of section 7122 is amended by adding at the end thereof the following new sentence: "The Secretary may make such a compromise in any case where the Secretary determines that such compromise would be in the best interest of the United States.".

(b) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500" and inserting "$50,000".

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

PART VI—ERRONEOUS AND FRAUDULENT INFORMATION RETURNS

SEC. 5151. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) GENERAL RULE.—The following provisions are each amended by striking "name and address" and inserting "name, address, and phone number":

(1) Section 6041(d)(1).
(2) Section 6041A(e)(1).
(3) Section 6042(c)(1).
(4) Section 6044(e)(1).
(5) Section 6045(b)(1).
(6) Section 6049(c)(1)(A).
(7) Section 6050B(b)(1).
(8) Section 6050H(d)(1).
(9) Section 6050I(e)(1).
(10) Section 6050J(e).
(11) Section 6050K(b)(1).
(12) Section 6050N(b)(1).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1992 (determined without regard to any extension).

SEC. 5152. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

"(a) IN GENERAL.—If any person willfully files a false or fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

"(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the false or fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing), and

"(2) the costs of the action.

"(c) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within 6 years after the filing of the false or fraudulent information return.

"(d) INFORMATION RETURN.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

"Sec. 7434. Civil damages for fraudulent filing of information returns.
"Sec. 7435. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to false or fraudulent information returns filed after the date of the enactment of this Act.

SEC. 5153. REQUIREMENT TO VERIFY ACCURACY OF INFORMATION RETURNS.

(a) GENERAL RULE.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) REQUIRED VERIFICATION OF INFORMATION RETURNS.—When making a determination of a deficiency based on an information return filed with the Secretary under chapter 61 by a third party, the Secretary shall take reasonable steps to corroborate the accuracy of such information return when such return is disputed by the taxpayer. Failure to comply with the preceding sentence shall not invalidate any notice of a deficiency or assessment of a deficiency."

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

PART VII—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

SEC. 5161. NO PENALTY IF PROMPT NOTIFICATION OF THE SECRETARY.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by adding at the end thereof the following new subsection:

"(c) PENALTY NOT APPLICABLE WHERE PROMPT NOTIFICATION OF FAILURE.—

"(1) IN GENERAL.—A person shall not be liable for any penalty under subsection (a) by reason of any failure referred to in subsection (a) if—

"(A) such person is not a significant owner, or highly compensated employee, of the trade or business with respect to which such failure occurred,

"(B) such person notifies the Secretary (in such manner as he may prescribe) that such failure has occurred within 10 days after the date of such failure, and

"(C) such notification was before any notice by the Secretary to any person with respect to such failure.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) SIGNIFICANT OWNER.—The term 'significant owner' means—

"(i) any person holding an interest as a proprietor in a trade or business carried on as a proprietorship, and

"(ii) in the case of a trade or business conducted by a corporation or partnership, any person who is a 5-percent owner (as defined in section 416(i)(1)) in such corporation or partnership, as the case may be.

"(B) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' means any employee who receives compensation from the employer at an annual rate in excess of $75,000."

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

SEC. 5162. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary may disclose in writing to such person—

"(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

"(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected."

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

PART VIII—AWARDING OF COSTS AND CERTAIN FEES

SEC. 5171. INTERNAL REVENUE SERVICE EMPLOYEES PERSONALLY LIABLE IN CERTAIN CASES.

(a) IN GENERAL.—Section 7430 is amended by adding at the end thereof the following new subsection:

"(g) PERSONAL LIABILITY OF INTERNAL REVENUE SERVICE EMPLOYEES IN CERTAIN CASES.—In any proceeding in which the prevailing party is awarded a judgment for reasonable litigation costs under this section, the court may assess a portion of such costs against any Internal Revenue Service employee (and such employee shall not be reimbursed by the United States for the costs so assessed) if the court determines that such proceeding resulted from any arbitrary, capricious, or malicious act of such employee."

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

SEC. 5172. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

(a) IN GENERAL.—Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end thereof the following new sentence: "Any failure to agree to an extension of the time for the assessment of any

tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence."

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

PART IX—OTHER PROVISIONS

SEC. 5181. REQUIRED CONTENT OF CERTAIN NOTICES.

(a) GENERAL RULE.—Subsection (a) of section 7522 (relating to content of tax due, deficiency, and other notices) is amended by striking "shall describe the basis for, and identify" and inserting "shall set forth the adjustments which are the basis for, and shall identify".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to notices sent after the date 6 months after the date of the enactment of this Act.

SEC. 5182. TREATMENT OF SUBSTITUTE RETURNS UNDER SECTION 6651.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new subsection:

"(h) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

Subtitle B—Form Modifications; Studies

SEC. 5200. DEFINITIONS.

For purposes of this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(2) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(3) TAX-WRITING COMMITTEES.—The term "tax-writing Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART I—FORM MODIFICATIONS

SEC. 5201. EXPLANATION OF CERTAIN PROVISIONS.

(a) GENERAL RULE.—The Secretary shall take such actions as may be appropriate to ensure that taxpayers are aware of the provisions of the 1986 Code permitting payment of tax in installments, extensions of time for payment of tax, and compromises of tax liability. Such actions shall include revising the instructions for filing income tax returns so that such instructions include an explanation of—

(1) the procedures for requesting the benefits of such provisions, and

(2) the terms and conditions under which the benefits of such provisions are available.

(b) COLLECTION NOTICES.—In any notice of an underpayment of tax or proposed underpayment of tax sent by the Secretary to any taxpayer, the Secretary shall include a notification of the availability of the provisions of sections 6159, 6161, and 7122 of the 1986 Code.

SEC. 5202. IMPROVED PROCEDURES FOR NOTIFYING SERVICE OF CHANGE OF ADDRESS OR NAME.

The Secretary shall provide improved procedures for taxpayers to notify the Secretary of changes in names and addresses. Not later than December 31, 1992, the Secretary shall institute procedures for timely updating all Internal Revenue Service records with change-of-address information provided to the Secretary by taxpayers.

SEC. 5203. RIGHTS AND RESPONSIBILITIES OF DIVORCED INDIVIDUALS.

The Secretary shall include in the Internal Revenue Service publication entitled "Your Rights As A Taxpayer" a section on the rights and responsibilities of divorced individuals.

SEC. 5204. PENALTIES UNDER SECTION 6672.

(a) PUBLIC INFORMATION REQUIREMENTS.—The Secretary shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the 1986 Code, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(1) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(2) the development of a special information packet.

(b) BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—

(1) VOLUNTARY BOARD MEMBERS.—The penalty under section 6672 of the 1986 Code shall not be imposed on volunteer members of any board of trustees or directors of an organization referred to in section 501 of the 1986 Code to the extent such members are solely serving in an honorary capacity and do not participate in the day-to-day or financial operations of the organization.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of the 1986 Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of the 1986 Code with regard to honorary or volunteer members of boards of trustees or directors of tax-exempt organizations.

(c) PROMPT NOTIFICATION.—To the maximum extent practicable, the Secretary shall notify all persons who have failed to make timely and complete deposit of any taxes of such failure within 30 days after the date on which the Secretary is first aware of such failure.

SEC. 5205. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary from any taxpayer and the Secretary cannot associate such payment with any outstanding tax liability of such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

PART II—STUDIES

SEC. 5211. PILOT PROGRAM FOR APPEAL OF ENFORCEMENT ACTIONS.

(a) GENERAL RULE.—The Secretary shall establish a 1-year pilot program for appeals of enforcement actions (including lien, levy, and seizure actions) to the Appeals Division of the Internal Revenue Service—

(1) where the deficiency was assessed without actual knowledge of the taxpayer,

(2) where the deficiency was assessed without an opportunity for administrative appeal, and

(3) in other appropriate circumstances.

(b) REPORT.—Not later than December 31, 1992, the Secretary shall submit to the tax-writing Committees a report on the pilot program established under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5212. STUDY ON TAXPAYERS WITH SPECIAL NEEDS.

(a) GENERAL RULE.—The Secretary shall conduct a study on ways to assist the elderly, physically impaired, foreign-language speaking, and other taxpayers with special needs to comply with the internal revenue laws.

(b) REPORT.—Not later than December 31, 1992, the Secretary shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5213. REPORTS ON TAXPAYER-RIGHTS EDUCATION PROGRAM.

Not later than August 1, 1992, the Secretary shall submit a report to the tax-writing Committees on the scope and content of the Internal Revenue Service's taxpayer-rights education program for its officers and employees. Not later than December 31, 1992, the Secretary shall submit a report to the tax-writing Committees on the effectiveness of the program referred to in the preceding sentence.

SEC. 5214. BIENNIAL REPORTS ON MISCONDUCT BY INTERNAL REVENUE SERVICE EMPLOYEES.

During December of 1992 and during December of each second calendar year thereafter, the Secretary shall report to the tax-writing Committees on all cases involving complaints about misconduct of Internal Revenue Service employees and the disposition of such complaints.

SEC. 5215. STUDY OF NOTICES OF DEFICIENCY.

(a) GENERAL RULE.—The Comptroller General shall conduct a study on—

(1) the effectiveness of current Internal Revenue Service efforts to notify taxpayers with regard to tax deficiencies under section 6212 of the 1986 Code,

(2) the number of registered or certified letters and other notices returned to the Internal Revenue Service as undeliverable,

(3) any follow-up action taken by the Internal Revenue Service to locate taxpayers who did not receive actual notice,

(4) the effect that failures to receive notice of such deficiencies have on taxpayers, and

(5) recommendations to improve Internal Revenue Service notification of taxpayers.

(b) REPORT.—Not later than December 31, 1992, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5216. NOTICE AND FORM ACCURACY STUDY.

(a) GENERAL RULE.—The Comptroller General shall conduct annual studies of the accuracy of 25 of the most commonly used Internal Revenue Service forms, notices, and publications. In conducting any such study, the Comptroller General shall examine the suitability and usefulness of Internal Revenue Service telephone numbers on Internal Revenue Service notices and shall solicit and

consider the comments of organizations representing taxpayers, employers, and tax professionals.

(b) REPORTS.—The Comptroller General shall submit to the tax-writing Committees a report on each study conducted under subsection (a), together with such recommendations as he may deem advisable. The first such report shall be submitted not later than December 31, 1992.

SEC. 5217. INTERNAL REVENUE SERVICE EMPLOYEES' SUGGESTIONS STUDY.

(a) GENERAL RULE.—The Comptroller General shall conduct a study of the Internal Revenue Service employee-suggestion programs. Such study shall include a review of the suggestions which were accepted and rewarded by the Internal Revenue Service, an analysis as to how many of the suggestions were implemented, and an analysis of why other suggestions were not implemented.

(b) REPORT.—Not later than December 31, 1992, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Is there a Member opposed?

Mr. CRANE. Mr. Chairman, I am in opposition.

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. ROSTENKOWSKI. Mr. Chairman, the Democratic substitute provides a clear alternative to both the President's original tax proposals and the Republican substitute

The Democratic substitute is more fully described in Ways and Means Committee Print 102–35, the technical explanation of H.R. 4287, available from the U.S. Government Printing Office. This technical explanation is to be considered the legislative history of H.R. 4287.

One word summarizes our substitute: Fairness.

When the substitute passes, our tax system will be more fair and progressive. Middle-class people—the economic bedrock of America—will pay less. The richest 1 percent of all Americans will pay more.

Only within the beltway do people claim that a $400 tax cut is trivial. For my constituents in Chicago and millions like them around the country, $800 over the next 2 years means a lot.

Earlier in the debate, I heard one Republican Member describe our middle-class tax relief as equivalent to a candy bar a day. But when you're sitting around the kitchen table trying to figure out how to pay your family bills, 800 bucks means a lot. It will help make a car payment, or buy a month's groceries, or a new washing machine, or pay on a student loan. These things are not trivial at all to middle-class people who are being squeezed.

These are hard-working people—trying to pay their bills and make ends meet. They are the victims of the recession and the victims of the neglect of the last 12 years. Many of them fear losing their jobs. Millions of them are already out of work. Millions more have taken part-time jobs because they have no alternative. Tell them that $800 doesn't mean anything.

The tax relief in the Democratic substitute provides the broadest possible relief to the middle class. Over 80 percent of the American people—92 million taxpayers and their families—would benefit.

We have just defeated the Republican substitute, as endorsed by President Bush, because it contained tax cuts in five figures for the rich, and gave nothing to the middle-class. That is not what we are about. Democrats have come up with a substitute to help middle-class Americans, not the wealthy.

Let's be clear whose taxes will be raised under the Democratic substitute. The middle-class tax cut is financed by increased taxes only on the wealthy—the richest 1 percent of our population. And that is only fair. The substitute adds a new top rate of 35 percent for individuals with incomes over $100,000, and couples with incomes over $185,000.

We also add an additional 10-percent surtax on millionaires. The substitute also says that a business cannot pay an executive more than $1 million and deduct it. Why should the enormous salaries paid to business executives be subsidized by middle-class Americans who are struggling to pay their bills and many of whom are out of work? I know how the people in the neighborhoods of Chicago feel about that.

My Republican colleagues say taxing millionaires is wrong. We Democrats say: It is only fair.

Let me emphasize once again: The permanent tax increases in the Democratic substitute only tax the top 1 percent of all taxpayers in the country. No one who makes less than $100,000 will pay more.

The revenue generated by the increased taxes on the wealthy will also fund several important incentives to create jobs, and promote economic growth and investment. Economic growth and prosperity is not a partisan issue.

The Democratic substitute also promotes fairness by ending the taxation of illusory gains that are actually nothing more than inflation. In addition, the Democratic substitute targets a 50-percent exclusion for certain venture capital investments to encourage investment in growth-oriented businesses that help create jobs.

The Democratic substitute also helps real estate, farmers, and small businessmen—by liberalizing the real estate passive loss rules, the minimum tax and depreciation allowances, and allowing small businessmen and farmers to writeoff up to $25,000 of new equipment in each of the next 2 years.

In addition, the Democratic substitute contains many important provisions that were left out of the Republican substitute, but which are supported by hundreds of Members on both sides of the aisle:

Some 239 Members have sponsored a permanent R&D credit—it's here in the Democratic substitute.

Some 331 Members have sponsored a permanent credit for low-income housing—it is here in the Democratic substitute.

Some 397 Members have sponsored a permanent mortgage bond program—it is here in the Democratic substitute.

Some 283 Members have sponsored a permanent targeted jobs credit—it is here in the Democratic substitute.

Some 308 Members have sponsored a permanent exclusion for employer-provided education—once again it's here in the Democratic substitute.

Some 326 Members have sponsored passive loss relief—it is here in the Democratic substitute.

Some 217 Members have sponsored a permanent small issue, farmer bond program—it is here in the Democratic substitute.

Hundreds of you support the taxpayer bill of rights—it's here in the Democratic substitute.

The Democratic substitute also establishes urban enterprise zones and rural investment zones to encourage revitalization of our towns and communities.

Finally, the Democratic substitute repeals most of the luxury taxes that have generated considerable controversy and criticism. These luxury taxes were included in the 1990 budget agreement only because the President rejected broad tax increases on the wealthy that would have been simpler and fairer. The Democratic substitute only reaffirms our past position and traditional principles.

Unlike the Republican substitute that we've already rejected, the Democratic substitute will decrease the deficit by $14 billion over the next 6 years under congressional scoring. Under the administration's own scoring, the Democratic substitute would decrease the deficit by $35 billion. It's high time, Mr. Chairman, we stop passing off debts to our children and grandchildren. Deficit reduction is essential for our Nation's long-term economic growth and prosperity.

Mr. Chairman, I urge my colleagues to support the Democratic substitute and make the tax system fairer for middle-class Americans across the country. They are the economic bedrock of our Nation and the hardest hit by the current recession. Most impor-

59–059 O—96 Vol. 138 (Pt. 3) 28

tant, they have been neglected long enough—12 long years—by successive Republican administrations. This is their turn. Vote for the working men and women of America. Vote for the Democratic substitute.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. ARCHER. Mr. Chairman, over the past several days, I have tried to think positively about passing a bill the President can sign into law, one which will get this economy moving and put Americans back to work.

I have tried to seek bipartisan cooperation. I truly believed that we had some hope for compromise, given the agreement which clearly exists on the President's March 20 initiative. I am about to get discouraged.

If the Rostenkowski substitute prevails, we cannot possibly have a bill signed into law by the end of March. This measure is not an effort at compromise. It is a train engineered to go nowhere.

The President has to veto anything that looks like this, not because it is not what he proposed, but because it represents the wrong thing to do if we are concerned about jobs and economic growth in this country.

When you strip away all the rhetoric, the Rostenkowski substitute is nothing more than a good old-fashioned tax increase.

It proposes $93 billion in permanent tax increases over the next 6 years to pay for temporary election year tax cuts for some, but not all, taxpayers. In contrast, the President's plan does not raise taxes by $1.

The Democrats temporary 2-year tax credit amounts to so little it will not be noticed in a worker's pay check. The amount of 27 cents a day per person in a family of four won't stimulate the economy.

It will be of no help to those unemployed workers who are paying taxes on their benefits, to millions of senior citizens living on their savings and Social Security benefits, or to State and local government employees who are not covered by Social Security.

But the tax increases to pay for it will hit a lot of American families and small businesses hard. And what will happen after these 2 years? Will Congress raise taxes on middle-income Americans in an election year in 1994 by allowing this temporary reduction to expire? Not likely but when they continue the reduction they'll have to pay for it with even more tax increases.

The Joint Committee on Taxation estimates that the Democrats 30-percent tax bracket would then have to begin at $38,400 for a single person and $64,000 for a married couple. Those thresholds for the 35-percent tax rate are below the levels where the current 31-percent rate takes effect. Do not be fooled. Tax increases on a larger and larger portion of middle-income families are just around the corner.

I object to the Democrats tax bill not just because it has higher tax rates. It contains a number of other provisions which are just as wrong. For example, the Democrats increased the 35-mile test for moving expense deductions, hurting those who must move to take a new job.

They are going to raise $500 million from people who have to move to find new employment. I guess that's the Democrats' idea of a jobs bill. Their substitute also fails to provide badly needed help for real estate.

The President proposed a $5,000 tax credit for first-time homebuyers. They left it out for reasons I still don't understand. It would create 700,000 jobs and help many American families fulfill their dreams of owning their own homes.

Instead, the Democrat alternative would depress real estate values by lengthening the depreciation schedules for commercial property from 31½ to 40 years, and residential real estate from 27½ to 31 years.

They would also extend the limitation on itemized deductions and the phaseout of personal exemptions, resulting in real top marginal rates in excess of 40 percent. This is a direct assault on the deduction of mortgage interest and real estate taxes.

One of the most outrageous aspects of the Democrat's substitute is that it destroys the fiscal disciplines of the budget law.

It loses over $30 billion in the first 2 years by their own scorekeeping. The law that says we must pay as we go is thrown out the window.

They destroyed that precious discipline of the 1990 Budget Act because the Democrat plan could not comply with the law without triggering a massive cut in entitlement programs.

According to the National Center for Policy Analysis, there is a sad consequence to this substitute's policies that increase taxes and throw fiscal discipline to the wind.

Instead of creating jobs and economic growth, it would actually lead to a net loss of more than 100,000 jobs over the next 6 years.

Unfortunately, our best hope for enacting a real jobs bill is to defeat the Rostenkowski substitute. Let us go back to the Ways and Means Committee where this time we can work together to craft a bill the President can sign into law. Moving this substitute forward according to some politically motivated veto strategy is only going to delay getting Americans back to work.

We can do better than that.

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FAZIO].

□ 1310

Mr. FAZIO. Mr. chairman, when House Democrats began fashioning our economic recovery bill, we based our efforts on three principles:

First, we wanted to provide tax relief to the middle class.

Second, we wanted to provide additional incentives for savings and investment.

And third, we wanted to do it all without adding to the crushing Federal deficit.

We have accomplished each one of these goals. The program that the Democrats bring to the floor today is a strong first step toward regaining our economic strength. It is a solid down payment on correcting our past mistakes, the riverboat gamble of supply side economics, and it lays the groundwork for our long-term recovery.

But we compromised where possible. We even compromised on capital gains. A lot of Democrats do not like it, but we are moving this country forward. We need to compromise. It is required that we reach agreement.

So we indexed capital gains to inflation.

We have also repealed some of those luxury taxes that Republicans cannot stand. But we stuck to our bedrock principles, it is true, on the question of tax fairness, on asking millionaires to pay a little extra so people who sit up nights worrying about how to make ends meet, do not have to worry any longer. We have stuck to our guns because they deserve to be heard here and represented.

Mr. ARCHER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman for yielding this time to me. Mr. Chairman, I rise in strong opposition to a bill that permanently increases taxes to fund temporary tax cuts, that will force small businesses to lay off employees in order to pay increased taxes required by this bill, and that will increase the deficit, slow the economy, and cost us jobs.

In order to provide a temporary $300 tax cut to some Americans, this proposal would permanently raise taxes on a large segment of the population. It would raise the deficit by at least $30 billion in each of the next 2 years and thereby boost unemployment as the economy slows and more and more jobs are destroyed.

Small business, the backbone of our economy and the key to our recovery, would be severely hurt by this substitute. The significant tax increase on small businessmen and women called for in this measure inevitably would lead to additional layoffs and business closures. To the majority of small business owners who pay taxes at the individual rate, this bill constitutes a body

blow that could be fatal in this soft economy.

And, who among us believes for 1 minute that the new tax revenues will be set aside to reduce the deficit in the third year of the plan? Never has Congress shown such discipline. If Congress had, the deficit would not be $400 billion. No, these new tax revenues will then be available to fund new programs, new spending, and a higher deficit.

Mr. Chairman, there are provisions in this bill that I long have supported. Take, for example, the low-income housing tax credit and the favorable tax treatment of mortgage revenue bonds. These are two excellent and relatively low-cost programs that produce important results, namely badly needed affordable housing. The research and development tax credit and favorable treatment for employer-provided educational assistance are two other provisions that I strongly believe will help this country complete more effectively in the 21st century.

Unfortunately, these good programs are lumped in with an enormously expensive raft of flotsam and jetsam that the American people have not asked for. I strongly urge rejection of the substitute and thank my colleague for the time.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. CRANE], a respected number of the Ways and Means Committee.

Mr. CRANE. Mr. Chairman, I want first of all to express appreciation to our minority leader for his valiant efforts here in promoting fiscal and tax sanity on the floor; but perhaps more importantly to make a reference to something that has been unique, I think, to all of our experience for Members serving in this body. Starting last year, for the first time, we have had an honest-to-goodness forthright upfront Socialist serving with us.

Now, we know that we have some fundamental disagreements with socialism as an economic system. It means confiscatory taxes, government-run economies, redistribution of income, the cardinal principles of the Socialist Party platform.

What was interesting was when the left-wing organization, Americans for Democratic Action, recently rated the Congress of the United States on the first session of the 102d Congress, I was proud to see I got a zero on their rating, but the thing that was fascinating was I checked our Socialist collegue's rating. He got a 95.

Now, 39 of our Members on your side of the aisle tied him and 16 of them got 100's. Of course, the ADA applauded that.

Now, I submit to you that there is apparently some confusion on your side of the aisle as to what free markets are about and what direct investment as a means of creating private-sector jobs are about. The proposal before us today does not accomplish that. Quite the contrary, it would have a devastating impact. If you look at the National Center for Policy Analysis breakdown, this proposal we have under debate at the moment would cost us over 100,000 jobs in the next 5 years, whereas the Republican initiative would have increased jobs by almost 600,000 a year.

Admittedly, I come from a partisan perspective. As you know, our great leader was Abraham Lincoln. Let me just quote in conclusion from Abraham Lincoln, because it has counsel in the statement that all of us as Americans should heed. He said:

> You cannot strengthen the weak by weakening the strong. You cannot help small men by tearing down big men. You cannot help the poor by destroying the rich. You cannot lift the wage earner by pulling down the wage payer. You cannot keep out of trouble by spending more than your income. You cannot further the brotherhood of man by inciting class hatreds. You cannot establish security on borrowed money.

To which I say, amen.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I rise in proud support of the chairman's bill. It is not perfect. As I said earlier today, it is silver, not gold, but it could come back as a gold bill. I hope it retains the enterprise zone feature. I hope we add to it universal deductability for IRA's. I would like to see the first-time homebuyer tax credit added to it in conference.

Again, it is a good bill. The gentleman from Illinois should be congratulated for sending over to the conference with the Senate a bill that can be brought back as an even better bill.

Mr. JACOBS. Mr. Chairman will the gentleman yield?

Mr. MAZZOLI. I am happy to yield to my friend, the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I thank the gentleman for yielding to me.

It is an interesting thing, I have served on the House Ways and Means Committee now, I think, for 18 years. I have never found it possible to vote for a substitute or a bill reported by my committee. That is either a good or a bad record, but this time I find a substitute I can and should support, and it is the one the gentleman is speaking in favor of, namely, that of the gentleman from Illinois [Mr. ROSTENKOWSKI].

Hallelujah. There will be more rejoicing in heaven if one sinner repents.

Mr. MAZZOLI. Well, Mr. Chairman, I am sure the gentleman can rejoice in that.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise to strongly oppose the Democrat alternative.

To my Democrat colleagues from Texas, let me tell you a story about one section of your bill. Section 5153, a vital section dealing with taxpayer rights has been changed and you may never live it down.

A hard-working Texas house painter, Ramon Portillo, took on the IRS when they were blatantly wrong. Based on an unverified third party report, the IRS said Portillo earned far more money than he claimed. IRS did nothing to verify the third party's report.

The case went to Tax Court, where the IRS initially won because their determinations are presumed correct, unless the taxpayer can prove his innocence. How can someone prove a negative fact that they never received additional income?

Finally, Ramon Portillo won the day in the U.S. court of appeals where the court found that the IRS should verify its information before taking harsh action against taxpayers.

The Commissioner of the IRS testified before the Ways and Means Oversight Subcommittee in favor of codifying the appeals court decision to require the IRS to verify third party reports. Despite the fact that our subcommittee, on a bipartisan basis, codified the Portillo case, you Democrats added one sentence.

The change was made behind closed doors in secret session. You chose to ignore the appeals court, to ignore the plight of Ramon Portillo, and to perpetrate a fraud on every American taxpayer. You added a sentence, not to codify the Portillo case, but to overturn it. The fine print says that failure by the IRS to comply shall not invalidate any notice or assessment of a deficiency.

In other words, if Ramon Portillo went back to court, the failure of the IRS to corroborate third party reports would not invalidate their claims against him. He would have lost his case.

Behind closed doors, you Democrats have crafted a sham, a fraud, a deception, a lie. While piously claiming to represent the little man you have instead thrown him to the wolves. Shame, shame, shame.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 30 seconds to the gentleman from Maine [Mr. ANDREWS].

Mr. ANDREWS of Maine. Mr. Chairman, well, far from a lie, this is a straightforward piece of legislation that does not take an end run around taxation like the boat tax did in years past, but it is straightforward. The boat tax that was in effect during this past year has cost the State of Maine half of our boatbuilding jobs and manufacturing jobs. This bill repeals that unfair boat tax. It decides to tax people straightforward, stand up and be counted, be fair and honest.

The Joint Economic Committee told us that the boat tax resulted in the loss

of 7,600 boat manufacturing and retail jobs in 1991. Let us support this bill for being straightforward.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, while I recognize this is not the answer completely to the problem that exists among our unemployed today, what they need is jobs, but I would not want to leave this House of Representatives and not act in support of this substitute bill that is being proposed to us. To leave here without at least coming up with some hard answers to the problem, doing something at least for that depleted middle class, would be a great mistake, so I am all for it, but I want to see it move forward and provide some mechanism for jobs for people who have not reached the middle class yet and have left that stage of our society.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Well, Mr. Chairman, we have all heard the $400 a year tax cut minimized or mimicked, really, on this floor, I guess mostly by the people who do not really need it.

□ 1320

If the President were now proposing such a tax cut as he did once, I think we would see on all the minority Members up here buttons saying "Vote 'yes' on a middle-income tax cut."

Instead, today, we are voting "no."

You know, it is not a question of either/or, growth or equity; middle-income taxpayers need tax equity and everyone in this country needs economic growth. The Democratic package, Mr. Chairman, is the only one that does both plus some deficit reduction. The Republican package is silent on tax equity and on deficit reduction.

So, I urge today support of the Democratic substitute.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. IRELAND].

Mr. IRELAND. Mr. Chairman, I thank the gentleman for yielding time to me.

This is a devastating bill for small business. It raises taxes on 90 percent of small businesses in America.

Mr. Chairman, my colleagues simply cannot have it both ways. They cannot say they are for small business, and then turn around and vote for the Rostenkowski proposal.

That proposal claims to help small business by reducing taxes for corporations, but it will not even touch 90 percent of our Nation's small businesses.

Why? Because they are not incorporated; they pay taxes as individuals.

By raising individual tax rates, the Democrats have, in fact, targeted the most successful and productive small businesses for tax increases.

The result? Fewer jobs from the only job-producing segment of our economy, and slower economic recovery for the country.

What is more, extending for 6 months the right of the self-employed to deduct 25 percent of their health insurance costs is not good enough. The deduction must be raised to 100 percent, the same treatment corporations have enjoyed for years and it must be made permanent.

Mr. Chairman, the Democrat proposal will be devastating to small business: You know it, I know it, small business knows it and the people of this country know it.

Remember, it's easy to go home and pay lip service to small business, but it's voting "no" to the Democrat proposal today that really counts.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. MCGRATH], a member of the committee.

Mr. MCGRATH. Mr. Chairman, this week, I received a letter from an old friend, thanking me for attending an auction at my old Catholic grammar school. The note suggested that the youngsters present looked up to a Member of Congress who had graduated from their school.

I have not received many of those messages lately. More typical is the statement made by an unemployed young father at a recent Ways and Means hearing in the district I represent. He told the district I represent. He told the Committee of the pain his family faced. His wife and he skipped meals, and they could not afford a pair of sneakers for their growing son.

That young man was not seeking a handout or a 50 cents a day tax credit. If he does not find a job this year, he will not even be eligible for the Democrats' tax credit. Maybe next year, the majority will propose a tax credit based on unemployment benefits received.

We cannot afford to redistribute wealth that does not exist. We should be acting to help secure employment and business opportunities for Americans.

At our committee hearings last December, I pointed out several legitimate economic proposals which enjoyed broad bipartisan support. Some of those items are in all three of the competing plans before us and others are pending in the Ways and Means Committee.

A dozen serious capital gains tax reduction proposals have been introduced by Republicans and Democrats over the last year. Some are targeted toward new businesses, venture capital, and long-term investment. Others are broader; all have bipartisan support.

Three hundred twenty-one House Members and 39 Senators have cosponsored legislation to offer relief to real estate investors from the passive loss rules we enacted in 1986; 261 House Members and 78 Senators have supported expanding availability of tax deferred individual retirement accounts.

Penalty-free IRA withdrawals have been proposed for first-time home buyers, higher education, and displaced timber workers. Capital gains exclusions and rollovers are proposed farmers who sell their property. Most Ways and Means members have cosponsored two enterprise zone bills. Half of the House has supported repeal of certain luxury taxes.

Last November, the House unanimously supported renewal of research and development tax credit, the low-income housing tax credit, and a variety of other economic stimulus measures.

My question to this body is why we must bicker when we have so much in common?

Today, we ardently debate economic stimulus packages of $25 to $50 billion over 5 years. At the same time, the Federal Government will take over $400 billion from the economy in 1992 alone, simply to cover the Federal deficit. One year's interest on our national debt is four times higher than the tax relief some are proposing over 5 years. The deficit and accumulated national debt have rendered the Federal Government impotent in providing any true economic stimulus.

This debate will increase public contempt for the House. That problem concerns me far more than losing a 2-day partisan dispute. Our constituents are seeking honest leadership, and we are failing them, with politics as usual.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Tax Fairness and Economic Growth Act of 1992, the Democratic substitute for the President's tax proposals.

The tax bill we pass today must pass three essential tests: It must make the tax system fairer; it must promote economic growth and investment; and it must be fiscally responsible. The President's proposals fail on all three counts while the Democratic package passes these key tests.

The Democratic substitute offers relief to middle-income families who have borne the brunt of the tax policies of the Reagan-Bush years—a refundable tax credit of up to $400 for joint filers, to offset the Social Security and Medicare payroll taxes they have paid. It also waives the penalty for early withdrawals from an IRA for first-time home buyers or for educational or medical expenses.

The bill also helps working families by permanently extending the Mortgage Revenue Bond Program. With homeownership rates declining for the first time in 40 years, especially among young families, this permanent extension is critical for keeping homeownership more accessible and affordable for young families.

The Democratic substitute further provides a tax credit for interest paid on student loans. Ever since we first

came to the House in 1987, MARTIN LANCASTER and I have urged passage of the Student Loan Affordability Act, to restore the favorable tax treatment of scholarships and of interest on student loans. I am gratified that the Ways and Means Committee has responded to the 164 cosponsors of this proposal and has included tax credits for student loan interest in the Democratic package.

The bill's economic growth incentives include permanent extension of tax credits for research and development, low-income housing construction, liberalized depreciation and investment tax allowances, altered passive loss rules for active real estate participants, capital gains indexation, and a 50-percent exclusion for gains on venture capital investments in small businesses held at least 5 years.

The small business provisions are particularly critical. These entrepreneurial incentives for small business will ensure that they will have access to capital and can continue to grow. By targeting small business, we will help the job-creating sector of our economy to have a prosperous future.

Some have criticized these capital gains provisions, seeming to forget that this package aims to promote both equity and economic development. I too have criticized the President for portraying a capital gains break as an economic panacea and I too have voted against his ill-considered, one-shot capital gains proposals. But I have consistently said that it was economically desirable to restore a tax differential for capital gains if the provision was targeted toward long-term productive investment and if it was part of a broader package that promoted tax equity and did not increase the deficit. Fortunately, the Democratic package meets these tests.

Finally, a word about fiscal responsibility. The most disappointing aspect of the President's proposed grab bag of tax breaks was the fact that he had no conceivable way of paying for them. All the supply-side, blue-sky projections and the smoke-and-mirrors accounting, including the proposed reliance on accrual accounting, could not disguise this basic and fatal flaw. The Joint Committee on Taxation and Congressional Budget Office estimate that from 1992–97 the President's State of the Union proposals would lose $49 billion, while the official Republican substitute would lose $25.4 billion.

The Democratic substitute, by contrast, pays for all revenue losses from within the Tax Code, thus maintaining the pay-as-you-go principle and the discipline imposed by the 1990 budget agreement. In fact, CBO estimates that the substitute would gain $13.9 billion in revenue over the 1992–97 period, to be applied to deficit reduction.

Our observance of these fiscal constraints have limited the size of our bill. We have refused to get in a bidding war with the White House. We have kept to the high road of fiscal responsibility, recognizing that any economic recovery package that does otherwise will ultimately do more harm than good. But the Democratic package nonetheless manages to make some significant changes in the Tax Code that will offer relief to working Americans, create jobs, and promote the rebuilding of our economy. The Democratic package can make a real difference to our people and our economy, and I urge its passage.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in support of the Democratic substitute. When I first decided to run for this office I traveled my district and heard one overriding message: People wanted real relief from the pressures of a declining economy, expanding tax burden, and stagnant wages. They asked me over and over again, if they sent me to Congress, would I do something for them?

I made a pledge. I told them I would help—that their pain and their suffering were something that I would convey daily to my colleagues. Since then, I have devoted my efforts to delivering their message. When I took office, my first legislative proposal was a bill for middle-class tax relief. At the time I introduced it, almost a year ago, few people believed Congress would ever confront this issue. But the voice of the working middle class was impossible to ignore. The majority leader sat with me in a Connecticut living room and listened to the stories of those who had done everything right, had played by the rules, but found their dreams broken. It is their voice, and the voice of thousands more, that has brought this bill before us today.

Now we have the opportunity to restore people's faith and rebuild their dreams. The Democratic proposal is the first step toward a brighter economic future. It brings the middle class real tax relief. It restores fairness to the tax system, and it pays for itself.

Vote for those who need our help. Vote for those who have suffered for a decade. Vote for those who look to us for help. Vote for the Democratic substitute.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, today I rise in support of the Democratic alternative to H.R. 4210, the Middle-Income Tax Relief and Economic Growth Incentives. I would like to thank the Chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI for his responsiveness to the American people by working tirelessly to bring this alternative to the floor.

First of all, as the gentleman from North Carolina [Mr. PRICE] stated, it meets the three tests. First of all, we all know that there has been a redistribution of income in America. That redistribution over the last 12 years has been from middle America, average working Americans, to the wealthiest 1 percent in our Nation. Now, that is not the Democrats saying that; that is Kevin Phillips, one of the most conservative commentators in America, saying that. And he makes it pretty starkly clear that we have seen a radical shift of resources from middle America.

For the past decade, middle-income American families have seen their economic stability rocked in the face of Reagan-Bush tax policies that have given preferential treatment to the wealthy top percent. The Democratic substitute being offered here today, seeks to give real relief to hard working middle income families and pay for it by having the wealthiest taxpayers pay their fair share.

Some people say 50-cents-a-day or this bit per day; let me tell you that for the average American family making approximately $25,000 to $30,000 a year, they are paying $4,000 in taxes, approximately, ball park figures. This means if they get a $400 reduction, that is 10 percent of their taxes.

I, like many of my colleagues and constituents, was very disappointed when the President addressed this country with his economic growth proposal. It was clear to me, that the immediate task at hand, restoring the peoples confidence in our Government by reinvigorating the economy, was not forthcoming. The President's proposal offers no growth and investment incentives, does little to encourage the purchasing of existing real estate properties, and does not offer small businesses the real mechanisms to stimulate job production.

Further, the President's plan and the Republican substitute does the worst possible harm to the long-term health of this country by adding over $50 billion and $13.9 billion respectively, to the national debt by fiscal year 1997. In stark contrast, the Democratic alternative raises $13.9 billion over the same period of time. The alternative pays for itself.

Have we grown so callous, are we so into being rich that $400, 10 percent of a person's taxes, is something to sneeze at? I think not.

Mr. Chairman, this bill does not have everything I would like in it. I would prefer that a tax credit for first time homebuyers had been included in this bill. I believe that young people today could greatly benefit from a tax cut for purchase of a home. So many young couples struggle with the economic disadvantages to purchasing a home that the long-term benefits of home ownership seems an impossibility.

I think it is important, and very frankly I am going to try to work for it

so that in the final bill that is passed and sent to the President, that is going to be in there because I think it is important for stimulus. Nevertheless, this alternative has the best interest of the middle-income family in mind.

The alternative provides a refundable tax credit of up to $400 for joint filers for 20 percent of Social Security and Medicare taxes paid in 1992 and 1993. It offers a home ownership incentive by waiving the penalty for early withdrawals from an IRA account for themselves or for a child. Furthermore, IRA withdrawal penalties will be waived to pay for medical and educational expenses. Students or their parents meeting certain income requirements would be eligible for a nonrefundable tax credit on the interest paid on student loans.

Tax credits due to expire which benefit middle and even lower income individuals would be made permanent by the Democratic substitute. The credits include mortgage revenue bonds, which State and local governments use to provide reduced rate mortgages for low- and middle-income first-time home buyers. The low-income housing tax credit which gives homebuilders and property owners the incentive to provide housing for low-income tenants. Employers who hire certain workers such as economically disadvantaged youths or people with disabilities will be eligible for the permanently extended targeted job tax credit.

The substitute further indexes the $125,000 exclusion for capital gains on the sale of a principal residence for those over 55, and eliminates the age requirement for people with disabilities. Encourages the use of public transportation while granting economic monetary by increasing the amount of employer provided transportation costs employees are able to exclude from income. The Democratic substitute yields all these middle-income benefits and more, by simply requiring that the wealthiest few pay their fair share in taxes.

In the spirit of fairness, the substitute restores tax equity to middle-income families by adding a fourth individual tax bracket of 35 percent for individuals with incomes of approximately $100,000 and $200,000 for married couples. For those fortunate enough to be at the highest rung of the economic ladder, a 10-percent surtax on income over $1 million will be imposed to finance the alternative.

It has become obvious by the mail we have all received that few industries have been able to survive this recession unscathed. When taxes on luxury boats went into effect, the impact on shipbuilders in this country was significant. Boat sales declined drastically and the livelihood of the entire industry chain was jeopardized. The same economic principals can be applied to other luxury retailers whose industries have been hard hit by the downturn in the economy. This legislation recognizes that the people employed in these industries are losing their jobs in droves and, therefore, repeals these taxes.

The Democratic substitute provides many needed incentives to get business back on track and stimulate growth. Over 300 members signed on to passive loss legislation that the President's proposal or the Republican substitute fail to adequately address. The substitute contains the major elements of the passive loss corrections bill which will contribute to the stabilization of rental real estate values.

The capital gains provisions in H.R. 4287 benefit small business by indexing newly purchased assets. Income gauged would be much more reliable so that, real not inflationary gains will be taxed, and taxed at the same 28 percent maximum rate on gains.

Mr. Chairman, we want to dispel the notion that "only the little people pay taxes." We are here today in an effort to ease the pain of the middle-income family, by offering the impetus to revitalize the sagging economy. America deserves no less.

This is a balanced bill, and it is fiscally responsible. It does not add to the deficit. I do agree that the biggest single problem confronting America is the deficit; sucking out $350 billion to $400 billion a year undermines our economic viability.

This bill is the only alternative that really reverses that trend.

Mr. Chairman, I urge my colleagues to support this as the only alternative that we can send to the President that makes sense.

Mr. ARCHER. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would simply say to the previous speaker and to the American public, if this Rostenkowski Democrat substitute is fiscally responsible, why did it require a waiver of the Budget Act within its own language? It clearly violates the Budget Act, increases the deficit, or that waiver would not have been necessary.

□ 1330

Mr. Chairman, I yield a minute and a half to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman from Texas [Mr. ARCHER] for yielding this time to me.

Mr. Chairman, as my colleagues know, 2 years ago I heard the very same kinds of speeches that I am hearing today, the very same kinds of speeches, and what did they do when the budget summit agreement was passed? They raised America's taxes $181 billion, that was supposed to control the deficit, and we ended up last year with the largest deficit in U.S. history, $400 billion. And so what do they want to do now? They want to raise taxes again, only this time by $93 billion, and what are they going to give in exchange for it? They are going to give a temporary tax cut to middle-income Americans that will amount to a candy bar a day, a $93 billion tax increase for a temporary candy bar a day, and they say, "It won't raise the deficit."

Put money on this: It will raise the deficit. We are going to go deeper into the hole, and it is going to kill the future generations' ability to survive.

This bill, in my opinion, is wrong. It was wrong 2 years ago; it is wrong now. It will only cause more recession, more deficits, more unemployment, more economic problems, and more heartache. We cannot stand this. We must defeat this bill. No more tax increases, no more deficits.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. ANTHONY].

Mr. ANTHONY. Mr. Chairman, I rise in support of H.R. 4287 to say that there are two hidden jewels in here, and I ask my colleagues to take a look at them.

It does help repair the Federal-State-local partnership that has been tattered over the last 10 years. After hundreds of hours of hearings to which we have listened, Mr. Chairman, we have responded, and there are some good, commonsense provisions in here. State and local governments are big winners, school districts are big winners; two special areas. Small-issuer exception to arbitrage rebate was raised from $5 to $10 million. What does that mean? It means that 250 million additional dollars will be going to State and local governments to put back into schools, roads, bridges, and other infrastructure investments to create jobs and opportunity. It also repeals the 5 percent unrelated and disproportionate use test. Treasury testified that these two provisions will simplify the Tax Code and do no harm to tax policy.

Mr. Chairman, there are two big winners here. I ask support for the bill.

Mr. Chairman, I rise in support of H.R. 4287, the Democratic package to promote tax fairness, economic growth, and much needed simplification of the Internal Revenue Code.

I am particularly pleased the caucus included my proposals to simplify the maze of complex tax rules that State and local governments must comply with when issuing municipal bonds to finance public projects. Since the bill was introduced, I have received a continuous stream of letters from school districts around the country expressing their appreciation.

Specifically, the bill would raise the small-issuer exception to arbitrage rebate from $5 to $10 million. I would be surprised if many of you are very familiar with the archaic operation of the arbitrage rebate rules. Simply, a State or local government earns arbitrage when proceeds of a bond issue are invested

in taxable securities while the issuer is awaiting to disburse funds subject to a construction contract. Arbitrage is the difference, or spread, between the tax-exempt rate of interest paid to bondholders and the taxable yield paid on the invested proceeds. The 1986 Tax Reform Act generally requires State and local governments to rebate all the arbitrage they earned to the Federal Government. One exception to the general rule is for small issuers of the tax-exempt bonds, issuers that expected to issue less than $5 million of tax-exempt bonds a year.

In 1989, the Treasury Department issued 250 pages of complex rules to implement the rebate requirement. In many cases, State and local governments are forced to expend tens of thousands of dollars to compute their rebate liability. Small municipalities simply do not have the resources or the expertise to comply with this overly complex set of rules. Consequently, it has become apparent that the $5 million threshold is inadequate. Increasing the small-issuer threshold to $10 million will generate $250 million for State and local governments. Under current law this money would be rebated to the Federal Government. Now, this money can be used by qualified local governments to fund the construction of public projects like schools, bridges and roads. In addition, the provision will save these local governments significant administrative costs.

The second provision repeals the 5-percent unrelated and disproportionate use test, a provision that places a limit on the use of governmental bond proceeds for purposes unrelated to the governmental activities being financed with the bonds. In testifying in support of the proposal, the Treasury Department stated:

This requirement is often misunderstood by issuers and not easily administrable by the Internal Revenue Service. Repeal would accomplish significant simplification without sacrificing policy objectives.

This provision frees up an additional $200 million for State and local governments which would otherwise be expended for administration costs rather than for use on much needed public projects.

These provisions are two hidden jewels contained in H.R. 4287. While they fall far short of resolving the numerous administrative complexities of issuing public finance, they are an important step in the right direction. I look forward to continuing the process of tax simplification with my Ways and Means colleagues. This process will help to repair the Federal-State-local partnership, a partnership that was sorely neglected during the 1980's. Only then will we be able to meet the many social and economic challenges facing this Nation during the 1990's.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, this bill is not the bill that I wanted, but I am going to support it today because it is a first step toward atoning for the tax sins of the 1980's; $400 a year may not mean much to a millionaire. But I have got news for my friends and my colleagues in this House. It is a mortgage payment for working families, and there are a lot of them in Brookings, OR, and Bend, OR, and throughout this country, and I think we ought to pay attention to them.

Some Republican earlier today said that this substitute is class warfare. Well, let us get this straight. We have had class warfare throughout the 1980's, and the prisoners of war are what remains of the middle class, because they are the victims of the largest shift of revenue from the middle class to the superrich.

This bill's greatest strength is its move toward tax fairness. It is fair because it eases the tax burden on working people and working families. It states that millionaires will pay their fair share with a 10-percent surtax after the superrich have almost doubled their wealth over the last decade. This bill is fair because it limits tax breaks for corporate executives who have been taking multimillion dollar compensation packages while they close plants and throw their workers into unemployment lines. This bill is fair because it allows IRA's to be used for buying first homes or to pay for medical or educational expenses. It helps students pay off their loans. It helps stimulate the real estate market by restoring passive loss provisions.

Make no mistake. Much more needs to be done, and I want to see a $5,000 tax credit for first-time home buyers, and I think we will get that out of conference, but today we have a chance to take a solid first step.

The President challenged this Congress to respond. We are today. Let us start by passing this bill in the interest of fairness.

Mr. ARCHER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Chairman, I rise today to urge rank and file members of the majority to ask your colleagues from New Jersey what the voters think about raising taxes in the teeth of a recession.

Before you let your leadership take you down the same road that Gov. Jim Florio took the Democrats down in New Jersey, you should know the answer to this question.

If $2.8 billion in New Jersey State tax increases was unpopular in 1991, then a $90 billion Federal income tax hike is not going to be well received in 1992.

For those who do not fully understand what happened in New Jersey, I would caution you to be very careful.

Those elected officials who confuse tax increases with tax incentives do so at their own risk.

The Democrats on Ways and Means Committee have taken a page from Governor Florio's book. Their proposal is guaranteed to eliminate jobs, turn the lights out on growth, and raise taxes, just like Governor Florio did in New Jersey 2 years ago.

The process by which this bill was developed reflects Washington politics, not sound economic policy for the country.

The voters of New Jersey rejected this approach in 1991 and the voters of New Hampshire rejected this approach last week by supporting the only Democrat who said he would veto this bill, if it were presented to him—Paul Tsongas.

This is not an economic growth package. This is a tax bill that will result in the loss of 100,000 jobs and will create a permanent tax increase for all individuals with incomes over $85,000.

And what does the average American receive? Less than a dollar a day and continued uncertainty about the future of their jobs in a stagnant economy.

One of my majority colleagues from California was quoted recently in a national newspaper as saying that he is very uncomfortable with a package that puts money in the pocket of business. Who does he think creates the jobs and keeps our economy moving?

We should defeat this tax bill, which pretends to be an economic growth initiative, but is really a tax bill.

The process that produced this package is the same tired politics that the people are rejecting State by State at the ballot box. How many more States must vote against the status quo before the Democratic leadership in Congress hears the message?

In his State of the Union Message, the President called on Congress to send him an economic growth package by March 20 that would create 500,000 new jobs.

What he will get, if the Democratic leadership works its will here today, is a tax increase bill that will discourage job creation at a time when the single most important issue for the American people is jobs, jobs, jobs.

Mr. Chairman. We should defeat this tax bill, which pretends to be an economic growth initiative, but is not.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Chairman, I rise in support of H.R. 4287, the Democratic economic growth package. We are presently in the longest running recession since World War II. People are hurting. We have serious needs here in the United States. It's essential that we act now. We need to turn our economy around and invest in the long-term growth that will produce jobs for our working families.

We must commit to a national renewal. Right now, we spend more to defend Germany and Japan than they spend to defend themselves. That is wrong! This money should be spent here at home to rebuild our bridges and roads, to renew our education system, to provide affordable health care, and to invest for long-term growth.

The Democratic economic growth package is a step in the right direction. It contains important provisions for

job creation, for stimulating economic growth and for making the Tax Code fairer.

Its provisions are building blocks for our economy. It makes permanent many of the expiring provisions—tried and true measures that put people back to work—help people afford health insurance—help first-time home buyers afford a mortgage—help workers continue their education—promote construction of badly needed low-income housing—and promote the research and development which is so essential to economic growth.

This bill also promotes the use of mass transit for a cleaner environment and less traffic congestion on our highways.

A vote for this bill is also a vote to reduce the cost of the S&L bailout—to stop S&L operators from ripping off the taxpayers. It eliminates double dipping—an egregious abuse whereby S&L operators have been taking billions of dollars of tax deductions when they have not lost any money. You and I can't take such deductions and neither should they. The S&L bailout is one of the biggest financial disasters in our Nation's history. It's essential that we act now to put an end to this ripoff.

In short, this bill has many proven measures for combatting the recession, bringing fairness to the Tax Code and getting our country moving again. I urge my distinguished colleagues to vote yes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I would like to express my support of H.R. 4287 and focus for a moment on the bill's provisions on passive losses for real estate. And we've heard during the debate today and from our constituents, we must do something to boost the value of real estate in order to help pull us out of this recession. Under the passive loss provisions in the bill, real estate professionals whose main business is real estate—defined as those who work more than 500 hours per year and over half their time in the real estate business—will be able to deduct losses from real estate against other income. This provision gives real estate professionals the same tax treatment as professionals in other businesses.

It is also important to realize what the bill does not do on passive losses. It does not extend the passive loss provisions to clearly passive investors who may simply be seeking a tax shelter through a real estate investment. The bill's passive loss provisions apply only to existing development and avoids the situation in which we create incentives to overbuild for tax reasons, and not as a result of real market demand. So we provide additional fairness in the tax code for real estate professionals, while at the same time not encouraging tax shelters and the type of overbuilding which could lead to another boom and bust cycle in the real estate market.

Mr. Chairman, my part of the country was, unfortunately, on the leading edge of the drop in real estate values which now afflicts so many other parts of the Nation. We have learned that a fall in real estate values hurts much more than just the real estate sector. As property values fall, the value of collateral held by banks falls, and then bank profitability falls. Before you know it, you have a full-scale credit crunch, and the small businessman, who may have nothing to do with the real estate industry, is having his line of credit revoked or is having a tough time getting a loan from his bank. If, as this bill provides, we do something to increase the value of real estate, we can help ease the credit crunch and spur economic growth.

I have long been an advocate of revision of the harsh passive loss rules that were enacted in 1986. We cut back too much in 1986 and it is clear that the Nation paid a stiff price for it. I am very pleased that the Democratic alternative which we are debating today provides much-needed relief in the passive loss area. The Democratic alternative has many provisions in it which argue for strong bipartisan support. The passive loss provision is certainly one such provision, and I urge my colleagues to support the bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, I rise today in support of the Democratic alternative to the President's tax package. I do so with some hesitance because I spent the better part of last year arguing that we should not pursue any tax bill this year. That is also the same message that most economists tried to get through to Congress in hearings held by the Ways and Means and Budget Committees.

Nonetheless, the President has challenged Congress to pass a tax bill by March 20 and I feel we have an obligation to try to meet this deadline. However, we have no obligation to pass without change the President's tax package—a package that reverses many of the gains made by the Tax Reform Act of 1986 and which distributes most of its benefits to the wealthiest families in this country.

The Democratic alternative certainly contains provisions with which I do not agree. That is bound to be the case with any comprehensive tax proposal. Most especially, I question the wisdom of the capital gains indexing provision which centers 69 percent of its benefits on taxpayers earning over $100,000 per year. Yet, there are several reasons why we can feel comfortable with voting for the Democratic alternative.

First, the Democratic proposal provides a tax break for working middle-income families. The Republicans ignore middle-income families now, but promise that the check will be in the mail sometime in the future. The Democrats provide middle-income families a $400 tax break now.

Second, the Democratic plan contains several proposals designed to stimulate economic growth over the long haul. In addition to capital gains indexing which I question, the Democratic proposal does provide a narrowly targeted capital gains tax cut which encourages investment in newly formed businesses.

The Democratic plan also provides a temporary investment tax allowance to encourage investment in machinery and equipment, permanently extends the research and experimental tax credit to encourage the research necessary to put U.S. businesses back in the forefront of product development, and permanently extends the targeted-jobs tax credit to encourage employers to hire those who have the hardest time finding work. All of these proposals were included in the President's package and we Democrats have incorporated them into our package.

Third, the Democratic package is finally responsible. The Democratic package does not rely on accounting gimmicks to give the appearance that it is revenue neutral. The Democrats don't ignore the cost of a reduction in the capital gains tax cut like the President does. Our package recognizes all of the costs of the proposals and pays for them. We pay for them by raising taxes on the wealthiest families in this country.

Last, the Democratic package contains many proposals that continue the effort begun in 1986 to simplify the tax code. Lost in all of the discussion of middle-income tax cuts and economic growth proposals are the various simplification proposals that will make life a little easier for many businesses and families. A taxpayer's bill of rights will ensure that taxpayers get fairer treatment from the IRS.

These proposals are not as sexy as refundable tax credits or alternative minimum tax relief, but they will ease some of the compliance nightmares that taxpayers currently face with the Tax Code. These proposals have been developed with the assistance of the taxpayers affected and, for the most part, have received bipartisan support.

The President challenged Congress to pass his proposals by March 20. We are doing our part today. We have reviewed his proposals, taken those that make sense, and added proposals that we feel must be part of a responsible tax package. Six of the seven proposals the President wants enacted by March 20 are in this bill. Seventeen of the proposals which the President wants to do sometime in the future are in this bill. The Democratic proposal is responsive to the President but it also takes into consideration the concerns and priorities of middle-income Americans.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, it is tragic that these tax bills have now come to be political statements that the parties are going to depose over, but I do hope that for the voters and for the taxpayers they might take a look at these two bills, find out which one tries in some way to make the tax system more equitable by providing refunds to them, try to find out which ones make the targeted jobs credit a permanent one so that it will encourage our entrepreneurs to hire our young, find out which one makes the low-income housing credit a permanent one since this has provided over 90 percent of the low-income housing, and which one has what is called an enterprise zone with a weed and see program to go into the poorer communities and those that are hit the hardest with unemployment, drug addiction and crime,

and to weed out those criminals to make certain that our streets are safe, but at the same time to provide educational, health, and recreational benefits for the people that are in these districts using the enterprise zone, which is something that the Secretary of HUD had asked for.

□ 1340

Mr. ARCHER. Mr. Chairman, I yield 1½ minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman for yielding time to me. I appreciate the opportunity to rise in opposition to the Democrat alternative.

We can debate economic policy here in the Congress until the cows come home, but, unfortunately for the American people, it is not going to change what the Democrats here in Congress believe. They are going to continue to support legislation that raises taxes and increases spending. What we really need is the kind of incentives to create jobs.

I only have a short minute, so I am going to move to something that has bothered me for some time. Every time we raise this issue of creating incentives to investment we are stuck with this notion, a knee-jerk notion that it is a tax break for the rich.

I want to share with the Members the comments of a lady from my home State, from Dubois, WY, and a rancher that went with them. Here is what they have done: They have owned and operated the Circle Up Camper Court for the last 27 years. Never have they taken out more than $30,000 a year but instead have put their money back into this property. Twila Blakeman writes this:

> We started this business and built it from nothing. For nearly three-quarters of our adult life we have put almost everything we had into this business. This was our savings, our retirement, and our pension plan. Now the government wants one-third of it right off the top.

These are not wealthy people. They are the backbone of the country.

Yesterday I pointed out in the Washington Post that a member of the Democrat leadership said, "I am uncomfortable with a package that puts money in the pockets of business."

Mr. Chairman, that is what creates jobs. I am hopeful that we will provide some relief for these people and people like them who are trying to make and create jobs.

Mr. ARCHER. Mr. Chairman, I yield a minute and a half to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, now that the Democrats have defeated President Bush's economic growth package that he sought in the State of the Union Message, they are bringing to the floor this tax-hiking, job-killing, deficit-creating affront to economic common sense. They call it a middle-class tax cut and a tax increase on the rich.

That is absolutely false. Joe Isuzu could not have done a better job of hogwashing the American people. When the Democrats call this a tax increase on the wealthy, C-SPAN ought to put a little sign under them that says, "He's lying." If false advertising laws applied to the Congress, we could lock them up.

There is no cut in income tax rates for any American in this bill. There is a tax increase on people that the Democrats call the wealthy. A previous Democrat speaker said that this bill will not tax working Americans. They do not consider the wealthy to be working Americans, and they consider the wealthy to be anyone who makes $85,000 a year.

Now, in their speeches sometimes they say they are talking about millionaires, but what they are talking about in this bill is anyone who makes $85,000 a year. Do you own a drycleaners'? Do you own a trucking company? Are you a college teacher? Are you a salesman? You are not a working American, according to the Democrats. Anyone, any small business in America—and I should hasten to add that 90 percent of those small businesses are taxed as proprietorships—anyone who makes $85,000 is the rich.

Who else is taxed by this bill? Are you unemployed and looking for a job? The small business that might hire you is going to be taxed out of business by this bill. When the Democrats say they want to raise taxes on the rich, they mean they want to raise taxes on you.

The CHAIRMAN. The time of the gentleman from California [Mr. COX] has expired.

The gentleman from Illinois [Mr. ROSTENKOWSKI] has 9½ minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 10 minutes and 15 seconds remaining.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I rise in opposition to the substitute.

Mr. Chairman, I rise in opposition to the bill.

Since Thanksgiving, committee after committee has taken testimony about the state of the economy. Time and time again witnesses warned against a bidding war.

When each side tries to outdo the other with promises of tax relief or tax fairness, the deficit will grow quickly and dramatically.

If we ignore that threat to deficit reduction today, the economy will slow down even further and yet more people will lose their jobs. It is an act of cruelty to suggest to the American people that we're about to enact legislation that will put them back to work.

The hearings also revealed a consensus as to what Congress should do, and that is to avoid inflicting further damage on the economy. If this bill passes today, we will have to rely upon the Senate to curb our excesses, fix our mistakes. That strategy is riskier than junk bonds.

If this house is going to ignore the recommendations of expert witnesses, why call them in the first place? Why pretend to seek advice from knowledgeable sources when its quite clear that political posturing will be given greater weight than sound economic principles?

The taxpayers' money was spent to hold those hearings and it is quite clear that the money was wasted.

Mr. ARCHER. Mr. Chairman, I yield 1 minute and 50 seconds to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, real fairness means putting economic growth and job creation and enhancing our national productivity and competitiveness before tax equity, which is nothing more than a code word for the politics of envy and class warfare. And make no mistake about it, redistribution of wealth is the Democrats' chief purpose here. They have admitted as much, speaker after speaker.

Their package lacks the incentives for small business, the engine of U.S. economic growth and jobs creation. It would permanently raise taxes on almost 2 million American families to pay for a gimmicky, one-time, election year tax cut of less than $1 a day. If we want tax fairness and an immediate trickle down for the middle-class Americans, we can first restore and expand the tax preferability of IRA investments to encourage savings over consumption, such as Senator BENTSEN and the President have both proposed. We can enact the investment tax credit for first-time home buyers to jump start the economy and allow thousands of Americans to realize the American dream of home ownership, and, last, we can significantly reduce capital gains taxes to help entrepreneurs attract the private venture capital necessary to grow a business or to help an existing small business expand.

Mr. Chairman, we must reject the Democrat proposal that unfairly penalizes success and wealth creation. What possible moral or economic justification can there be to impose higher income taxes on those taxpayers who already pay their fair share of taxes? And when will the liberal professional politicians who run this place, the same ones who resolutely refuse to get serious about wasteful Government spending, deficit reduction, excessive governmental regulation, or congressional accountability and reform, realize that their rich-bashing tax policies will eventually destroy the passion and spirit for achievement that has made America the greatest civilization in human history?

Mr. ARCHER. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] has 8½ min-

utes remaining, and the gentleman from Illinois [Mr. ROSTENKOWSKI] has 9½ minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to remind my colleagues why they should support the Democratic substitute.

Its principal virtue is that it achieves greater fairness for the middle class.

When this substitute passes, our tax system will be more fair and progressive. Middle-class people—the economic bedrock of America—will pay less. The richest 1 percent of all Americans will pay more. We will have returned to the time-honored tradition of taxing people based on their ability to pay.

Middle-class people have been ignored for far too long. They are the people who carry the load and on whose shoulders the greatness of this country lies. For the last 12 years, they have been told to be patient—just wait for the trickle-down miracle to occur. But all they have seen is their income decline and with it, their confidence in the future. That is not what this country is about—but it is very much what this debate is all about.

Democrats and Republicans have fundamentally different views over who should benefit and who should pay. But, we both want a vibrant economy for our country, and a brighter future for our people. We both want a higher standard of living and economic prosperity for our children.

The real issue here is: Who do you trust? Republicans feel that we should cut taxes on the wealthy and trust them to invest in activities that will enlarge the economic pie and create jobs. "Trust the wealthy" they say.

Democrats also want to enlarge the pie and create jobs—but from the bottom up—the way the country was built. "Trust the middle class," we say.

We have crafted a substitute which reflects our values and places our trust in the hard-working, middle-income Americans across this great country.

The wealthy, we say, have had a great ride for the last 12 years—the middle class have had 12 years of neglect. Now, it is their turn.

Stand tall for the middle class. Vote for the working men and women of America. Vote for the Democratic substitute.

Mr. DINGELL. Mr. Chairman, I rise today in reluctant support of the Democratic substitute to H.R. 4210, middle-income tax relief and economic growth incentives. I will vote for this legislation because the American people want us to move this process forward. Our people and their families are suffering. They have had enough talk, and they want action.

In his State of the Union Address, the President set a March 20 deadline for the Congress to pass his economic growth package. The trouble is we do not know what the President's plan is. The House leadership put the plan which the President outlined to the American public on the House floor for a vote. The Republicans were outraged. They refused to vote for it. It went down in flames. Even the President's own Secretary of Housing and Urban Development, Jack Kemp, commented that the proposal was full of accounting gimmicks. The bottomline, though, is that this package was nothing but smoke and mirrors which could not fool the American people.

Then, in an exercise of remarkable fiscal irresponsibility, the Republicans offered their own plan but refused to provide the resources necessary to pay for it. They proposed to increase our Federal budget deficit by more than $25 billion over 6 years by giving more tax breaks to the rich. Full of sound and fury, they insulted the intelligence of the American people by repackaging the same, tired, old trickle-down theories in the guise of growth. My people know better.

I believe that the Democratic substitute is, by far, the best of the three plans offered. In contrast to the two other proposals we have considered, it not only pays for itself, it would save the American taxpayers $14 billion. While it will not do all that I want done to promote the kind of economic growth we need in this country, it will help relieve the tax burden on our middle-income families and create jobs. I would have preferred a package which included greater job creation incentives rather than capital gains reductions.

I had asked that this legislation remove provisions in the Tax Code which discriminate against the sale of automobiles. Current depreciation provisions adversely and unfairly discourage the purchase of automobiles. Removing these provisions would have promoted the purchase of cars for business purposes and restore jobs.

Despite its faults, this legislation is to be credited with restoring a measure of fairness to our tax system. For more than a decade, our middle-class families have watched their purchasing power decrease and their tax burdens increase. Despite continued promises, the tax benefits received by the wealthiest Americans never trickled down to the middle class. This legislation begins to reverse this disturbing trend by raising the top income tax rate to 35 percent, and imposing a 10-percent surtax on millionaires.

My colleagues should support this bill. We must work together to address our Nation's pressing needs.

Mr. LEHMAN of California. Mr. Chairman, every time Congress decides to reinvent the Tax Code, either to simplify it or to provide for so-called economic relief, a great fraud is perpetrated on the American public. I voted against the 1986 tax reform package, not because there were not some very good provisions in it, but because with all of the political gimmicks it included to gain partisan advantage, the middle-income taxpayer ended up the loser. Today, I am voting against all of the economic tax packages for very much the same reason.

Looking at the choices we have been given, it is clear that none of the plans represent a new economic strategy. The Bush plan offers a smorgasbord of tax breaks but offers no way to pay for them, resulting in a deficit increase of $52 billion over 5 years. The Republican alternative includes only those tax breaks recommended in the President's State of the Union Address that benefit the wealthy, costing $25 billion over 5 years in increased deficit spending. The Democratic plan shortchanges the economy to provide 96 cents a day to each taxpayer. While it is deficit neutral, it provides a permanent tax increase as an offset that can only further exacerbate our current economic recession.

Regrettably, there are many provisions in these packages which I am inclined to support. Certainly, a capital gains cut for long-term investment would provide a shot in the arm to many businesses. The permanent extension of tax credits for mortgage revenue bonds, research and development, and low-income housing is something I have always encouraged. Liberalization of investment retirement accounts [IRA's] for first-time homebuyers, education and medical expenses is also a good idea. Incentives for real estate development should be considered. Increased exemptions for families would help those caught in the middle-income budget squeeze. These and other ideas, if packaged together not to appeal to certain partisan interest groups but to bring overall recovery to the economy, could do a lot of good for this country.

Instead, we are offering this country the choice between an increased deficit or higher taxes. These options would do far more to hurt the economy than any tax incentives would do to help it. The great fraud in these tax packages is the long-term price we are paying for a short-term gain. If we really want to help the economy, we need an economic strategy for the 21st century that creates jobs, helps businesses plan for the future, reduces the tax burden of the middle income and keeps Federal spending under control.

The greatest disservice we can do to the American public is to sell them down the river for short-term political gains. At a time when the American public wants less partisanship and more statesmanship, these plans offer the opposite. It is time to put our differences aside and come up with a strategy that helps the economy, not hurts it. I encourage my colleagues to oppose these packages and to ask the Member's of our leadership to go back to the drawing board.

Mr. FORD of Michigan. Mr. Chairman, I rise in support of H.R. 4287, the Tax Fairness and Economic Growth Act of 1992, and I urge my colleagues to vote in favor of this Democratic substitute.

I am deeply disappointed that the White House has chosen to play politics with our country's hard times and the suffering of millions of American families. If President Bush would concentrate more on unemployed and hard-pressed Americans than on the 30-second television commercial he plans to run in November, maybe we could work together to break this recession. Unfortunately, the President's plan, which this body just rejected, offered Americans little more than the same supply-side gimmicks that brought on this recession in the first place. The President can talk all he wants about cutting the capital gains tax rate and creating jobs. He can put up as much smoke and as many mirrors as he wants. The people in my district know who ve-

toed two unemployment benefits bills and who has presided over the worst job creation record in this country's modern history.

Mr. Chairman, 4,000 General Motors autoworkers in my district found out this week that their loyal service to their employer was being rewarded by having their jobs shipped to Mexico. President Bush's use of the economy as a political football is a slap in the face to these hard-working men and women. Unemployed and struggling Americans need a way to pay their bills and feed their families. George Bush has offered them a thousand points of light and more deficit spending.

As chairman of the House Committee on Education and Labor, I am pleased to see that H.R. 4287 includes several important provisions that will benefit students and institutions of higher education.

This bill includes a permanent extension of the exclusion from income of employer-provided educational assistance, a tax credit for student loan interest, and penalty-free withdrawals from individual retirement accounts [IRA's] used to pay for educational expenses.

These provisions will be a major help to students in alleviating the difficult task of financing postsecondary education. The employer-provided educational assistance provision enables employees not to count as income assistance received each year up to $5,250 to cover tuition, books, and fees. This enables many nontraditional students to improve their skills and train for new jobs while working full time. It is also available to laid-off workers affected by plant closings who need to retrain themselves for future employment.

The restoration of the student loan interest deduction in the form of a tax credit for all students in repayment recognizes the fact that a student loan is an investment by the student in his or her future—not a consumption for personal pleasure. This is an important change in tax policy which I believe will help reduce some of the mounting interest former students face today.

The ability to use penalty-free withdrawals from IRA's for education will help many middle-income families help to pay for the cost of education. Many families are struggling to finance postsecondary education for their children. These provisions will help some meet those challenges.

In addition, the bill contains a provision that would end the taxation of appreciated property gifts in the alternative minimum tax [AMT]. The decision to tax these gifts in the AMT has meant the loss of many important donations that would have provided financial aid to students, financed building and laboratory renovation, and endowed academic chairs at institutions of higher education.

Finally, the bill provides for a permanent extension of the research and experimental [R&E] tax credit, including the university basic research credit. Making this provision permanent will provide stability and will be a significant incentive for the private sector to invest in technological innovation.

Mr. Chairman, I support the Democratic substitute, but it is by no means a perfect bill. More needs to be done for the people in my district who are suffering from this recession. While I am pleased that we are finally concentrating on the middle class, what this bill does for the working and middle class is far from what can, and needs, to be done. While I am glad that this bill offers some fairness by placing permanent taxes on the wealthy, I am disappointed that its tax relief for the middle class is so little, and only temporary.

A tax break is good for some, but it does not help the hundreds of thousands of workers in Michigan who cannot find even temporary work. My people need jobs and relief, not tax write-offs. We need to concentrate on the type of job-creating economic programs Franklin Roosevelt used to put this country back to work. We need more public works, but all the President has offered us is more public debt.

I am also disappointed that this bill includes language that repeals the luxury tax on jewelry, boats, and furs, but not on automobiles over $30,000. I do not know many people in my district who are out buying mink coats. I do not know a lot of hard-working people who buy, sell and make cars.

This proposal is not perfect, but it is the only train leaving the station, and I cannot in good conscience vote against it. There are too many worth-while proposals here.

Mr. LEVINE of California. Mr. Chairman, I rise in support of the Democratic substitute tax reform bill.

The American people are justifiably frustrated by the failure of the Bush administration and Congress to pass legislation to respond to our current recession. The President must bear the lion's share of the responsibility for this inaction.

That he denied until this year that we were even in a recession illustrates just how out of touch he is with American economic reality and with the plight of regular hard-working Americans.

I am not so naive as to believe that the bill we have before us today will solve all of our economic problems. The fact is that this recession was 8 years in the making. It is the result of years of misdirected priorities on the part of the Federal Government and a rapidly changing business climate.

For nearly 5 years, I have warned that our failure to encourage adequate investment in plants and equipment, in worker training and in maintaining and modernizing our infrastructure would damage our economic competitiveness. I derive little pleasure from being able to say I told you so.

But, the fact is while business and government accumulated unprecedented levels of indebtedness during the 1980's, that spending was for mergers, acquisitions, and other nonproductive reasons. Little effort was devoted to strengthening our international competitiveness.

Today we take the first steps in righting the wrongs of the 1980's and getting our country back on track. We will help ease the tax burden on the middle class. We will reform the capital gains laws and make other tax changes designed to encourage greater investment. We make permanent the targeted jobs tax credit, one of the most effective Federal jobs programs ever created.

This legislation is not perfect. I do not like the idea of raising anyone's taxes during a recession. We need to keep money in consumer's and investors pockets, not tax it away.

I would have preferred that more be done to ease the tax burden on the middle class. While the $400 credit is a step in the right direction, it is simply not enough to make a significant difference in most families daily lives.

I would prefer a different approach to cutting capital gains taxes. My alternative would institute a sliding scale reduction which encourages long-term investment and discourages speculation and short-term profit taking.

And, the passive loss section of the bill should be extended to all long-term investors in rental real estate.

I overcome these objections because on balance the Democratic alternative recognizes that in order to end the recession and become more competitive in the international marketplace, we need to begin today preparing our economy for the economic battles of the 21st century.

That means increasing our investment in research and development, reinvigorating our housing and construction industries, helping economically depressed communities, and freeing up the long-term capital needed to facilitate the development and commercialization of the high-technology products that will capture tomorrow's trillion dollar global technology markets.

To achieve these goals, Congress must regard this legislation as a beginning, not an end. Congress needs to build on the foundation we lay today, not pass this bill and pretend our problems will all go away.

Our economy is undergoing a number of fundamental changes. While in past recessions, jobs lost would be restored in the future, the majority of the layoffs we have witnessed during this recession represent jobs lost forever.

In my own district thousands of aerospace and defense workers have lost their jobs. It is unlikely that the majority of those who have been laid off will find work in the defense sector.

Earlier this week, General Motors announced that it was laying off 16,000 workers. These are permanent, not temporary layoffs, and are the result of restructuring in our economy.

We, in Congress, need to understand the changes underway in our economy and find innovative ways of dealing with them. In the past I have offered a variety of legislative proposals to deal with these changes and ease the transition of our workers as they move from one job to another.

Among the proposals I have offered are:

Increasing Federal spending on job training. American workers must become lifelong learners. We must adapt to rapidly changing technology and economic conditions. That means we have to do a much better job of teaching working people skills necessary to succeed in the marketplace.

Close loopholes in our tax laws that allow foreign corporations to pay lower taxes than American companies.

Create a Technology Corporation of America [TCA] that will bring together business leaders, Government officials, and entrepreneurs to design an economic game plan for America's future. A TCA would provide both a national strategy as well as badly needed capital to innovative American companies. All of our successful international competitors have economic strategies. We are kidding ourselves

if we believe we can be successful without one, too.

Protect vital American companies from being sold to foreign interests. We should give the President greater authority to stop foreign sales which are not in our national security interests and he must be willing to use that authority. We should also require an economic impact statement on important sales to foreign interests.

Reorder our Federal spending priorities. Today we spend 70 percent of Federal R&D on defense projects. We should move quickly to shift that balance to 50–50 percent.

Restructure the Federal Government to deal with the tough international competition of the 21st century. I have proposed that we change the Commerce Department into a Department of Industry and Trade, with a renewed mission to encourage American exports and industrial innovation. Creating a civilian version of the Defense Advance Research Projects Agency would be an important step in the right direction.

Help our defense firms shift to making products which can compete in the private sector. We should provide tax credits to defense companies to invest in new equipment and technologies, and tax credits to businesses which hire displaced defense workers.

Cut the Federal deficit. We must undertake this difficult task as both an economic necessity and a moral obligation to our children.

These are a few of the legislative initiatives I would hope to see from Congress during the current session to strengthen our economy. Their implementation would help get our economy back on track and lay the foundation for the future.

Today our economic preeminence is threatened as never before. The time has come for courageous political leadership.

Mr. HUGHES. Mr. Chairman, there is a crisis in America. Hard-working men and women fear for their jobs, fear for their children's future, and fear that no one in Washington can or will do anything about the economic problems that plague us today.

And I can understand those fears. Back in 1981, the President and many here in Congress offered America a miraculous promise—we'll cut your taxes and spur miraculous economic growth that will pay your bills for you.

Rather than leading us to the promised land of economic growth, this plan has left our economy to drown as the sea of red ink refused to remain parted and crashed down upon us. At the end of fiscal year 1991, the Federal debt stood at $3.67 trillion, interest payments on the debt came to $286 billion—43 percent of general fund revenues—and the annual deficit was $269 billion.

I voted against that 1981 tax cut because common sense told me that it would lead to the debt problem we face today. The one thing that Democrats and Republicans, economists and ordinary citizens, and even Presidents and Congressmen agree would help our economy is reducing the deficit.

The bottom line on all of the proposals before us this week—the President's budget, the Republican alternative, and the Democratic alternative—is that they add too much to our national debt and too few jobs to our economy. As a result, they are all bad for the country.

I believe that what the country needs and what the American people want is strong leadership from Congress and an economic plan that focuses our scarce resources on creating jobs in critical industries. Beyond that, we need a plan for restoring fiscal balance to the Federal budget and our economy—not a 50-cent-a-day tax break for the whole country.

Cutting the deficit makes sense, and it is the best capital investment program this Congress can pass. Every dollar of deficit spending is a dollar that was invested in a Treasury bill instead of in private business. Regrettably, all of the plans before us make the deficit larger, not smaller, and therefore I urge my colleagues to reject all of these proposals and ask the Ways and Means Committee to go back and develop a proposal that reduces the deficit.

Of the three proposals, the Democratic plan has the fewest faults, and there are many good provisions in the Democratic bill that I strongly support. Some of these use relatively inexpensive tax breaks to draw investment to critical areas in our economy, such as the tax exemptions for mortgage revenue bonds and industrial development bonds, the targeted 50 percent reduction in the capital gains tax on venture capital invested in startup companies, the research and experimentation tax credit, the 15-percent increase in first-year depreciation allowances on new equipment, and the increased cap on depreciation writeoffs for small businesses.

Another good provision that I worked hard to get passed is the repeal of the luxury tax on boats. The luxury tax has hurt the boat builders in my district, and repealing it will save jobs and reduce unemployment. Any lost revenue will be replaced by a tax on the diesel fuel that most of the bigger boats use.

The Democratic bill also cracks down on some corporate abuses. It limits the deduction for corporate salaries to $1 million. Companies can pay more to their executives if they want, but they should not be able to write those salaries off as a business expense. The second provision in this area came from a bill authored by my colleague from New Jersey, Representative FRANK GUARINI, to stop double-dipping—a loophole that allows the new owners of failed S&L's to take tax deductions for losses that have already been reimbursed by the Federal Deposit Insurance Program.

More reforms are needed, however. We need to limit the tax deductions that made so many leveraged buyouts possible in the 1980's, and we need to examine our laws that may actually encourage companies to shift jobs from the U.S. mainland to U.S. possessions or low-tax foreign countries. I am cosponsoring a bill, H.R. 4061, that proposes reforms in all of these areas.

Unfortunately, the sound provisions in the Democratic bill account for only a fraction of the cost of the overall plan. The vast majority of the cost of the Democratic bill goes to two items—cutting everyone's taxes by $200 for 2 years and providing across-the-board capital gains indexing. The $200 tax cut alone will add $46 billion to the national debt in 2 years and capital gains indexing may not cost much now, but it will grow increasingly expensive each year.

Despite my objections to the Democratic substitute, I must commend the Ways and Means Committee, for having the courage to raise other taxes to pay for the tax cuts in his bill. The President's budget and the Republican substitute both rely heavily on a bald-faced accounting gimmick for the Pension Benefit Guarantee Corporation to pay for $22 billion of their tax cuts.

While accrual accounting may be more accurate than cash accounting, it does not bring one single dollar of new funds into the Federal Treasury. We are in too much debt already, no matter how you count it. Even with this accounting gimmick, President Bush's own budget proposal for fiscal 1993 would lead to a deficit of $399 billion. Clearly, we cannot afford expensive tax breaks that are not offset by solid revenue raising provisions.

There are also good provisions in the President's bill and the GOP substitute, such as increased equipment depreciation allowances and a narrowly drawn passive loss provision. But I cannot understand why the Republican substitute does not contain measures to stop double dipping by S&L owners and to repeal the luxury tax, which is paid for by taxing marine diesel fuel.

In addition, I wonder why the Republican plan failed to extend the mortgage revenue bond, industrial development bond, research and experimentation credit, and several other important but relatively inexpensive economic growth incentive programs.

Finally, the President's proposal to loosen the current restrictions on investments in real estate by pension funds defy logic and recent history. As chairman of the House Aging Committee's Subcommittee on Retirement Income, I am very concerned that this proposal could lead to speculative or fraudulent investments in real estate that will cripple pension funds the same way those types of investments crippled many of our banks and savings and loans.

With our current deficit situation, we do not have the money to hand out across-the-board tax breaks. We must focus our scarce resources on creating jobs in the industries that will lead our economy into the next century. For example, I strongly support the targeted capital gains exclusion in the Democratic proposal for people who make long-term venture capital investments in small companies. Risk taking of this type creates jobs and provides vital funding to American entrepreneurs. In addition, I am also cosponsoring legislation to increase the depreciation writeoffs for American semiconductor manufacturers because of the intense international competition in this industry and the importance of semiconductors in products ranging from radios to cars to Patriot missiles.

However, all of the plans before us make an expensive mistake by including untargeted, across-the-board capital gains tax reductions that will significantly increase the deficit in the future. As long as we have a deficit, we cannot do much to change the amount of investment capital available, since any investment tax breaks are paid for by the Treasury borrowing the money from other investors.

Not only will these cuts increase the deficit in the future, they could exacerbate serious problems in our banking sector right now. According to the Wall Street Journal, $150 billion was withdrawn from bank and thrift accounts

in 1990 while mutual fund deposits increased by $280 billion. At a time when banks are failing and everyone is concerned about the credit crunch from tighter bank lending policies, a generic capital gains incentive will encourage even more people to pull their money out of savings accounts because interest earnings from these accounts are fully taxed.

I hope the House will reject all of these proposals and ask the Ways and Means Committee to draft a new bill that contains the targeted growth incentives in the current bill but rejects the tax giveaways that will make a horrendous deficit even worse. We need a bill that reduces the deficit, repeals the luxury tax on boats, extends the proven growth incentives that are about to expire, relaxes the passive loss rules on real estate without reopening loopholes for tax shelters, and provides targeted tax incentives to create new jobs and make our industries more competitive in the years ahead.

Mr. McMILLEN of Maryland. Mr. Chairman, I rise in opposition to all three of the tax proposals currently under consideration. While I have supported some of the concepts being proposed today, none of the proposals we will vote on offers American families the type of help they are demanding. What we have here is too much political posturing and too few serious proposals for economic reform. The American public is looking to this body for short-term relief for our economic doldrums and a long-term plan for building a competitive economy. Instead, we have a compilation of quick fixes and budgetary gimmickry which solve nothing, and might actually make matters worse. America is hurting, and they're looking to us for answers.

The economic well-being of the country demands that whatever course we take, we should—above all else—not add anything to the Federal budget deficit. Last year, alone, we ran a $350 billion deficit, pushing the national debt up to $3.825 trillion, and we maintain a structural deficit of $200 billion is not going to come down anytime soon.

But this is not the only deficit facing America. We are also plagued by a domestic deficit of the unmet needs of the country—in education, infrastructure, health care, and social needs. Our Nation cannot afford another reckless tax plan that does not encourage the right kind of incentives in these areas.

The President's proposal, while portrayed as being revenue neutral, uses accounting gimmicks to create a facade of fiscal responsibility. I find this to be the epitome of political cynicism, assuming that the American people will not notice that they are increasing the deficit and paying for it with assumed future revenues. It is this kind of budgetary gamesmanship that tripled the national debt over the last 12 years.

Moreover, the administration's proposal for a reduction in the capital gains rate will not have the desired effect, and may actually result in more taxes to be paid on investments. The proposal taxes recaptured depreciation on real estate in such a way that investors are likely to pay 3 percent more under the administration's proposal than they would under current law. The President's passive loss provision is also very weak. It only applies to a narrow group of developers, not the average real estate professional who is simply trying to make ends meet in a stagnant market.

The real estate industry is the foundation for the tax base of every local community and State government in America. Since the 1986 Tax Reform Act, the industry has been decimated by an unsound tax policy and severe credit crunch. If local economies around the United States are going to rebound we need to make fundamental changes in our tax laws with regard to real estate. Our financial institutions' balance sheets are directly tied to the health and vitality of American real estate. The administration proposal fails to provide the necessary relief to this sector of the economy.

And, while I find certain aspects the Democratic package very appealing, I fear its enactment will do more harm than good. My main concern is that the package does not focus on creating jobs and stimulating growth in this economy. America needs a long-term economic policy that encourages home buying, provides incentives and assistance to send children to college, and creates an investment policy that makes us competitive with the world.

I recognize that we need to build more fairness into our tax code, but I believe we need to do it at a time when the economy is on firmer ground. Raising taxes in the current economic environment is just bad economic policy. It simply does not make sense to take more money out of the private sector to put into the Government coffers. Furthermore, the cost of the proposed temporary tax cut for some taxpayers—which, in all likelihood, will be permanent—is $45 billion over 2 years. Considering the small amount it will put in the pocket of the average American taxpayer—at best, 56 cents a day—it is not worth the increase in the deficit.

If we were to enact this proposal, we would essentially be borrowing $45 billion from our children, so that parents could have $200 to $400 more to spend this year. How many Americans would agree to take a couple hundred bucks from their kids' savings account, and let them pay it back 30 years later with compounded interest?

The Democratic proposal also does not repeal the completely useless user fee on boaters. This hidden tax is not a user fee at all, since boaters receive no service for their fee.

Nonetheless, there are many aspects of the Democratic plan which I support. It repeals the sales tax on boats, which has not hit high-income Americans, but has crippled workers in the boat building and related industries. The plan allows for tax deductions on the interest paid on student loans. It takes a good first step to reducing the capital gains tax rate. The sections related to restoring the passive loss provisions are vital to the real estate industry and are desperately needed. This provision should be passed in some form, this year, regardless of whether we pass a comprehensive tax package.

I still think there are good tax proposals which should be enacted into law, and am very willing to work with my colleagues, on both sides of the aisle, to see that occur. We need a tax credit for first time home buyers, so that young families can begin to attain the American dream and buy that first house. We should offer families a tax deduction for college tuition and student loans, to encourage young Americans to develop the skills they'll need to compete in a global economy. America desperately needs a capital gains rate reduction to spur investment and create new jobs in all sectors of our economy. And, I would support creative ideas to infuse more fairness in the current Tax Code and reverse the terrible inequities that were created in the 1980's.

But these proposals should not be coupled with gimmicks and election year politics. American families are looking to us, today, for responsible leadership. Let's not give them the same politics as usual. Let's surprise the pundits, let's surprise the newspaper editors, let's surprise the American public—let's do the right thing. Mr. Chairman, I urge rejection of these proposals.

Mr. CHAPMAN. Mr. Chairman, the Ways and Means Committee has presented the House with three options for an economic recovery package. One is the complete set of reforms proposed by the President in his State of the Union Message. The second is a slimmed-down version of the President's plan submitted by the House minority leader. The third is a proposal prepared by the Democratic members of the House Ways and Means Committee.

None of the three options is perfect. All have the same intention of stimulating growth, creating jobs and getting the American economy back on the move.

In the State of the Union plan, I like the permanent research and development tax credit. I like the increase in the personal exemption for taxpayers with children. The penalty-free IRA withdrawals for certain purposes is a good idea. But I cannot support the State of the Union package's increase in the deficit of $52 billion over 6 years.

In the House Republican plan, I like the tax credit for first-time home purchases. The plan includes good depreciation reforms. I frankly don't have a problem with any of its incentives for growth, but I don't like the fact that it ignores all of the President's proposals to help ordinary people, like the increased personal exemption. I think its sponsors ought to be ashamed of using budgetary gimmicks, also in the State of the Union plan, to reduce its deficit impact by changing deposit income and the Pension Benefit Guaranty Corporation from a cash basis to an accrual basis. Even with that gimmick, the House Republican plan increases the deficit by $25 billion over 6 years.

In the Democratic plan, I like the real passive loss provision included to put the real estate industry back on its feet. I strongly support the plan's middle income tax relief. I like the indexing of capital gains, and I hope that in the Senate it can be expanded to benefit existing holdings. I am not enamored with any proposal that increases tax rates. But if rate increases are the only method that can be supported by a majority to finance this package, increasing rates on the wealthiest Americans, those most able to pay, is probably the most fair way to go about it. I would personally prefer an import fee on oil and petroleum products, but I understand that proposal does not have the support of a majority at this time.

Most important, of the three options available to this House today, only the Democratic

package provides for a deficit reduction of $13.9 billion. Only the Democratic plan attacks the most ominous cloud over the American economy, the Federal deficit.

None of these three proposals is perfect. But only the Democratic package is responsible. Both the State of the Union and the House Republican package increase the deficit. That is irresponsible.

While not perfect, I will support the Democratic alternative. We must move an economic recovery package forward, and I am confident that as this package winds its way through the legislative process, it will continue to improve.

I am also confident that the White House will not negotiate with the Congress until it is apparent that the process is about to reach a conclusion. Look back to last fall. The very Members who today say this bill is doomed said then that the dire emergency supplemental appropriations bill was doomed as well. As it turned out, the administration refused to negotiate until the bill reached conference. And at conference, ureka, a compromise was found and the President signed the bill.

Like last fall, the administration will not negotiate in good faith until this bill reaches conference. I am confident that through the legislative process, a compromise will be reached that will be supportable by all but the most right and left wing in this body. Let's move this process forward and bring an economic recovery package one step closer to real negotiations, one step closer to bipartisan support and one step closer to becoming law.

The American people need help. Let's show them good faith in continuing to make progress toward economic recovery.

Mr. OWENS of Utah. Mr. Chairman, politics and procedure have backed us into a corner. The real point of today's debate is not to pull us out of recession. The contribution of any tax bill we pass now will have only minuscule influence on our current economic distress. The point of today's efforts should be to establish a long-term, progrowth tax policy that will permit the rebuilding of America's manufacturing base, the retooling of our industrial capability and regaining our competitive standing in the world.

I strongly supported many of the President's proposals as outlined in his State of the Union Address. But some of those proposals, such as the tax on annuities, tax on credit unions, and recapture of depreciation, had some fundamental flaws. This was made clear by the resounding rejection of the President's original proposal by his own party. The Republican substitute, in spite of its shortcomings, was the most favorable alternative, in my view, and I take the time now to explain why and urge its passage.

My support for the Democratic substitute is contingent on the expectation that some aspects of the bill can be removed or altered in conference. I am pleased to see that the tax policy under discussion embraces many of the growth-oriented incentives I have advocated for some time. In particular, I strongly support the capital gains reduction, luxury tax repeal, and passive loss revisions of H.R. 4287. In addition, the permanent extension of the targeted jobs and R&D tax credits, as well as other progrowth provisions of the Internal Revenue Code, is long overdue.

But I supported the Republican alternative for a number of reasons. I want to see a $5,000 tax credit for first-time home buyers. I want to see software exempted from the 14-year amortization standard put forth in the Democratic substitute. This software provision is punitive to my State's software industry. We shouldn't cripple one of America's strongest industries in the name of tax simplification. The capital gains provisions of the Republican proposal are more comprehensive and more targeted to a greater portion of our manufacturing base. Ideally, I want to see accelerated depreciation of the costs of investment in all new plant and equipment, and I have today introduced legislation doing just that. In that sense, the Republican alternative doesn't go far enough to encourage investment.

In addition, I am already tired of the class-baiting language that has characterized this year's election-year debate. I want to reduce taxes for middle-income Americans as much as anyone. I do not want to raise anyone's taxes. But if we're going to raise taxes, it makes much better sense to put those revenues toward deficit reduction.

Let's not kid ourselves; this tax cut will not help the economy, and doesn't mean much to middle-income Americans either. Although it would be a symbolic gesture to redress the imbalances and inequities in the Tax Code, it won't really ease the burden. Absent considerable spending cuts, it will significantly increase the deficit without stimulating economic growth. A middle-income tax cut is unquestionably tempting for politicians. But our deficit condition is simply too serious. There will be too much pressure on us to make this tax cut permanent when it expires 2 years down the road.

Will we be willing to raise taxes again in 2 years, once our constituents and the media have entirely forgotten about the piddling middle-income tax cut of the Tax Reform Act of 1992? A tiny election-year gesture is no substitute for real deficit reduction and economic growth. The reduction of taxes on middle-income Americans today makes inevitable a significant tax increase for those same Americans the next few years.

That is not to say, however, that I have no reservations about the Republican package. The accrual accounting financing mechanism is a gimmick, no question about it. The Democratic alternative, in spite of its flaws, more nearly pays for itself in the long term.

But the Republican alternative costs less in its first 2 years, fiscal year 1992 and fiscal year 1993, than does the Democratic alternative. But all we have to do is look at the 1990 budget agreement to see that long term projections always prove overly optimistic. Economic conditions change rapidly. We operate in an ever changing political context. But I don't think that the Congress, media, or our constituents will have the patience to wait for 2 years, much less 5 years, for the revenue projections of the Democratic alternative to run their course. The short-term impact on the deficit will be to push it upward.

Mr. Chairman, our accumulating debt is crippling our economy. It undermines the quality of life for future generations. It is taking needed investment in infrastructure, education and research and development. Mr. Speaker, the deficits of the past generation are not only unfair to our children, they are bad economic policy.

We must eventually start capital budgeting by dividing the Federal budget into capital accounts and operating accounts, the former of which incorporates only growth-oriented Federal spending, the latter of which must absolutely be maintained in balance. We will address this related issue of spending priorities next week, and my vote for the Republican alternative today was consistent with my commitment to fiscal responsibility.

In addition, I supported the Republican substitute for the same reason I will vote for the Democratic alternative—to ensure that the process continues beyond the House of Representatives. Even if we find elements of the Democratic alternative distasteful, as I do, we should not be thinking of this session's special interest group ratings. Let us hold our noses, if we have to, and send it to the Senate and on to a conference committee, where it can be revised and, hopefully, improved.

Mr. Chairman, we must do what best promotes reinvestment in our Nation's economic growth and reduces deficit spending. I have reluctantly concluded that the Republican substitute better meet that standard. But getting some sort of tax incentive bill through the Congress is an important enough priority that it was inappropriate to derail this effort at its inception. I thus will support this bill on final passage, and am confident that further consideration will assure a better, more appropriate piece of legislation.

Mrs. BOXER. Mr. Chairman, for the last 15 years, middle-income working families have incurred an increasingly greater tax burden, while tax cuts enacted during that period benefitted only the very wealthy and the very poor. The fact is that most American families have paid more in taxes than they would have had the Tax Code remained unchanged since 1977.

For this reason, today I am voting in favor of H.R. 4287. It is a vote to restore some measure of fairness to middle-income families. However, it is not the vote that I had hoped to cast today.

I had hoped I would get to cast my vote to provide permanent and more significant middle class tax relief that truly restores equity to the Tax Code. Whether or not today's tax relief bill is signed into law by the President, Congress must soon return to complete its work to restore tax fairness to the middle class.

Mr. ENGEL. Mr. Chairman, the economy of this country is still in the doldrums and Congress needs to enact legislation to restore confidence in our future. As a front page Washington Post story indicated today, consumers are more concerned about the economy than they have been since 1974. The main reason for this is lack of leadership on the part of the administration. Middle class America does not believe the President has their best interests in mind. Looking at the package offered by the President at the State of the Union speech, and his subsequent withdrawal of the sections targeted for the middle class, I don't blame anyone for being skeptical of the President's policy goals.

Mr. Chairman, Congress must step up to fill the leadership void in America. I believe the

Democratic alternative responsibly addresses the economic malaise of our country and does it in a way that takes into account the pressing needs of the middle class. It:

First, provides a tax credit for amounts paid for Social Security by working Americans;

Second, provides a tax credit for interest on college loans that more and more middle class students are forced to take to finance their educations;

Third, waives penalties for early withdrawals from IRA's for first-time home buyers, and for medical and educational expenses;

Fourth, indexes the $125,000 exclusion for capital gains upon sale of a principal residence;

Most importantly, this legislation will reduce the Federal budget deficit by $13.9 billion over the 6-year period ending in 1997. The President's original plan loses $52 billion through 1997 and the second Republican plan loses $25.3 billion through 1997. The Federal budget deficit simply cannot be allowed to grow any larger. It is already eroding our standard of living and choking private investment in this country. The country simply cannot afford the fiscal irresponsibility of the President's plan.

Mr. HOAGLAND. Mr. Chairman, the House today is considering H.R. 4287, the Tax Fairness and Economic Growth Act of 1992, a bill designed to help to put the Nation's skittish economy on the road to recovery. In my home district of eastern Nebraska, we have been fortunate to have a relatively low unemployment rate and a high rate of job creation and growth. But people are worried nonetheless. More and more the economy requires that both parents work just to make ends meet. As cutbacks at Offutt Air Force Base take hold and as Nebraskans see the news of major plant closings elsewhere in the Nation, they fear for their jobs and our prosperity.

The American people have good reason to be worried. The Federal deficit this fiscal year has now ballooned to nearly $400 billion. That means that every taxpayer in America this year is paying $2,000 in interest on the national debt. In the last 3 years, our GNP has grown at the worst real growth rate for any administration since World War II. In the last 10 years, average working Americans have seen their real dollar income gradually reduced. At the same time, our national debt has increased to the unacceptable level of over $3 trillion. To quote from a House Budget Committee analysis, the $3.4 trillion level of debt proposed in the President's fiscal year 1993 budget is "55 percent of gross domestic product, more than double the level of 1980. This will be the highest ratio since 1955."

The huge debt and annual deficits are corroding our economy. The borrow-and-spend policies of the 1980's are bringing our economy to its knees. Corporations and government no longer save and invest. Instead they borrow and spend. We are caught in an economic downturn because of our collective lack of saving and investing. Economist Barry Bosworth of the Brookings Institution stated recently in testimony before a House subcommittee that two-thirds of all private savings in America are borrowed by the U.S. Government to meet present obligations. This money would otherwise be invested in the business sector, to increase productivity and create more jobs. These trends simply must be reversed.

Former Council of Economic Advisors Chairman Charles Schulze said, in 1988:

We need to dispel the illusion that we have done enough so that the economy can grow its way out of the budget deficit. That deficit is still the Nation's number one economic problem.

That was 1988. There is no doubt that the deficit is still our No. 1 economic problem. It is like a silent cancer, eating away at our economic prosperity, our job opportunity, and our standard of living.

DEFICIT REDUCTION AND ECONOMIC GROWTH

An important reason I am supporting the tax bill before us is that it would make at least a small dent in the deficit by reducing it by almost $14 billion over 5 years. I would prefer that it be much more. But in contrast, estimates are that the President's bill would increase the deficit by $25.4 billion over 5 years.

In addition, the economic growth and job creation incentives in the bill, especially help for small businesses—like indexing capital gains to avoid paying tax on gains attributable to inflation—can help stimulate the economy and put people back to work. Working Americans are Americans supporting themselves and contributing to growth and prosperity in America.

HELP FOR SMALL BUSINESSES

Another excellent feature is section 2101 of H.R. 4287 which would create inducements for long-term, growth-oriented investments in small- and medium-sized businesses. We all know that small businesses are the engine of job creation. Section 2101 is modeled on bills I introduced in the last Congress and cosponsored in the current Congress—Senator BUMPERS introduced the companion Senate bill. It would exclude from taxation 50 percent of the gain on the sale of stock of small- and medium-sized companies when the stock is held for 5 years. This approach would give people more encouragement to invest directly in small and medium businesses. This approach would encourage people to hold the stock for 5 years, thus providing long-term, patient capital for new enterprises. It would revolutionize the flow of capital available to small- and middle-sized businesses, making them more likely to succeed. This provision targets businesses less likely to be able to raise capital from banks or in the capital markets.

TAX FAIRNESS FOR EDUCATION

Two provisions of this bill make it more likely that middle-class Americans will get a full education. We all know that the cost of a college education is going through the roof for most families. Tuition at a public college in 1991 was $5,000; at a private college, it was $12,000. Tuition, room and board at the University of Nebraska for a Nebraska resident was $4,800 in 1990. These are amounts that most families have to scrape to find. The economic growth package before us would give families a credit for interest paid on student loans and would make nontaxable tuition paid by employers for employees' education. These are two important provisions that address the real needs of American families.

ENDING THE DEDUCTIBILITY OF CORPORATE SALARIES OF OVER $1 MILLION

The bill also ends the ability of corporations to charge as a business expense salaries paid to executives in excess of $1 million. I applaud this measure at a time we have seen corporations pay their top executives salaries of millions of dollars while earnings decline. I am appalled at news reports of corporate executives taking home millions of dollars while letting employees go. For example, the Washington Post reported that Steven J. Ross, CEO of Time-Warner, last year earned $80 million while laying off 600 employees of the Time-Warner magazine division. The median household income is $34,000. In today's America, the average pay for a CEO is over 100 times the average pay of the average worker; 100 times. Financier J.P. Morgan said that no executive should make more than 20 times the pay of the average worker. If we look abroad, a Japanese CEO earns about 17 times more than the average worker; a German CEO earns about 23 times more. In America, the average CEO earns more than 100 times the pay of the average worker.

From 1979 to 1989, middle-class, working Americans saw their income reduced 8.7 percent. Parents are working more. Measured in hours on the job, 66.3 percent of working-couple families with children worked the combined equivalent of 1.5 or more full-time workers, up from 56.5 percent in 1979. With these hard economic facts at work, the Tax Code need not give corporations a tax deduction for salaries paid over $1 million. It is estimated that this provision will raise $1.9 billion over 5 years.

ENTERPRISE ZONES FOR DEPRESSED AREAS

The bill before us also includes tax incentives for 35 enterprise zones across the country. Under this proposal, 10 urban areas would be selected and given special tax incentives if, for example, they employ local people or invest in plants within the enterprise zone. This approach is important to cities like Omaha that have depressed areas in which businesses hesitate to invest. When this idea was proposed several years ago, I testified before the Ways and Means Committee in support of it. The city of Omaha has previously applied to the Federal Government for designation. Under the leadership of State Senator Paul Hartnett, the Nebraska Unicameral is now considering complementary legislation, with complementary State tax incentives, that would make Omaha more likely to receive a designation. So enactment of an enterprise zone bill will be welcomed in my district, particularly south and north Omaha, areas that need incentives like this to provide investment and job creation.

I hope my colleagues will join me in passing this bill. I have dealt with just a few features of this important and complex legislation. The provisions I describe are constructive and should help to deal with our economic ills. I do not agree with all aspects of the bill. But I intend to support it today so that we might keep the congressional process moving and make ultimate passage of an economic recovery bill more likely.

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong opposition to the Democratic tax package. My constituents want to see growth in the economy, not growth in their tax bills.

The American people will not be fooled by smoke and mirrors. This bill is a tax-and-borrow alternative to the President's economic

growth package. Regardless of the bill's title, at its core is a tax increase on millions of American families and businesses.

In 1990, this Congress passed, and I voted against, a so-called deficit reduction package consisting of almost $150 billion in new taxes and $700 billion in new spending. That's not what I call deficit reduction, that's a tax-and-spend bill.

This year the majority is offering so-called temporary economic relief of about 55 cents a day in return for an immediate and permanent $77.5 billion tax increase and a $30 billion increase in the Federal budget deficit. That's not what I call economic relief, that's a tax-and-borrow bill.

Who does the majority think is really going to pay for those extra cents? Taxpayers might as well just put it on their credit cards because everybody pays for the Federal budget deficit and the resulting Federal debt sooner or later.

Americans need economic growth and jobs, so what does the Democratic alternative do? It raises taxes on almost 30 million small businesses across the United States. These small businesses normally account for over two-thirds of the new jobs created in this country. Higher taxes will choke these businesses and eliminate new jobs—a loss of 21,000 jobs compared to an increase of 500,000 jobs created by the Republican bill.

Rather than work together on a bipartisan package for the good of the country, it seems that American families, workers, and senior citizens will once again take a back seat to the political games of the majority.

The President will not sign a bill that increases taxes, and the American people do not want a bill that increases taxes. They want a bill that offers meaningful relief, economic growth and job creation.

I urge my colleagues to join me in opposing this Democratic tax bill. Then, I strongly urge my colleagues from both sides of the aisle to put partisan politics in the back seat and let the needs of our country drive Congress to enact a more responsible economic package without tax increases.

Mr. POSHARD. Mr. Chairman, I rise in support of the Democratic alternative to the middle income tax relief and economic growth incentives, H.R. 4210.

There is no secret to creating jobs in this country. Increased productivity depends upon the savings which fuel investment. Allowing small businesses to deduct up to $25,000 of the cost of new equipment, speeded up depreciation allowances, indexing capital gains, and research tax credits. These are all important incentives for spurring productivity. The creation of enterprise and investment zones will further enhance our productivity and investment opportunities and create jobs for many Americans.

The middle-income tax relief is long overdue for Americans who have carried the major share of taxes in this country. It is my hope, while this bill is not perfect, and falls short in many categories, that it will spur our economy in the future into additional growth and end this recession.

Mr. PORTER. Mr. Chairman, this Democratic substitute has many beguiling provisions that, standing alone, I support. These include tax credits for interest payments on student loans, a waiver on the penalty for early IRA withdrawals for first-time home buyers and for medical and educational expenses, capital gains indexation, and capital gains tax cuts. In addition, I see in a very favorable light the provisions which accelerate depreciation on certain corporate assets, revise passive loss rules, and repeal part of the counterproductive and job-killing luxury taxes. Making permanent the research and experimentation tax credit is also wise policy.

Unfortunately, all of these solid provisions to stimulate long-term economic growth through encouraging savings and investment, are sandwiched between a nonsensical dollar-a-day tax cut for so-called middle income taxpayers that will do absolutely nothing to help the economy and hardly be noticed by individuals, and a tax increase that only serves to remind Americans that the Democratic party believes in class warfare as a primary political tool. These two pieces of stale bread around the fresh core of sound economic policies, however, make the entire sandwich unedible.

It is perhaps the essence of sound analysis that the economy may well be better off if Congress does not fiddle with it—that whatever is done will probably only add to the deficit and further slow economic recovery and may also be too late to make any difference.

Mr. Chairman, our country dug itself into this economic hole by consuming greatly throughout the 1980's, running up inordinate amounts of Government, corporate, and personal debts, and refusing to listen as the red ink spilled on our childrens' futures, the leveraged buyout was substituted for antitrust enforcement, and plastic money became a way of life. We will not, unfortunately, find it easy to dig our way back out. No Government quick fix is going to give serious help to this economy. With a $380 billion deficit, we have stupidly lost the option of fiscal stimulus that is the classic prescription for recession. Our hope is that the American people gain an understanding of how our economy has arrived at this place and never allow these errors to be made again.

We must have the strength of purpose and the courage to rebuild our economic foundations by increasing domestic savings and investment, curbing Government spending and bringing our budget into balance, and putting in place not some silly, political quick fix, but sound policies that will create jobs and ensure long-term economic growth.

We must also reestablish our economic independence. Americans say how terrible it is to be dependent upon foreign oil. And it is. But how much worse it is, how much more compromising, to be dependent upon foreign capital. Instead of saving and investing during the last decade, our society consumed—often foreign-made goods—and allowed Japan and Germany and Great Britain and others to provide the capital needed for business expansion and job creation. Now we may well be in the position of needing them more than they need us. But whether or not this is literally true, the message must be loud and clear and the lesson learned: Save and invest more, consume less, never, never rely upon others to finance your business expansion.

An idea that I have offered, which would increase domestic investment—personal domestic investment—by $100 to $200 billion for the next 30 years, is highly relevant. The Congress is now stealing the Social Security reserve, money that should be accumulating, that was by law designed to be accumulating, to provide for retirements of the baby-boomers beginning in 2025 at the same good benefit levels as seniors in America now enjoy. That accumulated reserve should total $3 trillion—in 1990 dollars—over the next 30 years. Every year that the Congress runs large deficits, the future taxes needed to provide such good benefits increases and the chance of future retirees ever receiving them dwindles.

Now, Mr. Chairman, now is the time for Congress to turn control over this $3 trillion to those paying it—the American working man and woman—and allow them to save and invest it in their own individual Social Security retirement accounts. This would have no effect whatsoever on present and near-term future retirees whose good benefits are absolutely assured, but it would do wonders for the future of Social Security and it would do wonders for capital formation in our economy. It is so sound an idea that Congress and the White House will run from it, lacking the courage to ask people to look to the long term and the leadership to commit to bold solutions.

But people are hurting in America, Mr. Chairman, not just people at the economic margins, but Americans at every level—high and middle managers, professionals, the self-employed. The recession's scythe is cutting all of us down. Now is the time for strong leadership and bold initiatives, not for the political posturing and quick fixes exemplified by these shortsighted, economically ignorant proposals.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the tax relief plan offered by my good colleagues Mr. ROSTENKOWSKI and Mr. GEPHARDT.

While neither of the alternatives presented here today offers in my opinion a perfect solution to our current economic crisis, we have been presented with three very clearcut and different philosophies to guide our Nation out of the recession, and clearly the Democratic substitute stands head and shoulders above the President's proposal in terms of fairness for the broad majority of Americans.

President Bush, last month in his State of the Union Address before this body, challenged the Congress to give his economic plan full and fair consideration by March 20. Well, with all the double-speak and backtracking coming from the White House and from my colleagues on the other side of the aisle lately, I'm not quite sure what exactly the President's proposals are. But I am pleased to see, however, that Mr. GEPHARDT, acting in good faith, introduced President Bush's plan as he originally outlined during the State of the Union so it could be fully considered.

Unfortunately, rather than propose real change for middle-income Americans, President Bush and my Republican colleagues have chosen to stick another pin in their economic voodoo doll. For over a decade we've heard that tax breaks for wealthy Americans will somehow, someway, someday shower down upon middle- and low-income Americans. Tell that to the over 3,000 people who lined up in my district in Chicago on a frigid day last month to apply for only a few hundred low-wage jobs at a new hotel.

Now I'm not saying that the $400 in tax relief offered by the Democratic alternative to middle-income families is going to suddenly end all of the detrimental effects of the last decade's supply-side economic policies. But to people in my district, unlike some of the President's country club chums, $400 is a substantial sum of money which could mean the difference between paying rent one month, or eating the next. Further, it takes a major step in the right direction to restoring the public's confidence in the equity of our tax system. Under the Democratic plan, wealthy Americans, who benefited so greatly during the 1980's, will be called upon to help carry their fair share of the tax burden. This will be done by creating a new 35-percent tax bracket for individuals who earn over $85,000, as well as imposing a surtax on millionaires.

Along with the tax relief provisions, the Democratic alternative contains numerous growth incentives, such as making permanent the R&D tax credit and low-income housing tax credit, creating enterprise zones, and modifying the passive loss rule with regard to real estate investments. Many of these proposals the President actively supports. These will effect all sectors of the economy including manufacturing, real estate, and small businesses.

Mr. Chairman, I urge my colleagues to support this Democratic alternative to the President's tired collection of failed policies resurrected from the 1980's. We clearly need a new approach to our future. An approach that recognizes the difficulties faced by America's working men and women, not one which continues to funnel benefits in the overstuffed pockets of America's wealthy.

Mr. TALLON. Mr. Chairman, I will reluctantly, in an effort to keep the process alive, support the Democratic plan. Naturally, in any large bill, there are things in it that I like less than others. But there are positive things which will spur the economy in the short term, and some long-term items will encourage savings and investment. And the bottom line is that it pays its own way.

There are some very positive parts of the bill that encourage savings and investment. For example, the Democratic bill contains my proposal, contained in H.R. 2340, for allowing IRA funds to be withdrawn without penalty for first-time home purchases, and for medical and educational expenses. In addition, the Democratic bill provides for the indexing of capital gains, and for an increased depreciation allowance. These ideas are designed to lower the cost of investment, and were in the bill, H.R. 960, which I introduced with TOM DELAY some time ago.

I do not like the tax increases contained in the bill. I don't think you help the economy by punishing success. But there are two reasons I am going to kind of hold my nose and vote yes, whatever the political result might be. First of all, the message is clear that the Congress and the President have to act to get the economy moving again, and politics should be set aside. People are hurting, and the slow economy dramatically increases the Federal deficit.

At the same time, to increase the deficit in order to spur the economy is absolutely unacceptable, and just tells the world that we want to throw any sense of fiscal responsibility to the winds. That kind of irresponsibility will hand us inflation and higher interest rates, and stop any economic activity we create in its tracks. We need a real way to finance the bill.

The second reason is that the capital gains reductions in the bill will act to spur investment in a much more direct way than retaining relatively low rates for the wealthy. If the Democratic plan did nothing for investment in the way of indexing and capital gains, I could never support the new tax schedules.

The Republican plan will increase the deficit; the Democratic plan does not. I think, above all, that we need to be honest with the American people, and that we don't insult their intelligence by telling them there isn't a price for the changes we want to make.

Overall, the Democratic plan has solid plans for encouraging savings and investment, it will result in economic growth, and it is not antibusiness. It does work to give middle-class families a break, and after the 1980's increases in the payroll tax, I believe they deserve that, just to get back to where they were a decade ago.

The way the process runs up here is that everyone is for the easy things, the things that spread money out in all the congressional districts. When you get to the hard part, which is paying for the plan, then suddenly you find all these good ideas stand out there lonely, and the politicians have left them there in the cold.

In this bill, I plain just don't like the method of paying for it, and I won't tell you that hiking the tax for the wealthiest Americans is a terribly courageous stance, when we all know that cutting spending would be the more responsible approach. I will support it, however, because the Congress can't simply stand by and wring our hands while the economy flounders. But whatever we do, it has to be paid for, and only the Democratic plan does that.

Mr. SYNAR. Mr. Chairman, the House is voting on three different tax alternatives. I support H.R. 4287, the Tax Fairness and Economic Growth Act of 1992, as the best alternative since it did include a number of provisions that clearly will benefit many of my Oklahoma constituents. The package is not perfect; it does contain provisions with which I am not in total accord; and, there are particular provisions not part of the package that I want to see addressed in the near future.

Obviously, the Congress was working under a time constraint. The President requested consideration by March 20. In accelerating the legislative procedure, the deliberation process often suffers. That is why the package may lack perfection and not be inclusive of all provisions desired. On balance, however, the bill accomplishes more than either the President's proposal or the Republican alternative.

This alternative is a small step forward in addressing the inequities imposed upon the average working American through the tax policies of the 1980's. Tax fairness is essential to any tax system. In 1986 I voted against the Tax Reform Act precisely because I believed it did not treat middle income taxpayers fairly. That conclusion has been borne out over the past few years.

The middle income tax relief in this package does benefit my Oklahoma constituents. The average adjusted gross income in Oklahoma per tax return—that means of all individual, joint, and family tax returns—is only slightly over $26,000. Tax relief in the bill is a credit against Social Security taxes paid. This credit means that for most Oklahoma taxpayers the credit will mean an extra week's wages to take home.

The tax increases required to finance the tax credit for average Americans will be imposed on the wealthiest in America. Only the richest will be subject to increased taxes. Individuals earning over $85,000 adjusted gross income and joint filers earning over $145,000 adjusted gross income will face a tax increase. These increases will ensure that the burden of taxes is shifted to those most able to pay.

Included in the tax package are several provisions that directly assist working Americans in paying for health care, education, and the purchase of the "American Dream", the first home. The bill permits a penalty-free early withdrawal of IRA funds, of up to $10,000 to pay for a first-time home purchase, higher education, and medical expenses. There is also an extension of the 25-percent tax deduction for self employed persons for the payment of health insurance premiums. A credit is allowed for a portion of interest on student loans.

Deficit reduction is of major importance to all Americans. It is also critical to economic security. A lower deficit can increase the amount of capital for investment and ultimately assists in the creation of jobs. The Democratic tax alternative was the only proposal that complied with the pay-as-you-go requirements of the budget agreement over the 5-year period.

Both the President's proposal and the Republican alternative failed to comply with pay as you go and would have increased the deficit by $49 billion and $25 billion respectively over a 5-year period. By contrast, H.R. 4287, the Democratic alternative, would provide deficit reduction savings of nearly $14 billion over the same time period.

As noted above, these provisions, among others, will benefit the average working American. There are certain provisions not included in any of the tax packages submitted for a vote. One particular area of concern for me is the attention to the domestic energy industry. There are no significant provisions that would improve the outlook for the domestic industry. It is critical that the Congress address these matters in the near future. This is essential both to the economic and national security of our country.

I am pleased that the Democratic leadership has moved toward a more equitable tax policy with this bill. The tax package will benefit those hardest hit by the recession and will provide the impetus to address domestic problems in the budget debate.

Mr. COYNE. Mr. Chairman, I rise in support of H.R. 4287, the Tax Fairness and Economic Growth Act of 1992.

There are several provisions in this legislation which are essential if we are to stimulate economic growth.

The provisions that I refer to are: the permanent extension of the research and experimentation tax credit; the extension of the tax credit for low income housing; the extension of the targeted jobs tax credit; and the extension of small issue industrial development bonds.

The bill also extends employer provided educational assistance. This is important if we are to improve the skills of our work force and this is essential if we as a nation are to remain competitive in an ever expanding global economy.

As to the extension of the small issue industrial development bonds: from 1987 to 1990, small issue IDB's created an estimated 59,000 manufacturing jobs and these bonds were responsible for the retention of 73,000 jobs through the financing of approximately 1,100 projects. In Pennsylvania, for example, between 1987 and 1990, small issue IDB financing provided for the funding of 199 manufacturing projects, which created 7,827 new manufacturing jobs and was responsible for the retention of over 15,000 manufacturing jobs.

I could provide similar figures to indicate how effective, from an economic standpoint, each of these extenders is. Suffice it to say that the extension of these expiring provisions will create jobs and serve as a stimulus to local economies.

Mr. Chairman, I urge adoption of H.R. 4287, because of the economic stimulus it would provide.

Mr. GRADISON. Mr. Chairman, I am discouraged that today we are considering tax proposals to stimulate the economy instead of ensuring long-term economic growth. It would be regrettable indeed if the Democrats' bill, H.R. 4287, were to pass. In this time of economic trouble, the American people deserve better, much better.

The Democrats' package would increase Federal borrowing by over $30 billion in the next 2 years. This is likely to increase interest rates and certain to drive up the deficit. In my opinion, this is nothing less than irresponsible when we have just witnessed a disconcerting rise in long- and short-term interest rates. We are sending precisely the wrong message to the credit markets just when monetary policy, through lower interest rates, is showing signs of stimulating a recovery.

What we should be doing is controlling the Federal deficit and enacting changes that enhance long-term growth and higher living standards for all Americans. The Republican alternative comes closest to that goal.

The Democrats, on the other hand, are soaking the not-so-rich to pay for a small, temporary tax cut for parts of the middle class. This can not help the economy recover, and may actually hurt it. Twenty-five cents a day for a family of four will not create any jobs.

Partisan demagoguery is not what my constituents want. They want jobs, and long-term economic growth and prosperity. It is a shame that the Democratic leadership in the House has decided to squander this opportunity to make critical, fundamental reforms to enhance the long-run economic performance of this country.

Instead, the Democrats have decided to play partisan games with the economy. My constituents expect more, and deserve much better.

I urge my colleagues to vote no on H.R. 4287.

Mr. COLEMAN of Texas. Mr. Chairman, I rise today in support of the Democratic alternative to President Bush's proposed tax package. Given the current state of the economy and the difficulty so many American families are facing, I believe the time has come to take whatever measures are available to us to get the economy back on track. Although I initially favored the plan proposed by Senator BENTSEN, there is no doubt in my mind that the Tax Fairness and Economic Incentive Act of 1992 is far better than either the Republican package or that originally proposed by President Bush. This package has both short- and long-term benefits to stimulate our faltering economy.

The time has come for us to take the lead in economic policy. President Bush's proposals represent yet another tired version of supply-side, voodoo economics, which we all know from painful experience are a failure. Working Americans are not only still carrying the tax burden in this country, they are shouldering proportionally more of that burden, while the wealthiest members of our society are paying less and less. We must provide relief to the working Americans who have shouldered the tax burden for too long, and that relief must come sooner rather than later. These are the people who are feeling the squeeze of this seemingly endless recession which the President helped to create. Tax relief for working families is essential to boost consumer confidence and get the economy moving again. The Tax Fairness and Economic Incentive Act will not only provide tax relief for approximately 90 million working families, it will also encourage people to save. This initiative contains six tax relief provisions for working Americans. These provisions include: The refundable payroll tax credit, which will put up to $400 back into the pockets of married couples; waiving the penalty for withdrawals from IRA's for first-time home buyers, and for meeting medical and educational expenses; and a tax credit for interest on student loans. The Republican package makes only one provision, and the President's proposed package would make working Americans wait for a second package that may or may not be forthcoming.

Once we have alleviated the immediate distress of working Americans, over the longer term we must concentrate on ensuring that American industries are and can remain at the forefront of the world market. Competitive businesses mean more jobs and a strong economy. The Tax Fairness and Economic Incentive Act will stimulate growth in several ways. First, and most importantly, it provides incentives for new investments, thereby creating jobs. The President's proposed package would only benefit those who have already invested. Moreover, it grants a 2-year increase in expensing allowances for small businesses, thus increasing their chances of expansion and prosperity. The Republican proposal contains no provision to encourage a new generation of entrepreneurs. It also makes permanent the tax credit for research and development and employer-provided educational assistance. Emphasis on research and training will help to ensure the competitiveness of American businesses, keeping us on the leading edge of technology and working Americans in gainful employment. The Republican proposal makes no such provision. Additionally, it indexes capital gains to ensure no one will be forced to pay tax due to the effects of inflation. The Republicans have not offered any inflation-proofing provision, and instead seek only to improve the lot of those who have already invested. In addition, it provides a 50-percent exclusion for venture capital investments held for more than 5 years. This measure will improve the stability of the economy by encouraging people to invest over the longer term. Finally, this bill eases the compliance burden currently faced by many businesses by simplifying the tax law. Again, the Republican proposal makes no such provision. However, this bill is not intended to benefit businesses as such at the expense of other taxpayers; it caps the deduction for executive compensation at $1 million. Yet again, the Republican package makes no such provision. In terms of addressing the national debt, the Democratic plan not only pays for itself, it will actually reduce the deficit by $13.9 billion over the next 5 years. The President's proposal would not only not pay for itself, it would increase the deficit by $25.4 billion over the same period. Clearly, the Democratic alternative offers superior growth incentives.

While the President claims to understand the economic difficulties the American public currently faces, he has promised to veto the Democratic initiative that will provide the impetus needed to restore the economy. We can not wait; the American taxpayer can not wait; we must take the initiative and we must do so now. I give my unreserved support to this measure and urge my colleagues to do so as well.

Mrs. LLOYD. Mr. Chairman, the most important task before this Congress is to get the economy moving again. The American people are looking to us for leadership to strengthen the Nation's competitiveness and move us toward growth and expansion. We are at a time when far too many families with children are struggling under the weight of recession. Hard-working men and women fear for their future employment prospects. They are squeezed by the costs of housing and health care. They are struggling to pay their bills. Clearly, we must take prompt and sensible steps to create jobs, improve our competitive position in world trade, make long-term investments in the future, and stimulate national recovery.

This week the House is presented with different versions of economic growth packages. These measures follow on the heels of lengthy public hearings held by the Ways and Means and Budget Committees on the state of the U.S. economy. The committees heard from economic and tax policy experts from the public and private sectors, and witnesses representing business, labor, and State and local governments.

Some economists testified that opening up the budget agreement would be counterproductive to economic recovery and do more harm than good. I agree. I feel that in order to bring about true and meaningful economic reform we must confront our deficit problem head on. We have a true obligation to the taxpayers and the children of the Nation to make real efforts toward reducing the deficit. When looking at the alternative tax plans, this was my primary objective. I feel that substantive deficit reduction is the best course of action, and the only true option before us, at the present time.

Deficit reduction will make us more productive and competitive because the debt burden cripples the ability of the Congress and the American people to make necessary investments in education, health care, infrastructure, and other vital programs. Deficit reduction is the only sure and proven tool the Federal Government has to increase national savings and thereby strengthen investment and productivity and improve our standard of living.

With this said, it's important to look at the differences in the packages. H.R. 4210 contains all the President's tax proposals included in his State of the Union Address and his budget submission. Overall, the tax package increases the deficit by $5.2 billion in fiscal year 1992 and $52 billion through 1997.

While I support the intent of the President to increase the personal exemption for families with children, allow penalty-free IRA withdrawals for educational and medical expenses, deduct interest on student loans, provide a tax credit for first-time home buyers, and deduct the losses on the sale of a home, I feel that the cumulative debt burden from the package, which includes no offsetting spending cuts, would ultimately hurt economic recovery and fail to create jobs.

Moreover, I oppose the President's plan to tax credit unions with assets of over $50 million and to change the tax treatment of annuities and business-owned life insurance. Many residents of the Third Congressional District have let me know in no uncertain terms their strong opposition to these measures.

I also take strong issue to the President's move to mandate Medicare coverage for all State and local government employees. This would be extremely burdensome to State and local governments whose budgets are already stretched to the breaking point. We can ill afford to impose additional requirements on States without adequate funding to implement them. I have heard this complaint time and time again from my State representatives and it is one we must heed. Unfunded Federal mandates have got to stop.

The Republican substitute to the President's plan, would likewise increase the deficit by $5.8 billion in fiscal year 1992, and $25.3 billion through fiscal year 1997.

While I support its provisions to provide passive loss relief for real estate developers, a temporary investment tax allowance, accelerated depreciation for the alternative minimum tax for corporations, tax credits for first-time home buyers, and a waiving of penalties for IRA withdrawals for first-time home buyers, the added debt burden of the total package would be staggering.

Of the three packages, I feel that the Democratic alternative should be looked at as a starting point for further action. Like any omnibus tax package, it has good and bad components. Among its favorable aspects: It provides middle-class tax relief, liberalizes the passive-loss rules for individuals who are actively engaged in the real estate business, provides for permanent extensions of the R&D credit, the low-income housing credit, the targeted jobs credit, mortgage revenue bonds, the exclusion for employer-provided educational assistance, and small-issue manufacturing bonds. But, like the other plans, it would also add significantly to the national debt in fiscal year 1992.

While the Democratic plan is imperfect, we can use it as a starting point to go to conference with the other body and produce an even more effective tax fairness and economic growth package.

Mr. SKAGGS Mr. Chairman, as I examined the different tax packages this week, like many others, I wasn't very comfortable with the choices we have. Both the President's original package, and the Republican alternative to it, would continue the economic mistakes of the past dozen years, mistakes that have contributed so much to the economic troubles we now face. At the same time, I regret that the Democratic alternative, by trying both to stimulate the economy and to help middle-income taxpayers, does neither especially well. It is clearly superior to the President's proposal and the Republican alternative, and it is better than doing nothing at all, but it certainly is not as good a package as I would like to see.

It was reassuring that so many Members of the House, from both sides of the aisle, saw the President's program for what it was—awful; a loser in all respects. Over 6 years, it would have increased the deficit by at least $50 billion, and probably much more—that on top of the record deficits proposed by the President's budget. That's crazy, given the mountain of debt we already face and the obstacle it presents to long-term economic well-being.

Much of the increase in the deficit would result from the President's proposed cut in the capital gains tax. His capital gains cut was not targeted toward new investment in productive assets, and so would produce few positive results, while costing more than we can afford. The President offered himself a fig leaf in claiming that most Americans would benefit from his proposal—but the truly nickle-and-dime savings for middle-income folks didn't come close to his enormous giveaways to the wealthiest people in this country. America's middle class has already paid for too many tax cuts for those who least need them.

In short, the President's proposal embodies more of the fiscal irresponsibility we're already suffering from in this country. It's not the kind of leadership the country wants, needs, and deserves.

The Republican leadership's alternative wouldn't be much better. It has an even more open-ended capital gains tax cut, no middle-income tax relief, more accounting gimmickry, and another $25.3 billion added to the deficit by 1997.

The package offered by Chairman DAN ROSTENKOWSKI and Majority Leader DICK GEPHARDT is clearly far better.

To begin with, the Rostenkowski-Gephardt package makes some modest improvements in tax fairness. It includes a 2-year refundable tax credit for payroll taxes that will return $200 a year to single filers and $400 to married couples. And because this is a tax credit, not a deduction, the benefit goes to all working Americans, without being skewed as a deduction would in favor of the upper income brackets. The package provides a tax credit for interest on student loans, helping people get the education they need in today's job market. The Democratic alternative also allows for penalty-free withdrawals from individual retirement accounts for first-time home buyers, or to pay medical or educational expenses. These are not major changes, but for the many Americans struggling to make ends meet, they can make a real and important difference.

The Rostenkowski-Gephardt proposal advances the objective of tax fairness by recapturing some of the huge tax breaks given the wealthiest taxpayers in the 1980's. A new top tax rate of 35 percent would be created for individuals with incomes generally over $100,000 a year, and for couples over $200,000 a year. A 10 percent surtax would be imposed on taxable incomes over $1 million a year.

The package will also help strengthen our economy. It lets taxpayers exclude from income half of their gains from newly acquired stock in small businesses held for over 5 years. This will encourage patient capital investment in smaller enterprises where the vast majority of jobs are created.

The Democratic alternative makes permanent some economically important tax provisions that are otherwise expiring, including the tax credit for research and development, the targeted jobs tax credit, and the exclusion for employer-provided educational assistance. Most of these the President proposed to extend only temporarily, which is shortsighted. We know these provisions benefit the economy, and there's too much uncertainty involved in having to extend them every few years. The Democratic alternative also creates enterprise and investment zones to encourage development in both urban and rural areas that need help.

The Rostenkowski-Gephardt package does all this while increasing revenues by $13.9 billion over the next 5 years. That means a reduction in the deficit, not the increase in the deficit that the President and the Republicans are advocating.

But I don't want to oversell the Democratic package. It is far from perfect.

First, it suffers from trying to do too much, from trying to both increase tax fairness and stimulate the economy, and ultimately from not doing either as well as could be done with a bill focused on just one of these important goals.

Second, while it would not make the wildly irresponsible additions to the national debt that the President's proposal and the Republican leadership's alternative each would, the Democratic package itself might end up increasing future deficits. We have firm estimates of the effects over only the next 5 years. But the package would permanently index capital gains; by some rough estimates, if inflation goes way up and growth slows way down, this could cost as much as $20 billion or more a year by the end of this decade. That's a very troubling prospect.

So, I don't see this as a polished or perfect package. It is a starting point, and we must get started. As the legislative process moves along, I hope there will be improvements to address the problems I've mentioned.

Mr. MCCANDLESS. Mr. Chairman, I rise today seeking a better way to do things.

The last few days have seen some heated partisan rhetoric. Both sides of the aisle have launched verbal missiles at one another,

stressing the relative values and faults of each side's economic growth plans.

Mr. Chairman, assaulting each other with verbal baseball bats is not the way to get things done. Nothing is sold by assault—not houses, or cars, or economic growth plans.

Many of the problems caused today are rooted in the process by which this bill was brought to the floor. A closed rule with one up-or-down vote on hundreds of proposals put most of us in an impossible position. None of these bills are perfect, but under the rule, we cannot make the necessary corrections. The end result of these votes is a political standoff, while the American people suffer.

Mr. Chairman, these ends do not justify the means. Overnight political polling is no substitute for long-term economic restructuring. We need a true package of economic growth, with ideas and proposals from both sides of the aisle if we are to take the country out of a recession.

Following the sustaining of the President's veto, I urge you to bring this measure back to the floor with an open rule; we are willing to work the late hours. We can pass a package of economic growth and have it enacted almost immediately, if you would just give us the chance.

Mr. BACCHUS. Mr. Chairman, I rise today to express my support for a tax credit for first-time home buyers. I would have preferred that the Democratic tax package include this important economic stimulus and it is my hope that the bill that comes out of the conference committee will include this vital measure.

It is important that we focus on tax proposals that promote economic growth as well as result in a more equitable balance in the tax burdens. A tax credit for first-time home buyers would provide a genuine stimulus to home building and buying.

We need such a stimulus. While many had hoped that our economy was improving, recent figures indicate that consumer confidence has plummeted to an alltime low. The availability of a tax credit for first-time home buyers would convince many people who have been sitting on the fence that now is the time to buy.

In past recessions, the homebuilding industry has been the catalyst for economic recovery. It can be again. But first we need the tax credit for first-time home buyers. No other measure has the potential to put so many people back to work so quickly. And as we all know, job creation leads to economic recovery.

Ms. SNOWE. Mr. Chairman, I rise in support of the Rostenkowski-Gephardt substitute amendment to H.R. 4210, with reservations.

In deciding how I should vote on the different packages brought to the House floor today, my overriding concern was to support legislation that provides for the immediate repeal of the 10-percent Federal excise tax on boats costing more than $100,000. The Rostenkowski-Gephardt amendment does this, while the Michel-Archer plan does not.

This is a critical issue facing my district, because this tax has resulted in hundreds, if not thousands, of Maine people losing their jobs, or facing the very real possibility of doing so as long as this terrible tax stays on the books.

Instead of ensuring that wealthy taxpayers paid their fair share of taxes, the boat tax has resulted in large numbers of highly skilled, middle-income workers being laid off from their jobs, at a time when finding new employment in Maine is extremely difficult.

Thus, at a time when the boat building industry in Maine is going through very difficult times, the Rostenkowski-Gephardt amendment sends this valuable industry a strong signal of its commitment to repeal this tax.

Although I was pleased to see that the President's long-term economic growth package repeals the tax, the boat building industry simply cannot wait until later this year for any such help from the Federal Government. They need the certainty of the tax's repeal now, and it is uncertain as to whether or not Congress will consider any additional tax measures in 1992.

Of additional importance to the people in my district was the middle-class tax relief program in the Rostenkowski-Gephardt amendment. It will provide struggling lower- and middle-income taxpayers with a 2-year, temporary tax credit, worth up to $200 for single individuals and $400 for married individuals, based upon their payroll taxes. Regrettably, the Michel-Archer plan does not contain any middle-class tax relief program.

When some of my colleagues claim that the middle class does not want a tax cut that only gives them $1 a day, they should know that the median taxable income in Maine for 1989 was $17,873. In fact, 60 percent of all Maine State income tax returns claimed taxable income of $22,961 or less that year.

For all of these Maine citizens, a $200 or $400 tax credit this year means a lot more to them than simply a dollar a day. An extra $200 or $400 could buy a month's worth of groceries, or pay for a car payment, or maybe even meet a month's rent or mortgage payment for many of the Maine people I represent.

Also, the Rostenkowski-Gephardt amendment allows small businesses to expense up to $25,000 of the cost of new equipment placed in service during 1992 and 1993.

This is a very important provision for small businesses, which are a critical component of Maine's economy. Indeed, more than 90 percent of all Maine businesses have fewer than 20 employees. This provision will be a significant help to our State's many small businesses.

While I have long argued that it is imperative for the Congress to approve an economic growth package, we must so so in a fiscally responsible fashion. We cannot allow an economic growth package to be an excuse for busting the budget.

The Rostenkowski-Gephardt amendment, over the next 6 years, is projected to reduce the budget deficit by $13.9 billion. While I am concerned about its impact on the deficit in the short term, the fact remains that it will reduce the deficit by almost $14 billion when fully implemented.

Having said that, I would oppose efforts by the Congress to use that extra $13 billion for higher Federal spending. These funds must be used to reduce the deficit. Using them for any other purpose should not, and cannot, be allowed.

In developing an economic growth package, I have long felt that the Congress needs to strike an appropriate balance between helping individual taxpayers and the private sector. A growth plan cannot help only individuals, or only businesses. It should have provisions designed to help both.

I know that some have recommended that the Congress not do anything in an effort to help stimulate the economy. They claim that the Congress will only make things worse, or that by the time Congress does take action, it will be too late and the economy will begin slowly, and slightly, recovering on its own.

Maine's economy needs help now. The people of Maine cannot wait, only to hope that the economy will get better by itself sometime later this year. Taking the risk that doing nothing, and counting on a prompt and robust recovery, it is a risk that I am not prepared to take on behalf of the thousands of Mainers who have lost their jobs during this recession.

While I have decided to reluctantly support the Rostenkowski-Gephardt package because it contains more of the basic elements that I believe we need, it does contain some provisions that concern me greatly.

For example, Democrats seem to enjoy noting that the economy has been in a recession for 18 months and consumer confidence is dropping. Yet, their alternative plan relies only on tax increases to offset the cost of their economic recovery package. Instead, I would have much rather seen some significant spending cuts in our $1.4 trillion Federal budget as an offset.

There was nothing that prevented the House majority leadership and the Ways and Means Committee from also including spending reductions in its economic growth plan. The committee has jurisdiction over a number of Federal spending programs, and it could have easily worked to develop a comprehensive list of spending cuts in order to offset the cost of its economic growth plans. Unfortunately, the committee's Democratic majority chose not to do this.

Indeed, although I will support the Rostenkowski-Gephardt amendment today, I expect the House Democratic leadership to bring legislation to the floor of the House this year that provides for serious spending reductions. If the Democratic House leadership does not meet this test, they will have failed the American people in a most tragic fashion and done a terrible injustice to our country and its economy.

Finally, I object to the fashion in which the House majority leadership has handled the process that got us to this point in time. At a time when the American people are increasingly frustrated by partisan gridlock in Washington, DC, the House leadership has acted in a strident, partisan fashion over the past several weeks.

The Ways and Means Committee Democrats did not even attempt to work with committee's minority. In a 3-hour open-and-shut meeting, the committee Democrats sent to the House floor a plan they purport to be the President's plan, and rejected the economic growth package that the President is asking the 102d Congress to adopt. This was done in two, straight, party-line votes.

Instead of trying to score short-term political points, congressional Democrats should be working, in good faith, to develop a short-term

economic growth that President Bush can sign into law shortly.

Once that was finished, committee Democrats went behind closed doors to develop their alternative plan, without any effort to work in a bipartisan fashion with committee's minority members. Simply put, this kind of behavior, given the seriousness of the economic problems facing our Nation, is unacceptable.

In the final analysis, it is essential that the President and Congress engage in bipartisan negotiations in order to do what is best for this country to end the recession. This entails both the President and Democratic majorities in Congress setting aside any partisan differences, and forcing a compromise on this most critical issue.

The American people are waiting and watching. It is clear that something needs to be done sooner, rather than later. The Congress must rise to the occasion and meet this challenge.

Mr. MOODY. Mr. Chairman, our work here today is crucial for determining the future direction of the Nation's economic policy. There are two possible roads to travel:

First, the trickle-down road, which the President would have travel on still further. His guide post is the indiscriminate, across-the-board capital gains tax cut, the biggest boondoggle for America's wealthiest people.

Second, or, we can redirect that Nation's tax and economic policy to give the middle-class tax relief paid for by making the Nation's wealthiest people pay their fair share, investing economic growth, and renewing America's international competitiveness.

The President's approach can be summed up as follows: Give the richest Americans the largest tax breaks and all our economic problems will be solved.

The Democratic package offers us a different path. The Tax Fairness and Economic Growth Act of 1992 says loud and clear that we stand behind, and for, the middle class. Our approach is to create opportunities for the middle class and working families of this Nation.

The President's current proposal is classic trickle-down economics. After a decade of this policy, we know it doesn't work. To quote Business Week, "* * * the swelling tide of income for a few was supposed to lift all boats, but it didn't.

In my home State of Wisconsin, we see the results of 10 years of trickle-down economics:

The Briggs & Stratton plant has downsized; AMC-Chrysler has closed; Uniroyal is closing down; a Brunswick Motor plant and Lullabye furniture factory are both closing. Many of these firms are moving production to Mexico.

This means that workers who once earned $12 or $15 per hour are forced into jobs paying $6 or $7, if they can get any job at all.

Our plan gives the hard-pressed middle class, which has been squeezed by higher prices, lower wages, and increasing tax burdens, a tax cut of $400 per working couple. This is not a trivial amount. Only Washington insiders or top income earners would consider $400 to be nothing.

And this relief the middle-income earners is paid for in the Democratic alternative.

The Democratic package does more. It allows farmers to apply their one-time home-selling exclusion to their home quarter of farm land. This means that rural Americans will finally have the opportunity to take advantage of a tax break long available to urban and suburban homeowners.

The Democratic bill also has investment incentives for small and startup businesses that will result in new jobs—not minimum wage-paying jobs flipping hamburgers, but high-paying jobs in growth industries of the future, especially in high technology and cutting-edge firms. I am proud that I and Congressman BOB MATSUI authored this part of the Democratic package.

The Democratic alternative bill before us is a clarion call for the middle class. No more trickle down. No more wait until later. It says to the middle class, working families of America:

We hear you loud and clear. You need direct tax relief, you need good jobs, you need opportunities to educate your children.

This bill is the first installment on the promise. I urge my colleagues to support this bill.

Mr. WOLPE. Mr. Chairman, I rise in support of the H.R. 4287, the Tax Fairness and Economic Incentive Act of 1992.

Mr. Chairman, make no mistake about it, this tax bill offers no panacea for our Nation's economic foes. It has taken many years to dig the hole that we are now in, and there will be no quick or easy fix to our economic predicament.

In all candor, this is not the tax bill that I would have written. I would have preferred to see the dollars directed toward the middle-income tax cut dedicated, instead, to grants to State and local governments for immediate job creation, or for other public sector investments that are critical to our long-term economic growth: education, worker training, research and development, and our physical infrastructure. I am hopeful that when we turn to the fiscal year 1993 budget resolution, we will seize the opportunity presented by the collapse of the Soviet Union and the Warsaw Pact to redirect resources that have gone overseas for the defense of our allies to the rebuilding of America.

However, my reservations notwithstanding, the bill before us contains a number of very constructive elements that merit our strong support. First, $800 of lower taxes over 2 years will mean a great deal to the over 90 million families that have been hurt the most by the economic policies of the past decade. And, contrary to the Republican alternative, which would do no more than further enrich a few wealthy Americans, this legislation will ensure that those who reaped the benefits of the 1980's will finally begin to pay their fair share. The tax cuts in this legislation are paid for by a modest increase in taxes on the wealthiest Americans, rather than by the anticipated savings from the post-cold war defense budget. This means that defense savings will be available both for deficit reduction and critical investment here at home.

It is important to remember just how seriously the middle class suffered during the 1980's. Today the top 1 percent of the population—or slightly over 2½ million individuals—takes in more income than the bottom 40 percent—or 100 million Americans—combined. In 1980, fewer than 17,000 Americans reported incomes greater than half-a-million dollars; by 1989, however, there were 183,000 Americans with incomes in this range. This is the largest such increase in this century. At the same time, the income of middle-income families stagnated. These are the statistics that underlie the human misery that many Americans are experiencing. The bottom line is that we have witnessed an unprecedented concentration of wealth at the top, the poor are increasingly trapped in a cycle of poverty and despair, and the middle class is getting squeezed on all fronts. By taking action on the issue of tax fairness, we not only provide a small measure of relief, but we also signal our determination that middle-class working families will no longer be victimized by Federal tax policy.

Mr. Chairman, there are also many other important provisions in this legislation that will provide meaningful assistance to many families. A tax credit for student loan interest, a waiver of the penalty for early withdrawals from an IRA for first-time home buyers or for educational or medical expenses, and indexation of the $125,000 exclusion for capital gains on the sale of a principal residence for individuals over 55 years of age. These provisions will help American families send their children to college, and realize the dream of home ownership.

There are also significant economic growth measures in the Democratic alternative, incentives that will lead to greater investment in our economy, and to a more secure and prosperous future. The legislation provides for a targeted capital gains reduction in venture capital investments. It provides, as well, for the indexing of capital gains, so that only real profits, not inflationary gains, are taxes. It would also allow small businesses to expense up to $25,000 in depreciable business assets in 1992 and 1993, and provide a temporary investment tax allowance for new equipment purchased this year.

Finally, the Democratic substitute would reduce the deficit by $14 billion over the next 5 years, unlike the Bush budget, which would have added $49 billion to the deficit, and the Republican proposal, which would have added $14 billion to the deficit.

Mr. Chairman, as I said earlier, I don't regard this as perfect legislation. But by any standard, whether we focus on tax fairness, or economic growth, or fiscal responsibility, the House Democratic alternative is a much better piece of legislation than that which has been proposed by the President. It represents an important step in our efforts to provide both greater tax fairness and a foundation for long-term economic growth in which all Americans will be able to share.

Mr. ATKINS. Mr. Chairman, while I rise today in support of the Democratic tax plan, I wish to explicitly express my concern over a glaring oversight in our efforts to restore tax fairness which would affect a substantial portion of the middle class in the State of Massachusetts—those in the public service.

As it is now structured, tax relief is based on a 20-percent tax credit against Social Security payroll taxes. However, public and many Federal employees in Massachusetts do not pay Social Security taxes, but rather contribute to their own public pension system. If this bill is

not amended, 400,000 public employees in Massachusetts and as many as 6.8 million across the country would be left out in the cold. Mr. Speaker, these are not millionaires. Many of these men and women are earning between $15,000 and $50,000—precisely the families that need tax relief the most. Left unamended, this would mean that a bank teller in Concord, NH who with his spouse has a combined income of $28,600 would receive $400 while a firefighter in Lawrence, MA, with a wife, two children and a combined income of $26,000 would receive not 1 cent in tax relief. To let this plan go forward unamended would deal an unfair blow to school teachers, maintenance workers, police, firefighters, and others who serve our communities.

I share the disappointment of Representative BRIAN DONNELLY and the rest of our delegation that we will not have the opportunity to correct this problem today. Fortunately, it is my understanding that there is a commitment to address this issue again in conference.

Mr. ROSTENKOWSKI. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 29]

"PRESENT"—409

Abercrombie	Callahan	Dymally
Ackerman	Camp	Early
Alexander	Campbell (CA)	Eckart
Allard	Campbell (CO)	Edwards (CA)
Allen	Cardin	Edwards (OK)
Anderson	Carper	Edwards (TX)
Andrews (ME)	Carr	Emerson
Andrews (NJ)	Chandler	Engel
Andrews (TX)	Chapman	English
Annunzio	Clay	Erdreich
Anthony	Clement	Espy
Applegate	Clinger	Evans
Archer	Coble	Ewing
Armey	Coleman (MO)	Fascell
Atkins	Coleman (TX)	Fawell
AuCoin	Collins (IL)	Fazio
Bacchus	Collins (MI)	Feighan
Baker	Combest	Fields
Ballenger	Condit	Fish
Barnard	Conyers	Flake
Barrett	Cooper	Foglietta
Barton	Costello	Ford (MI)
Bateman	Coughlin	Ford (TN)
Beilenson	Cox (CA)	Franks (CT)
Bennett	Cox (IL)	Frost
Bentley	Coyne	Gallegly
Bereuter	Cramer	Gallo
Berman	Crane	Gaydos
Bevill	Cunningham	Gejdenson
Bilbray	Dannemeyer	Gekas
Bilirakis	Darden	Gephardt
Blackwell	Davis	Gibbons
Bliley	DeFazio	Gilchrest
Boehlert	DeLauro	Gillmor
Boehner	DeLay	Gilman
Bonior	Dellums	Gingrich
Borski	Derrick	Glickman
Boucher	Dicks	Gonzalez
Brewster	Dingell	Goodling
Brooks	Dixon	Gordon
Broomfield	Donnelly	Goss
Browder	Dooley	Gradison
Brown	Doolittle	Grandy
Bruce	Dorgan (ND)	Green
Bryant	Dornan (CA)	Guarini
Bunning	Dreier	Gunderson
Burton	Duncan	Hall (OH)
Bustamante	Durbin	Hall (TX)
Byron	Dwyer	Hamilton
Hammerschmidt	McDermott	Russo
Hansen	McEwen	Sabo
Harris	McGrath	Sanders
Hastert	McHugh	Sangmeister
Hatcher	McMillan (NC)	Santorum
Hayes (IL)	McMillen (MD)	Sarpalius
Hayes (LA)	McNulty	Sawyer
Hefley	Meyers	Saxton
Hefner	Mfume	Schaefer
Henry	Michel	Scheuer
Herger	Miller (CA)	Schiff
Hertel	Miller (OH)	Schroeder
Hoagland	Miller (WA)	Schulze
Hobson	Mineta	Schumer
Hochbrueckner	Mink	Sensenbrenner
Holloway	Moakley	Serrano
Hopkins	Molinari	Sharp
Horn	Mollohan	Shaw
Horton	Montgomery	Shays
Houghton	Moody	Sikorski
Hoyer	Moorhead	Sisisky
Hubbard	Moran	Skaggs
Huckaby	Morella	Skeen
Hughes	Morrison	Skelton
Hunter	Mrazek	Slattery
Hutto	Murtha	Slaughter
Hyde	Myers	Smith (IA)
Inhofe	Natcher	Smith (NJ)
Jacobs	Neal (MA)	Smith (OR)
James	Neal (NC)	Smith (TX)
Jefferson	Nichols	Snowe
Jenkins	Nussle	Solomon
Johnson (CT)	Oakar	Spence
Johnson (SD)	Oberstar	Spratt
Johnson (TX)	Obey	Staggers
Johnston	Olin	Stallings
Jones (GA)	Olver	Stearns
Jontz	Ortiz	Stenholm
Kanjorski	Orton	Stokes
Kaptur	Owens (NY)	Stump
Kasich	Owens (UT)	Sundquist
Kennedy	Oxley	Swett
Kennelly	Packard	Swift
Kildee	Pallone	Synar
Kleczka	Panetta	Tallon
Klug	Parker	Tanner
Kolbe	Pastor	Tauzin
Kolter	Patterson	Taylor (MS)
Kopetski	Paxon	Taylor (NC)
Kostmayer	Payne (NJ)	Thomas (CA)
Kyl	Payne (VA)	Thomas (GA)
LaFalce	Pease	Thomas (WY)
Lagomarsino	Pelosi	Thornton
Lancaster	Penny	Torres
Lantos	Perkins	Torricelli
LaRocco	Peterson (FL)	Towns
Laughlin	Peterson (MN)	Traficant
Leach	Petri	Traxler
Lehman (CA)	Pickett	Unsoeld
Lehman (FL)	Pickle	Upton
Lent	Porter	Valentine
Levin (MI)	Poshard	Vander Jagt
Levine (CA)	Price	Vento
Lewis (CA)	Pursell	Visclosky
Lewis (FL)	Quillen	Volkmer
Lewis (GA)	Rahall	Vucanovich
Lightfoot	Ramstad	Walker
Lipinski	Rangel	Walsh
Livingston	Ravenel	Waters
Lloyd	Reed	Weber
Long	Regula	Weiss
Lowery (CA)	Rhodes	Weldon
Lowey (NY)	Richardson	Wheat
Luken	Ridge	Williams
Machtley	Riggs	Wilson
Manton	Rinaldo	Wise
Markey	Ritter	Wolf
Marlenee	Roberts	Wolpe
Martin	Roemer	Wyden
Martinez	Rogers	Wylie
Matsui	Rohrabacher	Yates
Mavroules	Ros-Lehtinen	Yatron
Mazzoli	Rose	Young (AK)
McCandless	Rostenkowski	Young (FL)
McCloskey	Roth	Zeliff
McCrery	Roukema	Zimmer
McCurdy	Rowland	
McDade	Roybal	

□ 1410

The CHAIRMAN. Four hundred and nine Members have answered to their name, a quorum is present, and the Committee will resume its business.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I live just a block south of Archer Avenue, and a little north of 95th Street in Chicago in the new Illinois Third Congressional District. Here, in the heart of middle America, people are hurting and need help now. The Democratic substitute for the President's tax proposals is not the greatest to come down the pike to benefit the middle class, but it's a start.

Over the course of the last few months, I have listened to my friends and Third District neighbors from Berwyn in the north, to Brighton Park in the east, to Tenley Park in the south, to Western Springs in the west. I hear we need to jump start the economy, create jobs, spur economic development, and build new homes—now. Middle America needs money to pay its bills and to help make ends meet—now. The Democratic $400 tax cut will help a little, and middle-class America can use all the help it can get—now. Under the Democratic proposal, individual retirement accounts have been opened up to permit people to withdraw their savings for medical bills, first homes, and other emergencies.

The Democratic bill helps people struggling to send their children to college. And remember, America needs well-educated individuals to lead us into the 21st century. This bill also promotes mass transit, brings fairness to the Tax Code, and promotes enterprise zones. As I said before, this bill is a very small step in the right direction, but a great man once said, a journey of a thousand miles starts with one small step. Let us start rebuilding our economy and creating jobs, jobs, jobs—now.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, yesterday, the Conference Board released the disheartening report that the consumer confidence index has plummeted in February to 46.3 percent. This is the lowest level since December 1974. January's unemployment data, the most recent available, showed that fewer Americans had jobs during he month and that those who did were working shorter hours and for less money.

If statistics don't tell the whole story, one need only look at specifics to confirm our economic concerns. Last Monday, General Motors announced that it will close 12 plants over the next 3 years, heightening national fears of the loss of American jobs in the face of international competition.

Inevitably, attention turns to Washington, both for leadership and for economic policies to lead us out of recession on a path to long-term growth. The debate over the last 3 months has centered on a major tax bill. Yesterday and today, in the House, we have the opportunity to respond.

Essentially, we have two choices. One approach would be to degenerate into rancorous, partisan debate, drawing battle lines and slicing the truth about the various competing proposals. The likely result of this is a Presidential veto, legislative stalemate, and no action. Consumer confidence, already at a decade long low, will plummet even further. Eco-

nomically, the business decision makers would be paralyzed—unclear about the tax and economic ramifications of investment decisions. Consumers would be likely to remain constrained and wait out the Presidential election to see which direction we're headed. This approach is clearly a prescription for economic disaster.

The second approach is for the Congress and the President to work together to produce a tax bill which is fair, doesn't bust the budget, and produces long-term growth incentives. If we enact a sensible plan, I have no doubt that individuals and businesses will respond with increased investment, job creation, and consumer confidence.

We have a challenge. We need to act now to promote economic growth and lead us out of the recession. But the final result must be fiscally sound and economically productive. Otherwise, our actions could be counterproductive and it would have been better to do nothing.

As with all of my colleagues here in the House, I have studied the economic proposals before us at length over the last few weeks. As I have looked at these three proposals, I find that I can support many of the provisions in each. There are many fine ideas in the President's proposal, as there are in the Democratic substitute and in the Republican substitute. For these reasons, yesterday, I supported the President's plan. Today, I will support the Democratic plan and the Republican substitute.

The reason is simple. Constitutionally, a tax plan must originate in the House. Whichever bill we approve here today will be sent over for Senate action. Once the Senate works its will on the legislation, it will return to us through joint conference for our final approval. Since there is much that is sound in each of these proposals, I feel it is necessary that we begin the process of debate and action in earnest, to get the process going. Now is not the time to campaign for reelection; now is the time to place the interests of all Americans first.

Even so, I want to make it clear that these three votes I have cast do not amount to a blanket endorsement of any of the plans before us. There are significant problems with each. I cannot support on final passage the President's bill, as it would increase the deficit by some $50 billion. I find it difficult to support a Democratic bill that uses revenues from increased taxes on the wealthy for redistribution through a $1 per day taxpayer rebate, instead of redirecting those revenues to real progrowth initiatives. Finally, I am troubled by the smoke and mirrors approach of the Republican substitute, which relies on an accounting gimmick of changing from cash to accrual to pay for tax cuts. As a result, I am firm in my resolution to vote against final passage of any bill that comes back from conference with any of these fatal flaws.

In making my final decision, I will focus on provisions that are targeted, progrowth initiatives that are likely to have a direct effect on people's investment and consumption decisions. I feel it is important to outline which provisions in each bill now before us meet these criteria.

There are a number of features in both the Democratic and Republican bills that are positive. These include an investment tax allowance on new productive equipment, a waiver of the 10-percent penalty for premature withdrawal from an IRA for a first time home purchase, tax changes to encourage pension investment in real estate, and the permanent extension of a number of effective, targeted tax provisions, such as the R&D tax credit, deduction for employer-provided higher education, and the 25-percent deduction for health insurance costs of the self-employed and small businesses.

There are a number of features in the President's tax proposal that merit retention in a final bill. These include a tax credit for first time homeownership, the deductibility of losses from the sale of personal residences, and a deduction for the adoption of special needs children.

Similarly, there are many provisions found only in the Democratic proposal which should be in a final bill. These include the increase in expending of new purchase of equipment by small businesses, a broader passive loss provision which should help the beleaguered real estate industry, permanent extension of mortgage revenue bonds and low-income housing tax credits, the indexing of the one-time $125,000 exclusion on the sale of a home for those over 55, and a consistent treatment of amortization of intangibles.

Finally, there are provisions that are in none of these proposals that are critical for an effective progrowth package. One is an investment tax credit to spur new investment in productive equipment that will help us compete internationally. The other is a targeted capital gains cut. Both the Republican and Democratic plans have flaws. The Republican plan, for example rewards prior investments in paper transactions of stock instead of rewarding new investment in businesses. The Democratic plan's capital gains indexing excludes a broad range of small businesses. What we need is a capital gains proposal which targets new productive investment.

Enactment of the progrowth initiatives I have just outlined would send a strong psychological signal that we are looking to the future. It would have a direct impact on specific investment decisions that would lead to investment, hiring, and growth. And it can be done in a fiscally responsible way.

I do not expect that the final bill that comes out of conference will have all the features I have just outlined. I respect that other Members and the administration will have good faith differences of opinion on the efficacy of various components. But, I believe that if we work together—Democrats and Republicans alike—in a nonpartisan effort, we can produce a sound package. All Americans deserve no less.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I rise in opposition to the Democratic alternative.

Mr. Chairman, I rise in opposition to the Democratic alternative package allegedly for economic growth. This follows on the heels of the House defeat of the Republican package which I supported.

The reason for my votes were quite simple, I want to get our country out of the recession, and I believe the Michel-Archer proposal would have accomplished this.

It was quite plain to anyone watching that the sole purpose of the Democratic plan is politics. First, the plan is designed to be vetoed by the President. It has not been uncommon around here to hear members of the majority saying things like: "This is an opportunity to define what we stand for." That's funny, Mr. Chairman. I thought it was an opportunity to help Americans.

Second, no responsible economist has claimed that this plan would create jobs. In fact, many have said it would have the opposite effect. This is not a growth package. It is a redistribution package. As such, its main focus is to give money to some people who currently have jobs. In my view, this is a callous political attempt to curry favor with wage earners—while maintaining the anger of those who are out of work so that they will express their dissatisfaction during the election.

Also, 90 percent of businesses are not incorporated, and pay taxes as individuals. This will increase those business's taxes. I defy anyone to produce an economist who says raising taxes on businesses is progrowth. By the way, these tax increases are all permanent.

Finally, while this plan is said to pay for itself over 5 years, we have all played this game with the Democrats before. Taxes are raised in the beginning for future cuts down the road—cuts that never come. In fact, the act that these proposals amend is the perfect example.

In 1990, the budget agreement raised taxes $164 billion, in exchange for later cuts. Well, here we are just 16 months later, and beyond even my expectations, they are trying to raise taxes again.

In contrast, I supported the Republican plan that was progrowth, limited, and fiscally responsible. It contains a $5,000 tax credit for a first-time home buy and the use of individual retirement accounts for home buys.

It also contained provisions such as the investment tax allowances that help businesses create jobs. This is what Americans want, and what they need. They don't need charity or handouts, they need the opportunity to pull themselves up by their own bootstraps.

Most importantly, this is a bill that can be signed into law immediately, not a futile political exercise designed for confrontation.

Mr. Chairman, we are actually quite close to compromise, despite what the debate here would indicate. Many of the proposals are similar, and some are almost identical. I am hopeful the President will veto this bill, and we can begin serious work on economic recovery. The American people deserve nothing less.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I rise in opposition to the amendment as it does nothing but increase both taxes and the deficit.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise in opposition to the Democrats' tax increase.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of the Rostenkowski-Gephardt Democratic alternative to the President's tax plan.

This comprehensive plan has been crafted to provide some needed economic stimulus to boost the economy. The measure will provide middle-class tax relief, stimulate job creation, growth and investment incentives; while ensuring that the wealthy pay their fair share of the taxes, simplifying tax laws, and instituting a new taxpayers' bill of rights to further address taxpayers' concerns in working with the Internal Revenue Service.

Despite the rhetoric of the Bush administration, with this initiative Congress is responding and we will respond with a bill that can pass and is the measure that the President should sign. The Democratic substitute is a bill that promotes the ideal of tax fairness and equity and the goal of promoting progressivity in our Tax Code.

This plan, which, unlike the Michel-Archer substitute, also includes the middle-class tax breaks, is fair because it provides a new tax bracket of 35 percent only on the most affluent of the affluent. This is especially relevant as we propose to modify some of the provisions of the Tax Reform Act of 1986. These changes in capital gains and passive loss deductions which are designed to resuscitate and stimulate the economy, must be balanced with changes in the rates of taxation to maintain fairness. In fact the new 35-percent tax bracket will cause these new incentives provisos to function more effectively.

This is the responsible and fair package. Unlike the Michel-Archer substitute, which follows the policy path of serving a three-course meal to the few and the most well to do. Meanwhile the middle-income Americans are directed to sit at empty tables, maybe some crumbs will come their way from the wealthy over fed tax eaters. Worse yet this GOP measure attempts to pay for the revenue lost with accounting gimmicks. Although the Rostenkowski substitute would increase the deficit in fiscal year 1992 as its provisions start working, it would reduce the deficit by $13.9 billion over the 6-year period through fiscal year 1997. Naturally it's tougher to vote for a pay-as-you-go tax cut but necessary. Therefore unlike the Michel-Archer substitute which would increase the deficit by $25.3 billion through fiscal year 1997 and will not provide middle-income tax relief, the Democratic substitute is the package for all Americans that will not further add to the burdens of our children and grandchildren.

Importantly, unlike the President's package and the Michel substitute, the Democratic alternative makes permanent the great portion of those provisions known as the extenders. These tax provisions: The low-income housing tax credit, the mortgage revenue bonds, the targeted jobs tax credit, the research tax credit and others, have earned a permanent place in the Internal Revenue Code, but have had to survive a political game of cat and mouse as if they were experimental and unknown clearly the Bush administration and GOP want that to continue. Unfortunately that policy only leads to the demise of such worthy tax policies.

I am pleased that this comprehensive proposal works to stimulate the housing markets through making permanent the mortgage revenue bond program, the housing tax credit and the new proposal to allow penalty-free IRA withdrawals of up to $10,000 for downpayments on first-time home purchases by either the homeowner or a relative. Although the Democratic alternative does not contain the tax credit for first-time home buyers, it will greatly stimulate the housing industry, which is an engine for the economy and has tremendous multiplyer effects. While the tax credit may be a positive idea, all the credits in the world do not a downpayment make. If the Bush administration would direct Secretary Kemp to address the shortcoming of the FHA finance reforms the historically most successful home ownership program in the Nation would greatly aid all perspective middle-income home purchasers.

Mr. Chairman, I have one overarching concern as we look at all these tax measures and that is that the national government can't expect the Internal Revenue Service and tax policy to be the sole vehicle for guiding or supporting people. We surely can't deal with every economic and social ill through the Tax Code and the tax expenditure phenomena. It is wasteful and doesn't work. Instead of creating a tax credit or exemption for policy purposes, the administration should be looking at working with programs that already exist in other Departments, such as Federal Housing Administration [FHA] mortgage insurance for the promotion of home ownership, to facilitate their goals.

Mr. Chairman, I support the Rostenkowski-Gephardt substitute, a real, balanced proposal for tax fairness and economic growth, and urge its adoption by the House of Representatives.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in support of the bill.

I have serious misgivings about each of the tax bills before the House; but if we are to stimulate growth, we must keep the process moving forward. I believe support for the House Democratic tax bill (H.R. 4287) is the best way to keep that process moving forward.

We need to reverse the results of a decade of Reaganomics in which the standard of living of the middle-class Americans has steadily declined. We need to do four things:

First, jump-start the economy with a jobs program;

Second, provide new or expanding businesses with low-interest loans and investment tax incentives;

Third, make long-term investments in education, health care, infrastructure, research, and debt reduction; and

Fourth, reverse the unfairness of Reaganomics, under which the rich got richer and the middle class got soaked.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in opposition to the pending Democratic alternative.

Mr. ARCHER. Mr. Chairman, I ask that the Chair take 30 seconds of my time to permit me to explain at this moment what I will offer as a motion to recommit under the rules, because it is a little bit different than the standard motion to recommit. It is not with instructions. However, in a last-ditch effort in hoping to work out some bipartisan agreement that the President can sign, my motion to recommit would send the bill back to the Committee on Ways and Means with a recommendation, not an instruction but a recommendation, that it amend the bill in an open and bipartisan manner with a view to producing legislation the President can sign that will provide economic stimulus and job creation incentives without increasing taxes or the deficit.

Mr. Chairman, I yield 5 minutes to the gentleman from Georgia [Mr. GINGRICH], the minority whip.

Mr. GINGRICH. Mr. Chairman, if I were only a Republican political strategist I would rejoice at this afternoon's vote on a massive Democratic tax increase. Every Democrat who votes yes is tying themselves to the McGovern-Mondale-Dukakis welfare state philosophy. Every Democrat who votes yes is voting against the philosophy of their party's current frontrunner.

Let me cite the current Tsongas ad which is on television. The narrator: "Some candidates want to give you a tax cut of 97 cents a day, but will that create jobs?" And then Paul Tsongas' voice: "Ninety-seven cents a day will not do a thing to our productive capacity. They are $400 billion in debt and they want to give us a tax credit that they are going to borrow from my children. I am not running to be Santa Claus, I am running to be President. That is a difference."

Now, who is "they"? Here is the analysis of the Democratic bill and the President's bill. The President's bill, according to the Council of Economic Advisers, creates 500,000 new jobs. According to the Council of Economic Advisers the President's bill, which was just defeated, would have created 500,000 jobs and helped end the recession.

What does the Democratic tax increase bill do the first year? According to the National Center for Policy Analysis, it kills 21,000 jobs.

Do the Members want to know why the American people by 77 percent favor term limitation? Because the President of the United States comes to this Chamber in the State of the Union and asks for a tax-cutting job-creating bill, and the Democratic leadership gives him a tax-increasing job-killing bill.

The New Hampshire primary had five candidates attacking Congress, three

Democrats and two Republicans. Together they received 264,000 votes and the two incumbent U.S. Senators got 35,000 votes.

In Maine, Jerry Brown's vehement anti-Congress message almost beat Tsongas' anti-welfare-state message. The two Senators received a trivial share of the vote, 8.3 percent.

In this anti-tax-increase, anti-welfare-state, anti-incumbent environment, the Democratic leadership has fashioned a massive tax increase job-killing bill that permanently raises taxes.

Let me just say I cannot just view this as a Republican strategist, although it will be a very effective vote for the rest of the year. As an American citizen I think this Congress is in a tragic mess. We had the President come to speak as President, not as Republican candidate. He asked us to help get out of a recession. We are going through a charade today. Every Democrat knows that this bill will be vetoed. Every Democrat knows this further deepens the recession. Every Democrat knows that while it may help their nominee in the fall, it is going to do so at the expense of American families and American workers and American jobs. The people are going to lose their homes while they are waiting around for the Congress to act.

Everyone knows that this charade today and next week in the other body leading to a veto is going to further lower public respect for this institution. We are going to do all this with the banking scandal about to blow up again, the Post Office about to be openly investigated, and we are going to go home and say "The Congress really is a useful institution." Every Member of their leadership knows there is not a prayer, none, of their bill being signed into law.

I would just say this. I have a longer speech about philosophy and about where we are going on the welfare state and what we are doing about economics. I was going to cite Paul Tsongas' New Hampshire speech, "No goose, no eggs," that the Democratic Party has to sooner or later learn when you kill business, you kill jobs.

□ 1420

You cannot love jobs and hate job creators, but forget that for a minute.

Let me offer a serious offer. Your leadership ought to consider pulling this bill. We ought to go back, close the door, and try to talk to each other. We ought to try to write a bill together. We ought to actually try to behave as if the country mattered. We ought to try to behave as though the American people mattered. We ought to try to behave as though all the speeches you gave on unemployment were sincere, that you really do care about trying to get those people back to work. We ought to try to pass a $5,000 tax credit so people can go out next week and buy a home. We ought to pass some kind of changes so businesses can invest in American jobs.

I think of the Michigan delegation. My God, how many more factories does General Motors have to close before you begin to figure this out? I think of western Pennsylvania. How many more steel mill workers have to be put off for life before you figure this out?

Now, I am prepared this afternoon to cancel my plans for 4 or 5 days and walk into a room, and I tried it last time, and it did not taste very good, but to go through this charade and have you by pure muscle in your whip system pass a bill most of your Members do not believe in so you can score a political point is a tragedy, and I think it weakens the Congress as an institution.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Missouri [Mr. GEPHARDT], the majority leader.

Mr. GEPHARDT. Mr. Chairman, members of the Committee, I listened carefully to my friend, the gentleman from Georgia, the distinguished minority whip. he cited Mr. Tsongas and his views on taxes.

I guess it is appropriate to cite the views of Pat Buchanan, who said in a TV ad that it was bait-and-switch, that the President said he was for middle-income tax relief, and now he is not, because it fell out of the bill. But let us not talk about that. Let us go to the serious comment that he made that this is political, that we ought to be bipartisan, that we ought to sit down and work out our differences.

Let me say to my friend this: That is what this place is about. We disagree with respect about what ought to happen on taxes now, and we have for some time. He and I and others here sat through the meetings of the budget summit in 1990. The issues have not changed. I do not impugn the motives of George Bush or the gentleman from Georgia [Mr. GINGRICH] or the gentleman from Illinois [Mr. MICHEL] or anyone on this side who says the way to trigger the economy is to give money to people at the top, to give tax breaks to people who have a lot of money. I respect your feelings. I respect your views. I disagree with them. That does not mean you are not for America doing well or that you are not for your State doing well or your people doing well. I respect that. I disagree.

I have fundamental disagreements, and many of us do, with what you want to do, but let us not confuse that with impugning motives.

The way we settle disagreements, the way we settled the disagreement on the unemployment bill is we come here and we pass legislation and we send it to the Senate, and then it goes to the President, and then a decision is made.

When we passed the first unemployment bill, the President said it was garbage. He scoffed at it. He said we did not need it. We passed it twice. He vetoed it twice. We tried to override his veto. We failed. That is the way the system works.

He finally signed the bill after some minor changes. I respect him for that. I am glad he signed it. It was the right thing for the country.

We can pass this bill today, and I pray and I hope that we will, and we will send it hopefully to his desk, and he may veto it, and then we will come back, and we will do it again. That is the way the Constitution set up this system, and it works.

Finally, let me say this to my friends: The question in this bill today is: Where does this money go? Who do you stand for and do you fight for?

I heard today about a woman by the name of Justina who works for a major law firm in New York City, 28 years old, the single mother of a 2½-year-old boy, who lives in the Bronx in a small apartment in a commercial area. Her son is in a play group in a private home, and she has to pick him up every day at 6 p.m. If she does not get there at 6, it costs her more. She is trying to make her life and her son's life work in New York City. She earns $30,000 a year. Between rent and carfare and medical insurance and utilities and food and daycare, she is barely scraping by.

Do not tell me that $400 a year does not make any difference to people, and do not say that $800 over 2 years does not help somebody.

I have not heard these words of concern about the amount of money when we are talking about $12,000 going to the wealthiest people in this country.

Stand up today and fight for the people we represent, the little people, the people who go to work every day and have made this country great.

You bet they need a tax cut. They have not had a tax cut, and if we pass this Democratic bill, we will stand for the people of this country.

Vote "yes" for the people of this country.

Mr. ARCHER. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. MICHEL], the respected minority leader.

Mr. MICHEL. First, Mr. Chairman and my colleagues, I want to thank the 14 Members on that side of the aisle who voted for our Republican substitute. Unfortunately, being 101 votes behind, we need a lot more than that to win anything around here. And if the Speaker is to close, we know the pressure is on the Democratic side to pass this substitute, and it is there in spades.

Much has already been said about the bill. I am not going to repeat the same arguments against it. It is enough to say that this proposal will raise taxes,

lose jobs, and slow the economy, what might be called a triple play of economic irresponsibility.

But I think that two points have to be emphasized. First, the bill will bust the budget agreement. Now, no doubt the budget agreement had its share of detractors on both sides of the aisle, but the budget agreement is the only defense the country has against the majority's voracious appetite for spending.

If this bill becomes law, that defense will be gone.

And, second, and perhaps more importantly, the bill does raise taxes. No matter what the majority says, no matter how much rhetoric is bandied about, no matter how you look at it, this bill raises taxes, the substitute on the Democratic side, which prompts me to opine that the Democratic majority has got what it takes to take what you have got.

Clearly our Republican whip has said the majority's vision of the future continues to be welfare-state redistribution in a shrinking economy, a philosophy that reached its peak during the Jimmy Carter years.

The progress of Democratic economic policy has been simply from malaise in 1980 to malarkey in 1992.

Our proposal, on the other hand, was an honest effort to improve the economy and to create jobs. You rejected our proposal with a casual, thoughtless arrogance that marks those who have had too much power for far too long.

□ 1430

This exercise serves no purpose. It is not going to help the economy. It will not create jobs. It will not provide real tax relief to families.

Mr. Chairman, as I said, your party has created economic policy by reading the popularity polls. We were sent here not to follow the polls, but to poll our conscience and vote for what is good for the country. Clearly, this bill is not good for the country. I urge my colleagues to reject this substitute now, give our Ways and Means Committee members on both sides of the aisle another opportunity to work together in a bipartisan way to craft the kind of proposition that will gain support.

Yes, it will have some detractors on both sides of the aisle, but eventually it will be the kind of thing the President would feel comfortable in signing. That is what we ought to do.

I urge my colleagues to reject this substitute and pursue that alternate course of action.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield my remaining time to the gentleman from Washington [Mr. FOLEY], the Speaker of the House of Representatives.

The CHAIRMAN. The Speaker is recognized for 3½ minutes.

Mr. FOLEY. Mr. Chairman, I certainly would like to say to BOB MICHEL that we understand that all Members of the House do not have a single opinion on any of the propositions that we are voting on today. He cited the fact that 14 members of the Democratic side voted for his alternative. I could cite in return that 13 of his members voted against it.

There is obviously a serious effort on the part of members to try to decide how we can best take action to bring about greater fairness in our tax system, to provide incentives for economic growth, to correct inequities that presently exist, and to move the country forward out of this recession into broader employment and economic opportunity for all our citizens.

I am troubled, as is the majority leader, when there seems to be not only a division here at the center aisle on the best approach to a problem, but about attitudes toward those who vote differently from ourselves.

We are not condemning the President of the United States for having views about how he wants to see a tax program received. We received him with great courtesy and attention, as we always do on both sides of the aisle, when he appeared here to give the State of the Union Address. He did not have any obligation to consult with us ahead of time about what he was going to say, and he did not. There was no bipartisan consultation. There was no prior discussion at the White House, as there has been on numerous occasions, for example, in reaching the country's highest decisions on foreign policy.

On these occasions, this President, as much as any I have served with, has chosen to bring people forward together, leaders of both parties, to discuss the issues and consult before he acts. I have given him public credit for that and will continue to do so. But on this he did not do that. He chose to keep his recommendations secret not only from his own party and his own Members but from the country as a whole. He had a right to do that. However, it seems all-the-more strange at this point to hear calls for bipartisanship, openness, consultation, and negotiations, when we have had none from the President on his proposals, or reflected in either of the previously voted alternatives.

The purpose of this body is not to withhold its support from all but the perfect, for no bill is perfect. It is to decide what is better, even the best, if it leads to nothing, can become the enemy of the good.

To govern is to choose. That is our responsibility and the choice, I think, is clear: The Democratic alternative offers greater justice, greater equity, better opportunity, and a better future for all Americans than the recommendations of the President or the Republican alternative which has just been rejected. But the worst choice, the worst choice would be to do nothing, and I appeal to Members here to recognize that fact.

Rather we enact the Michel substitute than do nothing.

My concern is that there may be some in this body who seek to do nothing, not because they think it is best, but because they think it is the most opportune position to take. I hope that is not true. I call on all Members of the Congress now, let us vote for the Democratic alternative. Let us enact this and send it to the Senate. We will have another opportunity when it comes back to us for final judgment before going to the President. Perhaps if the President is willing, negotiation and discussion can take place before that final vote comes. While I am willing to listen to whatever recommendations he may have to offer, we need to act for the country's sake. We need to act for the sake of the economy, for jobs and opportunity for our people and, yes, for the reputation of the Congress. We need to act. Let us make the choice now.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 210, not voting 4, as follows:

[Roll No. 30]

AYES—221

Abercrombie	Collins (MI)	Gejdenson
Ackerman	Conyers	Gephardt
Alexander	Costello	Gibbons
Anderson	Cox (IL)	Glickman
Andrews (ME)	Coyne	Gonzalez
Andrews (TX)	Cramer	Gordon
Annunzio	Darden	Guarini
Anthony	DeFazio	Hall (OH)
Applegate	DeLauro	Harris
Aspin	Derrick	Hatcher
Atkins	Dicks	Hayes (IL)
AuCoin	Dingell	Hefner
Bacchus	Dixon	Hertel
Bennett	Donnelly	Hoagland
Berman	Dooley	Hochbrueckner
Bevill	Dorgan (ND)	Horn
Bilbray	Downey	Hoyer
Blackwell	Durbin	Hubbard
Bonior	Dymally	Huckaby
Borski	Eckart	Jacobs
Boucher	Edwards (CA)	Jefferson
Boxer	Edwards (TX)	Jenkins
Brewster	Engel	Johnson (SD)
Brooks	Erdreich	Johnston
Browder	Espy	Jones (GA)
Brown	Evans	Jones (NC)
Bruce	Fascell	Jontz
Bryant	Fazio	Kanjorski
Bustamante	Feighan	Kaptur
Byron	Flake	Kennedy
Campbell (CO)	Foglietta	Kennelly
Cardin	Foley	Kildee
Chapman	Ford (MI)	Kleczka
Clay	Ford (TN)	Kolter
Clement	Frank (MA)	Kopetski
Coleman (TX)	Frost	Kostmayer
Collins (IL)	Gaydos	LaFalce

Lantos	Olin	Slaughter
LaRocco	Olver	Smith (FL)
Laughlin	Ortiz	Smith (IA)
Lehman (FL)	Orton	Snowe
Levin (MI)	Owens (NY)	Solarz
Levine (CA)	Owens (UT)	Spratt
Lewis (GA)	Panetta	Staggers
Lipinski	Pastor	Stark
Lowey (NY)	Payne (NJ)	Stenholm
Luken	Payne (VA)	Stokes
Manton	Pease	Studds
Markey	Pelosi	Swift
Martinez	Penny	Synar
Matsui	Perkins	Tallon
Mavroules	Peterson (FL)	Tanner
Mazzoli	Pickle	Thornton
McCloskey	Poshard	Torres
McDermott	Price	Towns
McHugh	Rahall	Traxler
McNulty	Rangel	Unsoeld
Mfume	Reed	Valentine
Miller (CA)	Richardson	Vento
Mineta	Rose	Visclosky
Mink	Rostenkowski	Volkmer
Moakley	Roybal	Washington
Mollohan	Sanders	Waters
Moody	Sangmeister	Waxman
Moran	Savage	Weiss
Murphy	Sawyer	Wheat
Murtha	Scheuer	Williams
Nagle	Schumer	Wilson
Natcher	Serrano	Wise
Neal (MA)	Sharp	Wolpe
Neal (NC)	Sikorski	Wyden
Nowak	Sisisky	Yates
Oakar	Skaggs	Yatron
Oberstar	Slattery	

NOES—210

Allard	Gallo	McCandless
Allen	Gekas	McCollum
Andrews (NJ)	Geren	McCrery
Archer	Gilchrest	McCurdy
Armey	Gillmor	McDade
Baker	Gilman	McEwen
Ballenger	Gingrich	McGrath
Barnard	Goodling	McMillan (NC)
Barrett	Goss	McMillen (MD)
Barton	Gradison	Meyers
Bateman	Grandy	Michel
Bellenson	Green	Miller (OH)
Bentley	Gunderson	Miller (WA)
Bereuter	Hall (TX)	Molinari
Billirakis	Hamilton	Montgomery
Bliley	Hammerschmidt	Moorhead
Boehlert	Hancock	Morella
Boehner	Hansen	Morrison
Broomfield	Hastert	Mrazek
Bunning	Hayes (LA)	Myers
Burton	Hefley	Nichols
Callahan	Henry	Nussle
Camp	Herger	Obey
Campbell (CA)	Hobson	Oxley
Carper	Holloway	Packard
Carr	Hopkins	Pallone
Chandler	Horton	Parker
Clinger	Houghton	Patterson
Coble	Hughes	Paxon
Coleman (MO)	Hunter	Peterson (MN)
Combest	Hutto	Petri
Condit	Hyde	Pickett
Cooper	Inhofe	Porter
Coughlin	Ireland	Pursell
Cox (CA)	James	Quillen
Crane	Johnson (CT)	Ramstad
Cunningham	Johnson (TX)	Ravenel
Dannemeyer	Kasich	Regula
Davis	Klug	Rhodes
DeLay	Kolbe	Ridge
Dellums	Kyl	Riggs
Doolittle	Lagomarsino	Rinaldo
Dornan (CA)	Lancaster	Ritter
Dreier	Leach	Roberts
Duncan	Lehman (CA)	Roe
Dwyer	Lent	Roemer
Early	Lewis (CA)	Rogers
Edwards (OK)	Lewis (FL)	Rohrabacher
Emerson	Lightfoot	Ros-Lehtinen
English	Livingston	Roth
Ewing	Lloyd	Roukema
Fawell	Long	Rowland
Fields	Lowery (CA)	Russo
Fish	Machtley	Sabo
Franks (CT)	Marlenee	Santorum
Gallegly	Martin	Sarpalius
Saxton	Solomon	Traficant
Schaefer	Spence	Upton
Schiff	Stallings	Vander Jagt
Schroeder	Stearns	Vucanovich
Schulze	Stump	Walker
Sensenbrenner	Sundquist	Walsh
Shaw	Swett	Weber
Shays	Tauzin	Weldon
Shuster	Taylor (MS)	Wolf
Skeen	Taylor (NC)	Wylie
Skelton	Thomas (CA)	Young (AK)
Smith (NJ)	Thomas (GA)	Young (FL)
Smith (OR)	Thomas (WY)	Zeliff
Smith (TX)	Torricelli	Zimmer

NOT VOTING—4

de la Garza	Ray	Whitten
Dickinson		

□ 1454

The Clerk announced the following pair:

On this vote:

Mr. de la Garza for, with Mr. Ray against.

Mr. ENGLISH and Mr. HALL of Texas changed their vote from "aye" to "no."

Mrs. LOWEY of New York changed her vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. DERRICK, Chairman of the Committee on the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, pursuant to House Resolution 374, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ARCHER. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ARCHER moves to recommit the bill H.R. 4210 to the Committee on Ways and Means with the recommendation that it amend the bill in an open and bipartisan manner with a view to producing legislation the President can sign that will provide economic stimulus and job creation incentives without increasing taxes or the deficit.

POINT OF ORDER

Mr. ROSTENKOWSKI. Mr. Speaker, I have a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. ROSTENKOWSKI. Mr. Speaker, I make a point of order against the motion to recommit because it is a motion that is allowed neither under the rule, nor under the rules of the House.

Mr. ARCHER. Mr. Speaker, may I be heard on my motion before the Chair rules on the point of order made by the gentleman from Illinois [Mr. ROSTENKOWSKI]?

The SPEAKER. The gentleman from Texas [Mr. ARCHER] is recognized.

Mr. ARCHER. Mr. Speaker, under House Resolution 374, the rule providing for the consideration of H.R. 4210, one motion to recommit is allowed which may not contain instructions.

The motion to recommit which I have offered is in compliance with that proviso: I have offered a motion to recommit which does not contain instructions. It simply contains a recommendation that the Ways and Means Committee do certain things. The committee is under no mandate to do so as it would be if it were subject to instructions from the House.

And let me make very clear that there is a distinct difference between an instruction and a recommendation. According to Webster's New World Dictionary, an instruction is, and I quote, "a command or order," and in the plural, "details of procedure; directions."

A recommendation, on the other hand, is "the act * * * of calling attention to a person or thing as suited for some purpose; advice or counsel." In summary, Mr. Speaker, an instruction is a mandatory command, while a recommendation is a discretionary giving of advice.

Mr. Speaker, the Chair ruled yesterday that there is nothing in House rule 16, clause 4, that guarantees the right of the minority to offer instructions in a motion to recommit. Using that same logic, there is nothing in that clause which prohibits the minority from offering a recommendation in the motion to recommit.

It is true that House rule 17 does provide that pending the motion for the previous question or after it is ordered on the passage of a measure, it is in order for the Speaker, and I quote, "to entertain and submit a motion to commit, with or without instructions, to a standing or select committee." That rule clearly allows for only one of two types of motions to recommit: a straight motion and one with instructions.

However, we are not operating under rule 17 today since the rule does not allow for a previous question motion on the passage of this bill. Under the rule for this bill, House Resolution 374, the previous question is considered to have been automatically ordered. We are, therefore, clearly operating instead under House rule 16 which provides that, and I quote, "After the pre-

vious question shall have been ordered on a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution."

Nowhere in that rule is the Member confined to offering either a straight motion to recommit or one with instructions. It does provide that if a motion to recommit with instructions is offered, there shall be 10 minutes of debate on the motion. All that means is that such debate may not take place on a straight motion or on the motion to recommit with recommendation which I have offered.

Finally, I would emphasize, Mr. Speaker, that the motion to recommit under rule 16 was intentionally adopted in 1909, to provide the minority an opportunity to express its final position on a bill. While we are precluded by the rule from either amendatory or general instructions, this motion to recommit with recommendation is consistent with the original intent of the rule to give us a last chance to offer our position. I urge the Chair to allow this motion as the right of the minority.

□ 1500

The SPEAKER. Does the gentleman from Illinois [Mr. ROSTENKOWSKI] insist on his point of order?

Mr. ROSTENKOWSKI. Yes, I do, Mr. Speaker.

While the rule permits the Member to offer a motion to recommit, the rule specifically provides that the motion may not contain instructions. The pending motion to recommit contains recommendations, which are not permitted, and I ask the Chair to sustain the point of order.

The SPEAKER. Is there anything further the gentleman from Texas [Mr. ARCHER] wishes to add?

Mr. ARCHER. Mr Speaker, I simply wish to close by saying that I made the distinction between instructions and recommendations. The chairman of the committee is correct, that had it included instructions, it would have been out of order. It does not include instructions, and I again urge the Chair to overrule the point of order.

The SPEAKER. The gentleman from Illinois [Mr. ROSTENKOWSKI] makes a point of order against the motion to recommit H.R. 4210 offered by the gentleman from Texas [Mr. ARCHER] on the ground that it includes language recommending that the Committee on Ways and Means "amend the bill in an open and bipartisan manner with a view toward producing legislation the President can sign."

The motion to recommit a bill to a standing committee is addressed in specific and general terms in clause 4 of rule XVI and clause 1 of rule XVII. Both rules contemplate that the motion may in some circumstances include instructions. Clause 4 of rule XVI states that "with respect to any motion to recommit with instructions * * * it shall always be in order to debate such motion for 10 minutes * * *." Clause 1 of rule XVII states that pending the motion for the previous question the Speaker may entertain a motion to commit, "with or without instructions * * *."

Neither rule XVI nor rule XVII—nor any other rule of the House—recognizes a form of motion to recommit "with recommendation." Rule XVI and the precedents of the House do not admit motions other than those mentioned in and made in order by the rules of the House.

Moreover, the precedents hold that argument is not in order in a motion to recommit. On this point the Chair is guided by the ruling of Speaker Gillet on November 29, 1922, sustaining a point of order against a motion to recommit with instructions that included descriptive matter that might be construed as argumentative. That ruling is recorded in volume 8 of Cannon's precedents, at section 2749. Similarly, on June 3, 1882, Speaker Keifer held that a motion to recommit should not contain matter in the nature of debate, by preamble or otherwise. That rule is recorded in volume 5 of Hinds' precedents, at section 5589.

The cited precedents are consistent with the principle in clause 4 of rule XVI that the motion to recommit a bill or joint resolution after the previous question is ordered on final passage is rendered debatable only by the inclusion of instructions.

Finally the Chair would refer to the ruling of yesterday, February 26, 1992. The gentleman from New York [Mr. SOLOMON] made a point of order against House Resolution 374 on the ground that it violates clause 4(b) of rule XI, which provides that the Committee on Rules shall not report any rule or order of business that would prevent the motion to recommit from being made as provided in clause 4 of rule XVI. The Chair held that the Committee on Rules does not violate clause 4(b) of rule XI so long as it does not deprive the minority of the right to offer a simple motion to recommit. In making that ruling the Chair expressly stated that House Resolution 374 properly guaranteed a simple motion to recommit.

The motion to recommit offered by the gentleman from Texas [Mr. ARCHER] includes matter that might properly be construed as argument. As such, is not a proper motion and is held out of order.

The question is on the passage of the bill.

The question was taken; and the speaker announced that he was in doubt.

The SPEAKER. Those Members in favor of passage of the bill will rise.

The Chair will advise the Members that this is an affirmative vote on final passage of the bill.

Mr. ROSTENKOWSKI. Mr. Speaker, is it in order to ask for a rollcall vote at this point?

The SPEAKER. The gentleman is correct.

Mr. ROSTENKOWSKI. Mr. Speaker, I demand a rollcall vote.

The SPEAKER. The gentleman demands the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 221, nays 209, not voting 5, as follows:

[Roll No. 31]

YEAS—221

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Costello
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Rose
Rostenkowski
Roybal
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thornton
Torres
Towns
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Williams

Wilson	Wolpe	Yates
Wise	Wyden	Yatron

NAYS—209

Allard	Hammerschmidt	Peterson (MN)
Allen	Hancock	Petri
Andrews (NJ)	Hansen	Pickett
Archer	Hastert	Porter
Armey	Hayes (LA)	Pursell
Baker	Hefley	Quillen
Ballenger	Henry	Ramstad
Barnard	Herger	Ravenel
Barrett	Hobson	Regula
Barton	Holloway	Rhodes
Bateman	Hopkins	Ridge
Bellenson	Horton	Riggs
Bereuter	Houghton	Rinaldo
Billrakis	Hughes	Ritter
Bliley	Hunter	Roberts
Boehlert	Hutto	Roe
Boehner	Hyde	Roemer
Broomfield	Inhofe	Rogers
Bunning	Ireland	Rohrabacher
Burton	James	Ros-Lehtinen
Callahan	Johnson (CT)	Roth
Camp	Johnson (TX)	Roukema
Campbell (CA)	Kasich	Rowland
Carper	Klug	Russo
Carr	Kolbe	Sabo
Chandler	Kyl	Santorum
Clinger	Lagomarsino	Sarpalius
Coble	Lancaster	Saxton
Coleman (MO)	Leach	Schaefer
Combest	Lehman (CA)	Schiff
Condit	Lent	Schroeder
Cooper	Lewis (CA)	Schulze
Coughlin	Lewis (FL)	Sensenbrenner
Cox (CA)	Lightfoot	Shaw
Crane	Livingston	Shays
Cunningham	Lloyd	Shuster
Dannemeyer	Long	Skeen
Davis	Lowery (CA)	Skelton
DeLay	Machtley	Smith (NJ)
Dellums	Marlenee	Smith (OR)
Doolittle	Martin	Smith (TX)
Dornan (CA)	McCandless	Solomon
Dreier	McCollum	Spence
Duncan	McCrery	Stallings
Dwyer	McCurdy	Stearns
Early	McDade	Stump
Edwards (OK)	McEwen	Sundquist
Emerson	McGrath	Swett
English	McMillan (NC)	Tauzin
Ewing	McMillen (MD)	Taylor (MS)
Fawell	Meyers	Taylor (NC)
Fields	Michel	Thomas (CA)
Fish	Miller (OH)	Thomas (GA)
Franks (CT)	Miller (WA)	Thomas (WY)
Gallegly	Molinari	Torricelli
Gallo	Montgomery	Traficant
Gekas	Moorhead	Upton
Geren	Morella	Vander Jagt
Gilchrest	Morrison	Vucanovich
Gillmor	Mrazek	Walker
Gilman	Myers	Walsh
Gingrich	Nichols	Weber
Goodling	Nussle	Weldon
Goss	Obey	Wolf
Gradison	Oxley	Wylie
Grandy	Packard	Young (AK)
Green	Pallone	Young (FL)
Gunderson	Parker	Zeliff
Hall (TX)	Patterson	Zimmer
Hamilton	Paxon	

NOT VOTING—5

Bentley	Dickinson	Whitten
de la Garza	Ray	

□ 1533

The Clerk announced the following pair:

On this vote:

Mr. de la Garza for, with Mr. Dickinson against.

Mr. SKELTON changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 194

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Resolution 194.

The SPEAKER. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1662

Mr. ORTON. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 1662, the National Advertising Coordination Act of 1991.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. ORTON. Mr. Speaker, last summer, I cosponsored H.R. 1662, the National Advertising Coordination Act of 1991 because I believed consumers would be less confused by a consistent set of regulations to be applied to food labeling and advertising. Traditionally, the Federal Trade Commission has been more lenient in its regulation of food advertising than has the Food and Drug Administration in its regulation of food labeling. With greater and greater dependence on advertising for information, consumers must not be deceived or defrauded.

I still hold true to this belief. However, after the release of the proposed regulations to the Nutrition Labeling Enforcement Act of 1990 [NLEA], I am withdrawing my support for H.R. 1662. As I have indicated in the following official comment to the Food and Drug Administration, I believe the proposed regulations for NLEA need to be changed in order to reflect a more reasonable standard for the review of minerals, herbs, and vitamins. Until a more reasonable standard is proposed by the FDA, I will withhold my support for H.R. 1662.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 25, 1992.

To Whom It May Concern:

On September 12, 1991, I cosponsored H.R. 1662, the Nutrition Advertising Coordination Act of 1991. I chose to cosponsor this legislation in order to protect consumers against deceptive advertising claims that cost citizens millions of dollars each year.

On November 27, 1991, the Food and Drug Administration (FDA) issued its proposed regulations to implement the Nutrition Labeling and Education Act of 1990 (NLEA). After reviewing these regulations, I am still dedicated to the goal of protecting consumers against fraud and deception but I am also wary of governmental overprotection and the subsequent loss of freedom for the consumer.

The heart of my concern is exemplified by pages 60537–60548 of the Federal Register which details the scientific standards to be applied to dietary supplements. While I welcome consistent and reasonable standards for the review of products, I am afraid that this represents a consistently unreasonable standard.

Using what is essentially a scientific consensus standard is too strict for vitamins, minerals, and herbs. The base of scientific knowledge on the health benefits of vitamins and herbs is changing rapidly due to tremendous strides in biomedical research. The accessibility and cost of these products are likely to be adversely affected by unreasonably restrictive review standards. I, for one, would much rather see the FDA budget used to facilitate the advance of useful products rather than to bring progress to a halt with unnecessary red tape.

I urge you to reconsider the proposed scientific standard applied to dietary supplements. I am willing to provide you with any needed assistance and look forward to hearing from you in the future.

Sincerely,

WILLIAM H. ORTON,
Member of Congress.

HAITIAN REFUGEE PROTECTION ACT OF 1992

The SPEAKER. Pursuant to House Resolution 375 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3844.

□ 1535

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3844) to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, February 26, 1992, 34 minutes remained in general debate.

The gentleman from Texas [Mr. BROOKS] has 16 minutes remaining in general debate and the gentleman from Florida [Mr. McCollum] has 18 minutes remaining in general debate.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I thank the gentleman for yielding me this time. When our country took action unilaterally to weaken our sanctions against the military government, the illegitimate government now in control in Haiti, and when we began to send back the people who fled that country, I think we sent a message that really does not reflect what most Americans believe our foreign policy should be about.

I do not think any of us have constituencies that welcome additional immigrants, legal or illegal, frankly, at this point in our history, during a recession. Certainly Americans, however, have to think back to the 1930's when Jews were fleeing Europe, and we were in a depression. It was so easy then for us to say "We simply have no

room. We cannot help." But we have to learn from history.

We now look back on the Holocaust and understand the prices the entire world paid, but certainly those Jews and their families paid, because of the callousness or the disinterest of people who did not know better; who were not led to understand by people like us.

We are elected to lead. We are elected to provide moral leadership, and I believe this bill is a step in the direction of providing that. I am hopeful that all Members will join in supporting the effort, this humane effort, at preventing a minor holocaust at least and perhaps worst from occurring in Haiti.

Mr. Chairman, I rise in support of H.R. 3844, the Haitian Refugee Protection Act, a bill that will enable us to provide a temporary safe haven for the Haitian refugees already being held in our custody.

When last September's coup shook the island of Haiti, its democratically elected government was overthrown, its President was forced into exile, and the military took over. Over 1,500 Haitians were killed. As a result, over 13,000 Haitians have fled their country, fearing for their lives. Most of them escaped in small boats and headed for neighboring countries. Those who have attempted to find refuge here in America have been intercepted by the Coast Guard and taken to our naval base at Guantanamo Bay, Cuba. Over 3,500 of these people have been forced to return to Haiti.

Those forced to return to Haiti, where the military now rules with an iron hand, are singled out, fingerprinted and photographed upon arrival. Supporters of democracy and exiled President Aristede face torture, and even death. Our State Department claims to have no knowledge of these dangers, but how do they know? Our Ambassador to Haiti has left the dangers of Haiti behind him; he is safe, here in Washington, DC. Minimal staff remains in Haiti, and the American population still residing in Haiti, on which the State Department depends for its information, numbers only 50.

This reminds me of a similar incident during the late 1930's, before we entered World War II. The *St. Louis*, a ship of Jewish refugees fleeing the Nazi reign of terror in Germany, was not allowed to dock in Cuba. Its passengers were ultimately shipped back to the countries of Western Europe. Then, as now, the immigrants' plight received an outpouring of sentiment from the American people. And then, as now, there was no stance on their behalf; we did nothing but pressure countries on the brink of war to accept these unfortunate travelers.

I agree that we cannot afford to open our doors to all the poor people of every nation who want to enter the United States in order to better their lives. But H.R. 3844 is not an open-door policy for thousands of Haitian immigrants waiting to set sail for America. This bill affects a very small group of people and is only temporary. All it does is prevent us—for 6 months only—from returning those Haitian immigrants who were already in our custody on February 5. It will also require the administration to report on the fate of all the Haitians we send back, and it will deny admission to the United States to any Haitian who supported the overthrow of their democracy.

When we started sending Haitian refugees back to Haiti, we sent a message acknowledging and supporting the authority of the military thugs in power. Now it is time to send another message, and H.R. 3844 does this. This bill affirms that we Americans are true to our principles and tradition—that we advocate and support fairness, justice, and basic human rights.

I urge my colleagues on both sides of the aisle to support final passage of H.R. 3844, a statement of our humanitarian commitment as Americans to the plight of our Haitian neighbors.

Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. FISH], the ranking member of our full committee.

Mr. FISH. Mr. Chairman, I rise in support of H.R. 3844, the Haitian Protection Act of 1992.

We are all painfully aware of the series of events which has led this body to consider the bill before us today. First, in December 1990 we watched anxiously as the first free and democratic election in the history of Haiti resulted in the election of Jean-Bertrand Aristide. Less than a year after the elections—September 30 of last year—anti-Aristide forces violently removed Aristide from office. Since the coup, more than 15,000 Haitians have fled in hopes of reaching the United States.

The State Department maintains that no evidence has been found to confirm the allegations that repatriated Haitians are singled out for persecution. On the other hand, the Haitian Refugee Center, Amnesty International, Americas Watch and other groups assert that significant numbers of returnees are being harassed, injured or killed by anti-Aristide forces. Whether you support the position of the State Department, the position of the refugee and human rights groups or some position in between, it is clear that the political and economic climate of Haiti remains volatile and unstable.

I have asked myself if I, in good conscience, can be responsible for sending over 10,000 people back to such an environment. My answer is no.

The U.S. Embassy in Port-au-Prince is attempting to investigate all allegations of repression of returnees but the relatively small number of staff available makes quick, yet thorough determinations difficult. It is likely that people are sent back before there is assurance that it is safe to do so.

The recent agreement between Aristide and key Haitian legislators is encouraging but does not, itself, provide calm and stability in Haiti. The 6-month suspension in repatriations provided for in H.R. 3844 will allow time for the possible stabilization of the political climate and for a thorough investigation of claims of persecution. What can we possibly lose by waiting 6 months?

We have provided more extensive protection to numerous other nationals with unstable political situations: Poles, Salvadorans, Libyans, Liberians, Kuwaitis. The minimal protection provided in H.R. 3844 is not too much to ask for the Haitians.

I urge my colleagues to join me in supporting H.R. 3844.

□ 1540

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Chairman, this is a bill not only to provide protection to Haitian refugees, but to eliminate one of the most glaring hypocrisies in American foreign and immigration policy.

For much of the last decade, we have been beating up on the British in order to prevent them from forcibly repatriating to Vietnam Vietnamese boat people who have washed up on the shores of Hong Kong, while, at the same time, we are forcibly returning Haitian boat people coming to our country back to Haiti.

Is Haiti any less repressive than Vietnam?

I am glad the administration opposes involuntary repatriation for Hong Kong to Vietnam, but Haiti is, if anything, more repressive than Vietnam. Fifteen hundred Haitians have been killed since the coup. In Vietnam they throw you into a reeducation camp, but at least they do not kill you.

In terms of our immigration policy, any Cuban who comes to the United States fleeing Castro's tyranny is virtually guaranteed citizenship in America, whereas the Haitians attempting to escape the tyranny in their country are not even permitted to stay temporarily, until democracy can be restored. So to eliminate hypocrisy in American foreign and immigration policy and to restore decency to our policy, I urge adoption of this legislation.

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. ALLEN].

Mr. ALLEN. Mr. Chairman, ladies and gentlemen of the House, we all share the concern about the people in Haiti and elsewhere in the world to have freedom and to exercise a free economic system.

There are unquestionably Haitians who meet the statutory definition of a refugee, and no one is suggesting those people ought to be returned to Haiti. However, there are many, many Haitians who are being picked up at sea who are leaving simply for economic reasons. They have, the vast majority of them, the intent to come here for economic reasons.

The fact of the matter is the evidence is fairly clear for anyone who wants to look at the reality of the situation. They are not political refugees but economic refugees. The Haitians have the

ability to go over an open border with the Dominican Republic, and if they so desired and were so worried about political persecutions, they could go there.

One hundred Haitians went to Venezuela feeling that might be a bypass into the United States. When they found out it was not a bypass, 73 of them went back to Haiti. There were other countries in the Caribbean where Haitians went to thinking they could get into the United States. When they found that that door was closed, they went back to Haiti.

One hundred fifty-people who have been repatriated have been interviewed by the U.S. Embassy. They found no substantiating evidence that there is any persecution; rather, there were contradictions in some of these reports.

The fact of the matter is we need to be fair to the millions of people from other nations who seek to immigrate to the United States for economic reasons or other reasons, and we should not have a special precedent being set here for Haitians who should be allowed to come into the United States under the framework of our immigration laws and policies. As much as we all feel for the Haitians and hope they have a good government, a sound, free government being reinstated in Haiti, we cannot be a nanny for the rest of the world.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. BERMAN], a distinguished member of the Committee on the Judiciary.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I thank the chairman of the subcommittee and the chairman of the full committee for reporting this bill out. I would like to respond to the previous speaker. They speak, the opponents of this bill speak, of economic refugees, of circumventing immigration laws, and letting people in line. This bill does not let people into this country. That is a bad argument. That is misinforming the House about what this measure does.

When you talk about economic refugees and people coming for other kinds of reasons, you have to square what you are saying about the wretched Haitian refugees leaving this country seized by a coup with a history of violence and oppression like hardly any other country in the world.

When a Pole came to this country during the height of the Communist control of Poland, no one asked that Pole whether he was an economic refugee or what would happen to him when he got back there. We never would have thought of sending a Polish emigre or a tourist who had overstayed his visa back to Poland, or from the Soviet Union, the same thing, from Vietnam, the same thing. No Nicaraguans were ever deported back to Nicaragua.

We are not talking about people in the United States. We are talking a 6-month stay of deportation from Guantanamo back to their country in an environment where there is absolutely no effective monitoring about what happens to these people.

Our foreign mission in Iraq could not find out whether they were building a nuclear arsenal. Does anyone think that we are going to be able to monitor, from our little Embassy in Haiti, what is happening to these people when they are sent back, with the Ton-Ton Macoutes and the other enforcers of oppression running around? This is a moral issue.

Compare it with what we have done with these other countries, and vote for this limited, excellent piece of legislation.

Mr. MCCOLLUM. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I wanted to respond to comments that have just been made by several speakers that imply a double standard that I do not think is well understood. We talk about countries like Cuba, for example, and in a situation like that, where the Soviet Union with some of the other peculiar circumstances around the world, this Nation has determined, because the evidence is there, to assume that everybody who gets away from those countries in those situations is a person who is eligible for asylum here and meets the political persecution, the fear-of-political-persecution standard. That is because, in the case of Cuba, for example, everybody who is returned back there gets persecuted, gets put in jail, something happens to them. We know that. So we do not have to distinguish.

In the case of Haiti, that is not true. We have a long history of people leaving Haiti and being repatriated, and we do not have a long history of the governments of Haiti locking them up, including this one, or oppressing them.

Our State Department has investigated since the return began, since Aristide left, and 159 separate cases, and they continue to investigate them, cases in many instances where various organizations have claimed there has been persecution, and in every one of the 159, they have got documented, and I have the documentation over here, where they have gone and checked out. There was no persecution involved in that situation.

So where we have had situations like in Haiti, we have been very, very distinct, and common, and ordinary in our practice and treated everybody the same. We have made the laws work of the Refugee Act, and that is what is so important, make the laws and the Refugee Act that are on our books today equal and fair and work where possible, which is 90 percent of the time, and send back those people to the countries they came from who are economic refugees and only keep those who are reasonably in fear of persecution. That is only going to work.

Otherwise, everybody will come over here who has an economic claim from every country where there is some war or disturbance. Take Yugoslavia, for example, we are not taking everybody from Yugoslavia.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, 30 seconds, this is impossible to talk about a human-rights issue.

The bill should not be on the floor, because events are moving so quickly. Father Aristide—and what is a priest doing running for office—still he is working out things. We should have waited a couple of weeks.

However, having said that and understanding that there are men of conscience on both sides, I must go with not setting a precedent that dovetails with forcibly repatriating Hmong tribespeople across the Laotian border, and the hapless, forgotten Vietnamese boatpeople in Hong Kong.

I have a letter that I circulated on October 3. I was only able to get three great Democrats on it, the gentleman from Texas [Mr. STENHOLM], the gentleman from New York [Mr. ENGEL], a great human-rights guy, and the gentleman from Georgia [Mr. JONES]. The next time I circulate a letter to stop the forcible repatriation of people from Hong Kong for a bloody $1,000-a-head back to Communist Vietnam, which I think is worse than Haiti, I want to see all of you great human-rights people on my letter, and for that reason I will vote with you, and then we will solve the Hong Kong problem.

God bless you.

□ 1550

Mr. MCCOLLUM. Mr. Chairman, for purposes of debate only I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise in very reluctant opposition to H.R. 3844, the Haitian Refugee Protection Act.

I have been to Haiti, Mr. Chairman. I have seen with my own eyes the effects of decades of gross economic mismanagement and political repression. I have seen with my own eyes the hunger, the disease, and the desperate poverty that is the daily lot of most of Haiti's people. And I watched with profound dismay when Haiti's fragile democracy was crushed by a military machine bent on violence and retribution.

I am gravely concerned about the welfare of Haiti's poor and of those Haitians who have left behind their homes and families to seek refuge in the United States. It is for this reason that I must oppose H.R. 3844.

Many of those who embark upon the uncertain voyage across the ocean have sold their land, their possessions, indeed their life savings, for a passage to the United States. Selling the promise of asylum in America has probably become big business in Haiti, leaving the desperate many at the mercy of the unscrupulous few. Yet we know that most of these refugees will never reach American soil and will instead find themselves back in Haiti, stripped of the resources they need to survive. Any incentive to attempt this fruitless journey is, in my mind, only a come-on to Haiti's poor to give away their meager assets for nothing. Haitians hearing news of this bill may fail to recognize that the moratorium applies only to refugees under United States supervision by February 5. The idea that gets across is more likely to be that repatriations will be suspended, period. H.R. 3844, then, would provide cruel encouragement for more Haitians to leave their villages believing in the empty promise of safe haven in the United States.

I further oppose this bill as it fails to authorize any funds to provide for Haitian refugees over the 6 months of the proposed moratorium.

At best, H.R. 3844 sends a clouded and confusing message to the people of Haiti. At worst, it may compound the humanitarian crisis threatening the future of Haiti's people. I urge you to join me in voting against this bill.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from New York [Mr. SCHUMER], the chairman of a great subcommittee.

Mr. SCHUMER. Mr. Chairman, I appreciate the gentleman yielding me this time. I urge support for this legislation.

Let me say first, Mr. Chairman, that 55 years ago there was a boat named the St. Louis off the shores of Cuba, ironically. There were hundreds of people on that boat. They asked for the same thing that these people are asking for today, not a handout, not a green card, not citizenship, just a place to stay while the trouble in their homeland subsided. They were sent home, many to their deaths, and America should not repeat that sad story.

The bill that has been crafted by the distinguished subcommittee chairman is a very narrow bill. It does not apply to anyone who flees from Haiti to Cuba after a date that is in the past already. It does not allow those who have been there any rights in the United States. All it does is say simply let them stay there until the clouds in Haiti abate.

Is that too much to ask for a Nation that has the Statue of Liberty at its entering harbor? Is that too much to ask when America is known as the beacon of freedom and people around the world look up to us? I argue not, and I argue for support of this bill.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, I must oppose H.R. 3844, the Haitian Refugee Protection Act. This legislation is misnamed, mistimed, and misguided.

First, Haitian refugees are already protected by current immigration law and by the actions of the U.S. Government. Congress has established guidelines for determining refugees—guidelines that are in accord with the accepted international standard: A genuine refugee must have a "well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."

This standard—written into U.S. law by Congress—is individual. After prescreening, more than 5,000 Haitians have been allowed to pursue their individual claims of asylum. Haitians with credible claims of refugee status are already receiving the full protection due them under U.S. law.

Second, we are considering this legislation just as major progress toward a political solution to the Haitian crisis has been achieved. Under the leadership of the Organization of American States, with strong support from the United States, the democratically-elected President and parliamentary leaders reached agreement this weekend on a path to resolve Haiti's political future.

While it is not clear whether this agreement will in fact reverse the illegal coup, it is clear that diplomatic efforts are working. This body should not undermine those efforts by passing legislation which is likely to encourage many more Haitians to leave. In the words of President Aristide: "Haitians must try to stay in Haiti in order to continue nonviolent resistance."

Third, this legislation is misguided because it is not based on facts. No one doubts that there is politically motivated repression in Haiti. That is why thousands of Haitians have been allowed into the United States to pursue asylum claims.

But no one has produced any credible evidence that Haitians who did not have a credible claim for refugee status and were repatriated to Haiti have been persecuted for leaving. Not only does the State Department have no evidence of reprisals against repatriates, no one else does either. Not one human rights or refugee group has produced evidence of persecution of Haitian returnees. The alleged problem this legislation addresses simply does not exist.

For all these reasons, I oppose H.R. 3844 and urge my colleagues to vote against it.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the chairman for yielding me this time.

I rise reluctantly to oppose my articulate friend, the gentleman from Florida [Mr. MCCOLLUM], a member of the Republican leadership, but let me say to my colleagues, if we adopt the reasoning behind the McCollum position, then we are adopting Britain's policy with respect to the boat people and we are going to see that policy thrown in our face when they attempt to get President Bush to acquiesce on forcible repatriation of boat people. If we do not go with the bill, and it is a good bill, we are going to be absolutely sucking the moral force out of President Bush's strong opposition to forced repatriation.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I rise in strong support of H.R. 3844, the measure to suspend the forced return of Haitian refugees for a 6-month period.

After visiting Haiti with a delegation of my colleagues last week, I am convinced that there is an atmosphere of intimidation which jeopardizes the safety of returning Haitians.

While our delegation was in Haiti, we had candid discussions with human rights groups that confirmed our worst fears—that reprisals are taking place against Haitians who oppose the Government installed by force in the September 30th military coup which removed Haiti's democratically elected leader, President Jean-Bertrand Aristide.

The State Department and the administration have shirked their responsibility to determine the truth about what is taking place in Haiti.

They prefer to look the other way as violations of human rights are reported by groups including Amnesty International and Americas Watch.

The United States has come to the aid of nations struggling for democracy around the globe. We have welcomed hundreds of thousands of refugees from Eastern Europe, from the Soviet Union, from Asia, and from Cuba.

Why is the administration now slamming the door in the faces of Haitian refugees, who are passionately struggling to restore democracy to their country?

The United States and Haiti have had a long-term relationship. During World War II, Haiti offered to assist the United States in the war effort. They responded positively to President Roosevelt's request that they convert their agricultural economy to the production of trees and plants that produce latex.

Clearing mahogany trees and other plants indigenous to their nation, the Haitians sacrificed their own rich soil to try to accommodate the needs of the United States.

Earlier this week, I held an open forum in my congressional district, and

members of the Haitian community came forward to express their concern about the fate of their loved ones caught up in the political upheaval in their homeland.

How can I explain to Haitians living in my community that our Government simply applies a different standard to the Haitian people than to all other refugees?

Mr. Chairman, today Congress has an opportunity to send the administration a message: We do not accept this "double standard" which imposes suffering on the people of Haiti and hurts the cause of democracy. I urge my colleagues to support this legislation and reassert our Nation's moral leadership by standing up for democracy in Haiti.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. FASCELL], the distinguished chairman of the Committee on Foreign Affairs.

□ 1600

Mr. FASCELL. Mr. Chairman, I rise in strong support of H.R. 3844, the Haitian Refugee Protection Act. I would like to commend our colleagues Mr. MAZZOLI, chairman of the Subcommittee on International Law, Immigration and Refugees, and Mr. BROOKS, chairman of the Judiciary Committee, for their expeditious action in reporting this legislation which attempts to address the tragic human consequences of last September's coup in Haiti which deprived the hapless Haitian people of their first-ever democratically elected government.

Just days after the coup and the forced exile of Haiti's democratically elected government, I came before the House to introduce a sense of the House resolution expressing support for democracy in Haiti. The resolution, which was passed unanimously by this House on October 2, 1991, called on the President to make United States support for democracy in Haiti clear and to suspend our economic and military assistance until democratic government is restored. It also called on the Organization of American States to take all appropriate action to restore democratic government and urged the Haitian military to respect the human rights of the Haitian people.

Mr. Chairman, as a result of the continuing efforts of the Organization of American States to reach a peaceful resolution to the Haiti crisis, a conference was held in Washington last weekend between President Aristide, Prime Minister-designate Theodore and leaders of Haiti's Parliament. This meeting produced a Protocol which outlines a method for resolving the current crisis. If this Protocol can be fully implemented, it will help resolve the situation which gave rise to the bill before us. But, as promising as the new agreement is, it will be some time before we can be certain it will be implemented. We still need this legislation to relieve the current situation and to establish a humane framework for United States policy toward Haitian refugees either in the event the Protocol fails to end the crisis or during the indefinite period it will take for the Protocol to be fully implemented.

In the 5 months since the coup, the Haitian people have suffered tremendously and continue to suffer. Thousands have sought refuge from increasing economic hardship and the continuing repression and violation of human rights by the Haitian military by taking to the sea in small, often unseaworthy boats in an attempt to reach the United States.

As of Tuesday, February 25, 1992, 15,826 Haitians have been picked up in such boats by the Coast Guard; 5,213 have been found by the Immigration and Naturalization Service to have a sufficient fear of persecution should they be returned that they have been given permission to enter the United States to pursue their claims for political asylum. Most others have been, or are scheduled to be, sent back to Haiti.

From the beginning, Mr. Chairman, I have urged the administration to treat these people fairly and humanely. While we must insist that those seeking entry to the United States do so legally, we must also insist that our laws be applied fairly and humanely to Haitians as well as to any other nationality seeking entry to the United States. There can be no discrimination, or appearance of discrimination, in the way we apply our laws. We must also make every effort consistent with our obligations under international law and in accordance with our country's long tradition of respect for human rights to determine whether an individual is fleeing from a well-founded fear of persecution for his religious, or political or other beliefs. As I noted, however, the INS has determined that is the case for some Haitians. But, I also note that many Haitians, like those thousands who have been leaving Haiti for years, are leaving for economic reasons. While we can certainly understand their desire and hope to better their lives and those of their children, the United States, despite our enormous generosity, simply cannot take all these people.

Moreover, Mr. Chairman, it has been established that of those Haitians who have been permitted to enter the United States to pursue their claims to political asylum, over 80 percent have chosen to reside in south Florida. The people of south Florida have traditionally welcomed waves of new arrivals; south Florida, as a result, is one of the most culturally diverse and dynamic parts of our country. Our generosity of spirit remains large; just last week I met with scores of representatives of church groups, voluntary agencies, and community groups whose hearts went out to the Haitians and whose energies and considerable abilities are again pledged to helping their follow men and women. But each asked me how are we to pay for all the services these people need and deserve. Mr. Chairman, I had no answer, because the Federal Government has not lived up to its responsibilities in providing funds, which have been authorized and appropriated, to local communities like Dade County which have been financially burdened by the results of our Federal immigration policies. Just to cite the example of Dade County schools—as of January 30, 1992, 26 percent of the elementary and secondary school population were born outside the United States. Haitians already form the third largest group of foreign born students. For each foreign born refugee student, Dade County incurs $588 in additional unreimbursed annual costs. The immediate cost of taking care of foreign born students is thus estimated to be $136 million; the long range cost is estimated to be $665 million. These are costs the county cannot afford and Dade taxpayers should not have to bear.

From the beginning, Mr. Chairman, I have argued that the solutions to Haiti's problems are to be found in Haiti, not in the United States. We must restore democracy there. That is why I supported the embargo, although I knew it would do serious harm to the Haitian economy and exacerbate the flow of people seeking to flee. That is why I urged President Bush to call on the United Nations or the Organization of American States to send a peacekeeping force to Haiti to help bring about the stability necessary for democracy to be restored. That is why I have urged the administration and the military regime in Port-Au-Prince to support the Protocol reached this past weekend in Washington which calls on the Haitian Parliament to concur in the dispatch to Haiti of a civilian observer group from the OAS.

Unfortunately, the process of restoring democracy to Haiti may yet require considerable time. The embargo has not proven an effective tool to convince the Haitian elites which have supported the coup and the continuing military repression. This bill attempts to send a message to these supporters of military rule and repression by denying them admission to the United States. We need also to look closely at their assets in the United States and whether it would be feasible to freeze them. The bill also addresses the human dimensions of the tragedy by suspending for 6 months the repatriation of Haitians who fled their country in the hopes the situation will be stabilized but also in order to allow us to know more about the human rights situation in Haiti and to be sure that those being returned are not subject to reprisals of any kind.

59-059 O—96 Vol. 138 (Pt. 3) 29

Much has been made of the lack of credible information about reprisals. But no one can assert with absolute certainty that there are no reprisals. The bill requires the State Department to report to Congress on the status of those who have been returned and, in so doing, to consult with those international human rights organizations which have been telling us that abuses have taken place. In addition, the bill provides for the admission of 2,000 refugees from Haiti each year. While this is a departure from past practice to leave specific allocation of numbers to a more informal consultative process between the Congress and the administration, I believe we are justified in mandating this to an administration which has been reluctant to grant refugee status, and the concomitant Federal financial benefits, the Haitians.

Mr. Chairman, I recognize that the bill before us does not solve the longer term problems of Haiti. That will require, in the first instance, a restoration of Haitian democracy, and over the longer term a firm commitment by the United States and other countries both in the hemisphere and beyond, to the economic development of Haiti. With democracy restored and the prospects of a brighter economic future, I believe the hard working and industrious people of Haiti will prefer to live and work in their own country rather than risk the perilous and illegal journey to the United States which so many have felt forced to undertake in recent months. I urge the adoption of this bill.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Chicago, IL, Mr. GUS SAVAGE.

Mr. SAVAGE. Mr. Chairman, I rise in support of this legislation and to commend Chairman BROOKS for proposing to keep the Haitian refugees from being forcibly returned to Haiti. I only wish that we would go further and not only keep them at Guantanamo Bay but treat them the same as the Cubans and as we have treated others and let them come to the United States.

There are international organizations, including Americas Watch, which have verified they are subject to persecution upon their return to Haiti. We accept others.

The only distinction I can see here is one of race. Our immigration policy in this country has been filled with racism in the past. At least this is one step forward. For that reason I support the legislation and commend the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this resolution. The principle we should operate on is that no helpless human being should be sent back to a tyranny, to a dictatorship. That is an issue of freedom versus tyranny. It goes to the soul of our country.

We are not saying we have to bring every refugee into the United States, but when it is possible, as we have, an alternative to keep them someplace else rather than sending them back to repression and to death and torture, we should go the extra mile to see if we can help these refugees. That speaks a lot to the soul of America.

That is why I am supporting this resolution.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to a distinguished member of the Committee on the Judiciary, the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. I thank the gentleman from Texas for yielding this time to me.

Mr. Chairman, I just want to ask one question: If there were 10,000 sheep that had gotten out of a pen and they belonged to a shepherd and a wolf had them, and the question was whether if the wolf let them go and they went back to the shepherd, would the shepherd kill them or run them off? Well, the smart shepherd would wait until he had all 10,000 of them back or kill the first boatload that came back?

The question these gentlemen are asking about the repatriation—whether or not violence is going to be exacted upon them—I think is premature. Sure, the smart people in Haiti want to do something about it. They are going to wait until they get all them all back, and then they are going to kill them. Then you are going to be the ones to have the blood on your hands.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to a distinguished Member from New York a long-time former member of the Committee on the Judiciary, now a member on the Committee on Ways and Means, and really the author, the instigator, the motivator, and the prime mover and shaker in this Haitian bill. I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. I thank my distinguished chairman for yielding this time to me, as well as my friend from Kentucky, for the leadership they provided on this bill.

I do hope that my friend from Florida [Mr. MCCOLLUM] might find some time so that we can have an exchange. This should not be a Republican or a Democratic issue. Certainly, when you talk about the different treatment that we have for Cubans, you would have to agree with me that this was a political decision that if they came from a Communist country we have to show our concern there. But if you take a look, and I have had a chance to go over the communication that the State Department has given you—take my word for it, I have been to Haiti, I have talked with the people from the State Department, I have talked with the people from our Embassy—when these poor wretched souls are finally dumped on the beaches of Haiti, they are greeted not just by the Red Cross people but they are greeted by soldiers. They are greeted by having their fingerprints taken, they are greeted by having their pictures taken.

We were able to hear, right in our Embassy, stories of the atrocities that have been committed on these people. It just seems to me that, as Americans, we could feel proud of ourselves if we were not trying to discuss some constitutional question, because I agree with the gentleman from Florida and I agree with the President that it should be we as Americans who determine who comes into our country and who does not come into our country.

But, for God's sake, there must be something on a higher level when people go out to sea in shark-infested waters, fleeing the terrors of an army that we ourselves have condemned.

The reason they are fleeing is because they believe in the principle that it was the United States of America that went there and taught them.

So, if we are talking about the new world order, if we are talking about providing democratic leadership in this hemisphere, why not send a message around the world that we are not going to send these people back to the terror from which they are trying to escape?

It would seem to me that this is something that should be nonpartisan. We are not asking you to take them into your home. We are not asking you to take them into your State. All we are saying is that you allow them to remain on a military base, which is tantamount to a concentration camp surrounded by barbed wire. If that is going to get you into political trouble, you should not be in this House.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Iowa [Mr. NAGLE].

Mr. NAGLE. Mr. Chairman, in the 30 seconds that I have all I can do is ask to revise and extend my remarks, but I would tell you that the failure of the administration to act on this occasion, even to someone sitting in the Middle West, not near an island and certainly not where they are going to land, is one of the most outrageous incidents of U.S. foreign policy being driven by domestic politics that I have ever seen.

As an American, I would be tempted to accuse the administration almost of racism for their policies here, but I will simply say that it is misguided, that the resolution should be adopted. If that Statue of Liberty is to mean anything, it should point to the south in our own hemisphere as well as to point toward Europe.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman and colleagues, for one brief, shining moment, the flame of democracy burned brightly in Haiti in December 1990. Seven months later, it was extinguished by repression. For the first time in the history of Haiti, the country had a freely elected president, whose tenure, last September, was crushed by the forces of Duvalierism and Macoute-ism.

The Haitian people seeking asylum in the United States do not flee a Communist country; they do flee repression in their own land.

I will speak about that later.

Maybe they are guilty of economic refugeeism, but it is a flight from destitution and desperation. They do not ask to stay, but they do want to go home in dignity. This bill will let them do so.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentlewoman from California [Ms. PELOSI].

□ 1610

Ms. PELOSI. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS] very much for yielding this time to me. I commend the chairman for his actions in bringing this legislation to the floor.

Mr. Chairman, it is an honor to participate with the gentleman from New York [Mr. RANGEL] and the gentleman from Kentucky [Mr. MAZZOLI] on this legislation that is as fundamental to us as the principles on which our country was founded.

As my colleagues know, the provisions of this bill are very modest. Frankly, it is a very modest response to what is happening. It is clear the Haitians are fleeing the political chaos in their country, and are being discriminated against and being treated worse then others in similar situations.

My time is limited, so, Mr. Chairman, I urge my colleagues to vote "aye" on this important legislation.

Mr. Chairman, I rise today in strong support of H.R. 3844, the Haitian Refugee Protection Act. This bill would delay for 6 months the forced repatriation of Haitian refugees in United States custody as of February 5. The bill also directs the State Department to report on the fate of repatriated Haitians and calls on the President and international organizations to convene a conference on the Haitian refugee crisis.

The administration's callous act in repatriating these Haitian refugees is a travesty of justice and the very principles for which this Nation stands. Our European forefathers first came here over 300 years ago to escape persecution and tyranny. Over the past 200 years, since the United States was established, we have opened our doors and served as a haven for people whose homelands have been experiencing political and civil turmoil. In this century alone, we have granted special consideration to refugees from a number of countries, including Cuba, Poland, Uganda, Afghanistan, Chile, Argentina and most recently, El Salvador, Liberia, Kuwait, and Lebanon.

It is clear that the Haitians fleeing the political chaos in their country are being discriminated against and treated far, far worse than others in similar situations. Unlike the Haitians, Cubans picked up by the United States Coast Guard in the same kind of boats in the very same waters are brought to the United States and, at the discretion of the Attorney General, are eligible for permanent resident status after 1 year. The Haitians are repatriated. There are reports of Coast Guard cutters picking up both Cubans and Haitians in the same trip and taking the Cubans to Miami, while taking the Haitians to Port-au-Prince. This is wrong and this is immoral.

The administration claims that the Haitians are fleeing Haiti for economic reasons, not out of fear of persecution. The administration cites interviews with Haitians they intend to repatriate, as well as stories about the calm manner in which the Haitians are being greeted upon repatriation. They also claim that they are not seeing evidence of retaliation.

For decades, the Haitian people lived under one of the most repressive regimes in the world. Their society was pervaded by the Tontons Macoutes, who rules first through violence, and then through silent intimidation based on the fear of their capacity for violence. For a short period of time under President Aristide, the Haitians got a respite from dictatorship. Now, after the military coup, there is evidence that the Tontons Macoutes are on the rise again. They are stalking the cities, they are stalking the countryside, and they are present and watching at the repatriation locations. Even the Haitian Red Cross, a supposed independent nongovernmental organization has been denied affiliation with the International Committee for the Red Cross, because it is currently subordinate to the illegal regime ruling Haiti.

We are so fortunate with our freedom in this country that it is difficult to understand a world where silence or acquiescence in the face of a threatening presence, either governmental or endorsed by the Government, may be the only route for survival. The Haitian people took a real risk by electing President Aristide. Now, many of them will pay for that risk. And, the United States is responding to their democratic yearnings by returning them to a world of uncertainty and potential persecution and retaliation.

We, who have been fighting for democracy around the world, who entered a war in the Persian Gulf to help liberate a country not even struggling for democracy, must do better than this. Until the efforts to restore the legitimately elected Haitian Government are successfully completed, we should not repatriate Haitian refugees who are fleeing persecution and retaliation.

Until we act positively, lives continue to be at stake. The repatriation is on-going. I commend our colleague, Chairman MAZZOLI, for bringing this bill promptly to the floor and urge my colleagues to support H.R. 3844.

I also urge them to support the Conyers amendment, which would grant temporary protective status [TPS] to Haitians. The Mazzoli bill is good, but because of the need to compromise in committee, it does not go far enough. We have granted TPS to others faced with armed conflict and persecution in their homelands. The Haitian people are no less valuable and no less endangered. The Conyers amendment would protect them by allowing them to stay in the United States until the President certifies to Congress that a democratically elected government has been restored to Haiti.

I urge my colleagues to vote yes today for these initiatives which are firmly in the American tradition of providing a refuge for those whose dreams are for the democratic freedoms we too often take for granted.

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, the Haitian Refugee Protection Act does not address two main problems.

The first is: What will happen to the Haitian refugees if democracy is not restored in 6 months, 1 year, 2 years, 3 years?

I recently had 26 town meetings, and overwhelmingly the people I talked to are very concerned.

The fear that many Floridians have expressed to me is that this change in immigration policy will create additional waves of Haitians coming into Florida. I think we all understand this concern. If the Federal Government's policy encourages more Haitians to flee their homeland, who should be financially responsible for their support?

The base at Guantanamo Bay can only hold so many people, and the facilities there are nearing capacity. It's simply not humane to crowd the refugees on a black-tar airstrip in the heat of the summer.

The citizens of Florida, indeed in all of the States, are humanitarian by nature. No one wants to see human suffering because of religious or political persecution.

But, there are other steps that can be taken. The United States should encourage the United Nations and the Organization of American States to take a more active role in ensuring that the Haitians being repatriated are safe while both organizations work toward the restoration of democracy in Haiti. Again, as has been mentioned before, we have already taken in 35 percent of those that have left Haiti already since the revolution.

Two alternatives will be offered as amendments by my Florida colleagues, Congressman CLAY SHAW, and Congressman PORTER GOSS.

These amendments ensure that if Congress requires States like Florida to take in more refugees then Congress should also find a way to help State and local governments pay the associated costs of these refugees.

The State of Florida still has $150 million in unreimbursed costs associated with resettling Mariel Cubans. That was more than 10 years ago.

We should not let that happen again.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished chair-

man of the Subcommittee on International Law, Immigration, and Refugees, the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS] for yielding this time to me. Very briefly I would like to thank the gentleman from Texas for allowing us to bring this bill up.

I would like to very much thank my subcommittee. I could not have worked with greater people in getting us where we are today.

I would just remind the committee in the House what the bill does not do. It does not admit any people into the country who are not eligible to enter as refugees having passed the asylum screening process. It does not provide any immigration benefits or any kind of refugee benefits to any group of people. It is time limited. It is not open ended. This only is, very simply, a nonreturn policy. It simply says there are people who ought not to be returned today to Haiti. That is all this bill does.

Mr. MCCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I thank the gentleman from Florida [Mr. MCCOLLUM] for yielding this time to me.

Mr. Chairman, when one opposes a bill such as this, he is oftentimes accused of being uncaring and insensitive. I stand to oppose it, and I am neither uncaring, nor insensitive. It was debated in the Committee on the Judiciary, and there were many instances where shortcomings and flawed features of this bill were pointed out, and in the same breath it was said, "We're going to pass it, but we're not going to establish precedent."

I said then, and I say now, "I don't see how we can afford to avoid establishing precedent."

Perhaps we do not do so intentionally or willingly, but I think, with the passage of this proposal, we are unwittingly establishing precedent, Mr. Chairman, that we well may not be able to accommodate or afford.

Mr. MCCOLLUM. Mr. Chairman, I yield the remaining 2½ minutes to close debate on this side.

Mr. Chairman, there have been a lot of debate points made out here today, but I think that the most significant thing is an overview of this situation and for us to remember that.

First of all, we have been having the Haitian situation regarding the boat people for a long time. It is not new to the Aristide era. We have had Haitians leaving that island, and coming to the United States and trying to get here throughout the 1980's, and sometimes in large numbers. It has been our consistent policy of our Government to return and repatriate those that are truly economic refugees, and that has been, by far and away, the larger number from that island, as it has been from most of the Caribbean when they try to get here.

We have not changed the policies of this government one iota with respect to the situation of Haiti. We have not changed the policies of our Government with respect to any other part of the world because the Refugee Act and the asylum laws of this Nation are what guide us, and it is very important for us to maintain those. Those laws say that the only people we will take in here, other than through the normal, legal immigration process, whereby we do take in a lot of Haitians every year, the only way we will make an exception to that under our laws is if somebody is in reasonable fear of persecution for political, or religious, or race, or other reasons if they are returned to their homeland.

In the case of the Haitians since Aristide's departure, the unfortunate ouster of that democratic government, we have been screening on the island of Guantanamo the several thousand, the some 16,000, that have been picked up from Haiti by the Coast Guard cutters. Our Government has screened in 35 percent of those and given them the opportunity to have full legal claim to asylum to prove their case that they do fear persecution. There was the belief going overboard on the part of our Government that those 35 percent have a plausible possible claim. The others are being repatriated because, if they were not, we would be creating a magnet in this instance, and I think that is very, very wrong.

There is a big difference between the Cuban and Haitian situation. The Cubans consistently persecute those who are sent back. We have known that for years. That is why we never sent anyone back there. In the case of Haiti the record is clear. Persecutions have not historically existed, and they do not now. The Government has investigated over 159 cases since the Aristide overthrow occurred. Of those we repatriated, in every single case there has been no persecution shown despite reports that are out there. Every case investigated shows no persecution of those returned.

Let us keep and abide by the laws of this Nation. There are not similar cases to go with, except the history of Haiti. We need to have the U.S. immigration laws apply here, the refugee laws apply, and let us vote down this bill instead of encouraging more to come at a loss of life to them, a breach of the policies of this Government, and encouragement of thousands, yea millions, of those that are economic unfortunates who try to come here, and we just cannot absorb them all.

Mr. BROOKS. Mr. Chairman, I yield our remaining time to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

The CHAIRMAN. The gentleman from Missouri is recognized for 3½ minutes.

Mr. GEPHARDT. Mr. Chairman, I rise in strong support of this proposal to protect Haitian refugees from a forced return to their homeland where they face violence and persecution. This is not simply a matter of economic deprivation; it is a case of political persecution and a cause for action.

Supporters of this legislation do not dispute the fact that Haiti is economically depressed. Its economy is a catastrophe.

But President Aristide was not forced from office in a leveraged buyout or a bankruptcy.

His democratically elected government was ousted in a violent coup perpetrated by individuals who crave the days of dictatorship, and who repress Haitians committed to democracy with killings, beatings, arrests, surveillance, and intimidation.

His supporters are subject to arrest and murder for activities as commonplace as possessing campaign literature, teaching people to read, or even voting for the toppled President.

It is this pattern of outrageous behavior that is driving the Haitian people to refuge on the high seas and into the arms of U.S. personnel who have been ordered by our Government to send them home.

Haitian refugees being forcibly repatriated face harassment and subjugation upon their return. Refugees are greeted, as one critic has noted, with flashbulbs and fingerprints, not the kind of welcome one would expect for individuals fleeing economic deprivation.

And so, we are asking for a temporary halt in repatriation. We are asking that the Haitians be treated in the same way we treated the Kuwaitis and the Salvadorans when political persecution threatened those refugees in equally desperate hours. We are asking for a color-blind concept of political sanctuary that honors Haitians for their humanity, rather than singling them out because they are black.

It is a small effort. But it isn't too much to do, and it isn't too much to ask for people who yearn to breathe freely in their own country but cannot do so at this time of deep uncertainty for them and for Haiti.

□ 1620

Mr. Chairman, all of us pray that this country will be restored to democracy. It is not too much to ask America to give this short time for Haiti to be restored, for these people to be saved, and for the time to come when they can return to their country as a democracy. Let us vote for this legislation.

Mr. STOKES. I rise today in strong support of H.R. 3844, the Haitian Refugee Protection Act. This bill addresses the tragic plight of the Haitian refugees who are fleeing their home-

land in fear of their lives. I commend the gentleman from Kentucky [Mr. MAZZOLI] for introducing this important legislation. I also commend my colleagues in the Congressional Black Caucus, Mr. RANGEL and Mr. CONYERS, who have played an important role in bringing this issue to the attention of Congress.

Mr. Chairman, in December 1990, we witnessed a milestone in history as the Haitian people, for the first time in 200 years, went to the polls in massive numbers to elect a president, a legislature, and municipal and local officials. Unfortunately, shortly thereafter a military coup ousted this democratically elected government. Immediately following the coup, hundreds of people were killed in the streets and countless human rights abuses were inflicted upon the Haitian people by the ruthless military forces.

The United States Embassy in Haiti acknowledged this dangerous situation citing "credible reports of indiscriminate killings, police harassment, illegal searches and looting of private homes and of radio stations, arrests without warrants, and detention of persons without charges and mistreatment of persons in the custody of Haiti's de facto authorities."

Mr. Chairman, since the military's brutal takeover, several thousand Haitians have fled their homeland for asylum in the United States. They have been intercepted by the Coast Guard and are now being detained in camps at Guantanamo Bay. The treatment of the Haitian refugees by the administration has been less than compassionate and stands in stark contrast to our recent reception of 2,000 Cubans who have been given at least temporary safe haven.

The events that have taken place in Haiti since last September constitute an extraordinary threat to the lives of any refugees forced to go back. Certainly those Haitians who fled the country as a result of the military coup will be targeted by the de facto government upon their return to Haiti. It is unconscionable that the administration would adopt a policy that would send these individuals back to a situation where their lives are in danger. No Haitian should be forcibly returned to Haiti until the democratically elected government has been restored and the safety of the refugees assured.

It is for these reasons that I support H.R. 3844. This bill would suspend for 6 months the forced repatriation of Haitian refugees in United States custody as of February 5. It also directs the President to set aside 2,000 refugee admission slots for Haitians in fiscal year 1992. Moreover, the bill requires the administration to report to Congress on the fate of refugees who were intercepted by United States personnel and returned to Haiti. Mr. Chairman, I support this moratorium because it is the right thing to do—it is the moral thing to do.

These asylum-seekers are entitled to be treated with dignity, compassion, and respect. The United States has a long and distinguished history of protecting those fleeing political persecution. Certainly we can provide at least temporary safe haven to our Haitian neighbors. Such action would be consistent with the humanitarian traditions of our great country. Justice requires that the administration's hasty repatriation program be halted. I urge my colleagues to support this measure.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in strong support of H.R. 3844, the Haitian Refugee Protection Act.

I am deeply saddened that we have found it necessary to stop the administration's forced repatriation of Haitian refugees through legislation. I had hoped that our President's alleged kinder and gentler personality would make one of its all too infrequent appearances during this tragic episode, but it was not to be. Apparently the administration does not believe the political situation in Haiti is serious enough to warrant declaring these men and women, and even innocent children, political refugees.

Never mind that the democratically elected President of Haiti Jean-Bertrand Aristide was overthrown by a military coup. Never mind that every Haitian citizen risks intimidation and takes his or her life in his hands when they go to the ballot box to exercise their right to vote. And never mind that incidents of atrocities have been documented by reliable international sources such as Amnesty International. The administration policy leaves one thinking why anyone would want to leave this Caribbean paradise.

The hypocrisy in this decision is glaringly evident. In the early 1980's, we opened our borders to hundreds of thousands of Cuban refugees fleeing the dictatorship of Fidel Castro. And it was not long ago that the administration was criticizing the British Government in Hong Kong for returning Vietnamese refugees to their homeland against their will. Yet when a few thousand Haitian refugees desire to enter the United States, the administration closes the door and turns out the light. H.R. 3844 will bar the repatriation of those refugees held by the United States on or before February 5 of this year.

Mr. Chairman, it is morally wrong to send these men and women back to Haiti to face a fate which we cannot effectively monitor. The administration has already recognized Haiti's political crisis by going along with OAS economic sanctions. Now we must go one step further by giving these political refugees asylum here in the United States. Shouldn't men and women of all nations fleeing political tyranny be given the same treatment by our country. Apparently, under current policy some refugees are more desirable than others. Apparently, some suffering is more desirable for our country to absorb than other suffering.

Mr. Chairman, I urge my colleagues to support H.R. 3844 and help end this most unfortunate tragedy.

Mr. WEISS. Mr. Chairman, I am in strong support of H.R. 3844, the Haitian Refugee Protection Act.

I would like to begin by recognizing my colleagues, Messrs. RANGEL and MAZZOLI, for the unyielding commitment and dedication that has given us the opportunity to act on a bill that offers thousands of Haitian refugees protection from the brutal repression that plagues the island of Haiti. But it is a sad day when Congress has to come to the floor to prevent an American President from returning innocent victims back to a country ruled through violence and repression. Unfortunately, the Bush administration has left Congress with no choice but to act on this legislation.

The tragic lesson of the St. Louis that carried European Jews back into the waiting arms of Hitler's Germany has obviously been lost on the President. And now, like those innocent Jews, millions of Haitians have been forced to pay the ultimate human price for another United States mistake.

Contrary to his opinion, the President's weak attempt at political asylum for a few, does not relinquish our greater responsibility for the many. It does not cleanse our conscience nor remove our involvement in the failure of this new democratic experiment. It buys nothing, and instead creates a dire humanitarian crisis in a political environment that, unlike Guantanamo Bay, the United States has little influence.

But H.R. 3844 can save the lives of thousands who face imminent danger if returned to Haiti. It would be a great step toward salvaging an already poor attempt at humanitarian assistance. And it can give us firm moral ground by which to tackle the larger problems of restoring democracy to Haiti.

The bill would require a prohibition on forced repatriation. It would allow 2,000 refugees to seek political asylum, and it would ban those responsible for the coup from seeking haven here in the United States. The bill would also require that Congress receive a full report on the welfare of repatriated Haitians and call upon the President to organize an international conference on the Haitian refugee issue.

Mr. Chairman, what we do here today cannot make up for the lives of those who have been returned into the hands of the Junta. It does not result in a jump in political polls, and it may not bode well with some voters. But it does allow the Congress to reverse a policy that is disingenuous and morally bankrupt. It does give us the chance to protect those who need protection whether they're economic or political refugees.

W.E.B. DuBois, the notable African-American scholar, once said that the first step in responsibility is responsibility. If we are to answer the call of the "New World Order," underwrite democracy around the world, and ensure that oppression will not stand in this hemisphere or any other, then we should begin by taking the responsibility to protect the very people Haitian oppressors mean to target.

Approve H.R. 3844 and approve a policy that is urgently needed. I would urge my colleagues to support this bill.

Mr. MINETA. Mr. Chairman, I rise today in strong support of H.R. 3844, the Haitian Refugee Protection Act.

I would also like to take this opportunity to thank the gentleman from Kentucky [Mr. MAZZOLI] as well as the gentleman from New York [Mr. RANGEL], for their leadership as this crisis has continued.

Mr. Chairman, ever since last September's military coup which ousted President Jean-Bertrand Aristide, thousands of refugees have left the island and have been intercepted by the U.S. Coast Guard. Currently, more than 7,400 are being held at the U.S. Naval Base at Guantanamo, Cuba.

Over 6,000 Haitians have already been repatriated to Haiti, and Amnesty International and Americas Watch have documented the persecution they potentially face.

Amnesty International has reported that, on November 15 of last year, a group of young

men were arrested and severely beaten by authorities who suspected they were preparing to flee the country. They were forced to reveal the names of others who were preparing to leave.

In all, 40 young men were detained and no word of their whereabouts has been received.

Mr. Chairman, there can be no doubt that the threat of political persecution and human rights abuses in Haiti is real.

There is a clear principle of international law—which we are bound legally and morally to obey—that states that no refugee should be forced to return to his home country if he faces death or a loss of freedom.

I believe that standard has been met in this case, and for that reason I will vote for H.R. 3844. We can give no less consideration to refugees from Haiti than we give to refugees from any other nation.

I urge my colleagues to support the bill.

Mr. LEWIS of Georgia. Mr. Chairman, I rise to urge my colleagues to support H.R. 3844. We, in the Congress, must halt the force return of the Haitian refugees. We have a moral obligation to do so. The administration and the courts have made a mockery of the Nation's commitment to freedom. It is up to this Congress to extend freedom to those who cannot have it in their own country. We cannot allow ourselves to continue to mock the principles for which we stand.

After visiting Haiti last week, it was clear to me that the rule of law does not exist there. The police and the army do not protect people; they intimidate the people. Many elected officials and supporters of President Aristide told the delegation I traveled with that they live in constant fear.

We cannot and will not be satisfied until the legitimate government is restored to Haiti. We must continue to work with the OAS to reach that goal. Until then, we must stop the forced return of Haitian refugees. It is my feeling from the people we spoke with in Haiti—including elected officials, representatives of relief agencies, and church officials—that the refugees are not simple economic refugees. They have become refugees because of political oppression. There is a climate of fear, of political repression in Haiti. These refugees have sold everything they have, risked their lives to travel across shark-infested waters in flimsy boats, and have sought asylum upon our shores. We must not turn them away.

We must do what we can to help these innocent people. This bill is the humane thing to do. This bill is the right thing to do.

Mr. Chairman, I again urge my colleagues to support H.R. 3844.

Mr. SMITH of New Jersey. Mr. Chairman, I rise in support of H.R. 3844, the Haitian Refugee Protection Act of 1992, and I urge the Members of this House to enact it into law in the compromise form reported by the Judiciary Committee.

Since the brutal military coup that overthrew the legitimate, elected government of Haitian President Aristide, the situation in Haiti has taken on alarming proportions.

The steady improvement in the human rights situation that we witnessed during the short period of democratic government ceased. Hundreds of lives were lost in the coup and its immediate aftermath, and even now, 5 months after the military assumed control, there are alarming reports of continued executions, arrests, imprisonment, and retribution.

The military coup also aborted any prospects for the kind of economic development that could lift Haiti from its desperate poverty.

We are called to pass the legislation because of a particular impact of the coup for the United States—an alarming increase in the number of Haitians who have fled their country, hoping to come to the United States. We have all watched the drama on our television screens—the scenes of overcrowded boats loaded with men, women, and children—their rescue from hazardous seas by the resolute seafarers of the U.S. Coast Guard—their incarceration in overcrowded conditions at Guantanamo Bay—and yes, Mr. Speaker, the involuntary repatriation of many of them to the control of the same brutal regime they had fled.

This drama has presented the administration and now, this House, with some substantial dilemmas.

Our laws have long recognized a valid distinction between refugees and economic migrants. What should our Nation do when political persecution and disorder combine with the worst poverty in the Western Hemisphere to prompt such an exodus?

Can we be confident that returnees suffer no retribution when an understaffed U.S. Embassy and a barely organized human rights network cannot undertake an active program of followups?

How can we provide for the safety of those who have fled conditions in Haiti without providing an incentive for even more to flee?

There may be no perfect answer to these dilemmas. But I commend the work of the subcommittee in placing before this House a compromise bill which deserves our support.

H.R. 3844 would halt the repatriation of the Haitians who were in United States custody as of February 5. This measure would end the return of the Haitians at Guantanamo into the hands of the military government. It would not end repression in that country, but it would stay the return of those Haitians who have already given evidence of their opposition to the coup by fleeing.

The bill would provide 2,000 refugee slots for Haitians, allowing the United States Embassy to allow that many Haitians to leave in an orderly and safe manner. This will allow many Haitians to reach the safe haven of our country within the framework of our existing immigration and refugee policy.

Admitting these individuals who qualify under refugee criteria would complement the process of legal immigration by those who have qualified under the normal family unification provisions of our immigration law—a process that has allowed more than 140,000 Haitians to immigrate to the United States in the last 10 years. This reflects the basic humanity and generosity of our immigration policy.

These measures Mr. Speaker, are a reasonable response to the crisis of the refugees while the administration, working with the OAS, continues its efforts to restore the democratic president of Haiti. An agreement involving President Aristide, a National Assembly vote free of military coercion, a new Prime Minister, an amnesty, and an OAS civil peace force is a step forward toward resolution of the crisis. Hopefully, when President Aristide is restored in office, the provisions of this bill will be rendered moot.

I know, however, that this bill does not satisfy all the appeals that we in Congress have received.

On one hand, the provisions to grant temporary protected status to all the Haitians who have left or will leave their country were deleted during consideration in subcommittee.

I understand that many dismiss the fears of a "magnet effect" as thinly disguised prejudice. It would be impossible, they say, for many Haitians to attempt a voyage to the United States. To these objections, I say—look at a map.

The distance from Haiti to Florida is just a little shorter than the distance between Vietnam and Hong Kong. Vietnam and Haiti are both poor. Yet in 15 years, between 850,000 and 900,000 Vietnamese left that nation by boat, and the United States granted admission to almost 600,000 Vietnamese refugees. The widespread lack of support for TPS in this House is not based on prejudice, but a justifiable caution.

On the other side of the spectrum, there are some who oppose this bill from a fear that Haitian refugees will require a disproportionate amount of welfare support in a society that cannot now afford generosity.

To them I answer that only those who indeed have a well-founded fear of persecution will be entering the United States. The bill does not provide for the admission of the many Haitians at Guantanamo Bay who have not been screened by the asylum examiners of the Immigration and Naturalization Service. Those who do not qualify for asylum or refugee status will remain temporarily outside the United States.

Mr. Chairman, in this world of harsh dilemmas and uncertainties, where malign realities assault the best of ideals, there is no perfect response to this situation. But I believe H.R. 3844 in its current form is both humanitarian and prudent. I urge it be passed.

Mr. COX of Illinois. Mr. Chairman, today I rise in support of H.R. 3844, the Haitian Refugee Protection Act. The bill will temporarily halt the repatriation of Haitian refugees fleeing from political violence.

We watched in horror last fall as the first democratically elected government in Haiti was toppled by a military-led coup. The free nations of the world cried out for an immediate restoration of the duly elected leader of this country, Jean-Bertrand Aristide. Congress spoke out with the passage of House Resolution 235, which denounced the coup and called for a return of the democratic government of Aristide. Unfortunately, that democracy, which survived for less than a year, has yet to be restored.

What upsets me the most is the fact that our President seems to be sending the wrong signals to the people of Haiti and to the world. I was disappointed and confused by the administration's proposals to weaken economic sanctions against the illegitimate government of Haiti. The administration, which has rightly spoken out so strongly against this government, seems by their actions to be legitimizing

this government. First, by proposing the weakening of sanctions, in spite of the Organization of American States and second, by opposing this bill, the Haitian Refugee Protection Act, when political crimes have been cited by such groups as Amnesty International and American Watch.

Over the last months we have watched the battle between the President and the courts over returning thousands of Haitian refugees who are fleeing the terror of a government that gains its legitimacy through brute force. Hundreds, perhaps thousands, have been killed and tortured because of their outspoken support of the democratically elected Aristide. Unfortunately, the Supreme Court of this land saw fit to overrule a lower court ruling, blocking the administration's forced return of Haitian refugees until a Federal appeals court decides the pending legal question.

In the meantime, we continue to return those fleeing from the terror to a brutal military regime providing them with names and addresses,—names and addresses which make political dissenters easier to locate and punish. There are stories of U.S. Coast Guard ships conducting the screening process on board their boats, sending Cuban refugees to Miami without question and sending the Haitian refugees back to Port-au-Prince. This is not what the United States of America has stood for over 200 years, nor should it be what we will stand for today.

H.R. 3844 will temporarily halt the repatriation of Haitian refugees in United States custody since February 5. The bill requires the administration to report on the situation of those refugees returned to Haiti within 6 months of the enactment of the legislation, which is the length of the temporary halt on repatriations. In short, this bill will reestablish our Nation's decency in accepting political refugees fleeing for their lives. This bill is right, it is humane, and it is urgently needed.

We have spoken out against nations throughout the world for their failure to accept political refugees and yet, today, in our own backyard, we fail to practice our own high standards. Let us begin to live up to the high ideals we have lived up to for over 200 years by passing this legislation and sending a message to the illegitimate government of Haiti and to the world.

Mr. LAGOMARSINO. Mr. Chairman. I rise to oppose H.R. 3844, the Haitian Refugee Protection Act. I am convinced that existing laws and policies provide adequate protection to genuine Haitian refugees.

I agree that many Haitians face political persecution in the wake of the illegal September 30, 1991, coup. As the ranking Republican member of the Foreign Affairs Committee's Subcommittee on Western Hemisphere Affairs, I have heard eloquent testimony on the terrible repression since President Aristide was overthrown in a military coup. The State Department's own human rights report discusses these violations in detail. But that is not the issue before us today.

The question today is whether Haitians who do not have a credible claim to refugee status and have been repatriated to Haiti face reprisals. And the answer to that question, according to all evidence, is "No."

Some have criticized the State Department's repatriate monitoring system. I do not believe that is a fair criticism. The consular section of the Embassy in Haiti was increased to its full staff earlier this month. Embassy staff travel throughout Haiti, talking to relief workers, Haitians, and Americans.

The Embassy has personally examined many cases, including those involving the so-called "double-backers," Haitians who were repatriated in November and fled again claiming persecution. Their stories have not checked out.

I urge my colleagues to consider one fundamental fact: Just as the State Department has no evidence of reprisals against repatriates, neither do any of the human rights or refugee advocacy groups. Yet we do not criticize the positions taken by many of these groups despite their lack of evidence.

The facts show that many of the Haitians are more concerned with getting to the United States than they are with staying out of Haiti. Many of the Haitians who were relocated in other Latin American countries—including Venezuela and Honduras—chose to return to Haiti, at least in part because they were in third countries rather than in the United States. Furthermore, very few Haitians have crossed the porous land border with the Dominican Republic—an obvious and available path of escape for those genuinely afraid for their lives.

Mr. Chairman, we all feel sympathy for Haitians fleeing the terrible economic conditions in the poorest country in the hemisphere. But we cannot and should not make refugee policy based on allegations that do not have a basis in fact. I urge my colleagues to oppose H.R. 3844.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3844

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Haitian Refugee Protection Act of 1992".

SEC. 2. PROTECTION OF HAITIANS IN UNITED STATES CUSTODY.

The President shall provide that no Haitian in the custody or control of the United States as of February 5, 1992, whether on board United States Government vessels, at Guantanamo Bay, Cuba, or elsewhere, outside the United States will be involuntarily returned to Haiti until—

(1) 180 days after the date of the enactment of this Act, or

(2) 5 days after the date of submission of the final report under section 3(c).

whichever occurs later.

SEC. 3. DEPARTMENT OF STATE STUDY AND REPORT.

(a) STUDY OF HAITIANS RETURNED TO HAITI.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs, in conjunction with the United States Coordinator for Refugee Affairs, shall conduct a study concerning Haitians who were interdicted or rescued by United States Government vessels after September 29, 1991, and were returned to Haiti and concerning Haitians who were deported from the United States after such date. Such study shall assess their condition and circumstances in Haiti after their return, with particular attention to any violations of fundamental human rights.

(b) PARTICIPATION OF HUMAN RIGHTS ORGANIZATIONS.—In conducting such study the Assistant Secretary of State for Human Rights and Humanitarian Affairs shall use the resources, information, and expertise of internationally-recognized human rights organizations and such other sources as may be appropriate.

(c) CONGRESSIONAL REPORTS.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs shall prepare and submit to the Speaker of the House of Representatives and the President of the Senate a detailed preliminary report of the findings of the study under subsection (a) not later than 90 days after the date of the enactment of this Act, and a final report not later than 180 days after the date of the enactment of this Act.

(d) CONGRESSIONAL INQUIRIES.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs shall respond not later than 7 working days after receipt of a written request of a Member of Congress for information concerning the study or reports under this section.

SEC. 4. REALLOCATION OF 2,000 FEDERALLY FUNDED REFUGEE ADMISSIONS DURING FISCAL YEAR 1992 TO HAITI.

(a) IN GENERAL.—The President shall change the allocation of refugee admissions for fiscal year 1992 provided in Presidential Determination 92-2 (pursuant to section 207(a)(3) of the Immigration and Nationality Act) so as to provide for an allocation of at least 2,000 Federally funded refugee admissions to Haitian refugees of special humanitarian concern.

(b) USE OF CURRENT FEDERALLY FUNDED REFUGEE ADMISSIONS.—In changing the allocation of refugee admissions during fiscal year 1992 pursuant to subsection (a)—

((1) the total number of such refugee admissions shall remain the same;

(2) the 1,000 refugee admissions allocated to the category "Unallocated (funded)" shall be reallocated to refugees described in subsection (a); and

(3) the remainder of the refugee admissions reallocated under subsection (a) shall come from such other category (or categories) as the President specifies.

SEC. 5. CONGRESSIONAL STATEMENT.

The Congress urges the President and the Secretary of State to participate actively with the United Nations High Commissioner for Refugees and the governments of the member countries of the Organization of American States (OAS) in the convening of an international conference on Haitian refugees and displaced persons which seeks to adopt a comprehensive program of action to solve the Haitian refugee crisis in all its aspects, taking into account the concerns of all interested parties and the rights and welfare of Haitian refugees and displaced persons.

SEC. 6. CERTAIN HAITIANS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION.

(a) EXCLUSION.—During the period specified in subsection (c), an alien designated under subsection (b) shall be ineligible to receive any visa and shall be excluded from admission into the United States.

(b) DESIGNATED ALIEN.—An alien designated under this subsection is any alien who—

(1) is a national of Haiti, and

(2)(A) provided financial or other material support for, or directly assisted, the military coup of September 30, 1991, which over-threw the democratically-elected Haitian Government of President Jean-Bertrand Aristide; or

(B) provided financial or other material support for, or directly participated in, terrorist acts against the Haitian people after that coup.

(c) PERIOD OF EXCLUSION.—The period of exclusion specified in this subsection begins on the date of the enactment of this Act and ends on the date on which the President certifies to the Congress that democratically elected government has been restored in Haiti consistent with the Haitian Constitution.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those amendments printed in House Report 102–436. Said amendments shall be considered in the order and manner specified in the report, shall be considered as read, shall be debatable for 20 minutes, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

It is now in order to consider amendment No. 1 printed in House Report 102–436.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CONYERS:

Strike section 2.

At the end insert the following:

SEC. . TEMPORARY PROTECTED STATUS FOR HAITIANS.

(a) DESIGNATION.—During the period specified in subsection (c) of this section, Haiti is hereby designated under section 244(b)(1) of the Immigration and Nationality Act (relating to temporary protected status).

(b) ELIGIBLE HAITIANS.—Any alien—

(1) who is a national of Haiti who is present in the United States, or who is in the custody or control of the United States (including on United States Government vessels, at Guantanamo Bay, Cuba, or elsewhere outside the United States) at any time during the period described in subsection (c) of this section.

(2) who meets the requirements of section 244A(c)(1)(A)(iii) of the Immigration and Nationality Act, and

(3) who, during the period described in subsection (c) of this section, registers for temporary protected status to the extent and in a manner which the Attorney General establishes,

shall be granted temporary protected status for the duration of that period and section 244(a)(1) of the Immigration and Nationality Act shall apply with respect to such alien.

(c) PERIOD OF DESIGNATION.—The designation pursuant to subsection (a) shall be in effect during the period beginning on the date of enactment of this Act and ending on the date on which the President certifies to the Congress that democratically elected government has been restored in Haiti consistent with the Haitian Constitution. Subsections (b)(2) and (b)(3) of section 244A of the Immigration and Nationality Act do not apply with respect to the designation pursuant to subsection (a) of this section.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 10 minutes in support of his amendment, and a Member opposed will be recognized for 10 minutes.

Mr. MAZZOLI. Mr. Chairman, with the greatest of respect, I rise in opposition to the gentleman's amendment.

The CHAIRMAN. The gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 10 minutes in opposition.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the amendment that I am offering is a simple, straightforward provision that follows from the remarks of the majority leader. I have the only provision that will be heard today on this bill that grants temporary protected status to Haitians fleeing violence and persecution in Haiti until such time as a democratic government is restored.

Why is the amendment needed? It is needed because there is an emergency. Haitians are dying on the seas, and they are being murdered and tortured in their country simply for supporting democracy. Haitians are willing to risk the sharks at sea rather than face their military at home. That should tell us what we need to know about the bravery and the desperation of Haitian refugees.

I ask for the support of the Members for this amendment because the bill before us without this provision is so limited, and I say this with all due respect to my colleagues on the Judiciary Committee, that it is a hollow mockery of its stated goal to protect Haitians. The reason is that, because this bill applies only to Haitians who left Haiti before Feburary 5, 1992, it will apply ultimately to practically no one. Last night Chairman BROOKS said there were about 3,000 refugees covered, but as we speak, Haitians are being forcibly returned to Haiti. We should treat them no differently than the way we treat other refugees.

Many of the Members of this body voted as I did to grant the same identical temporary status to Salvadorans in 1980. We should do no less for the Haitians and remember that never before in history have we turned refugees back to an illegitimate government.

Mr. Chairman, I urge support for this amendment.

Mr. MAZZOLI. Mr. Speaker, I yield myself 3 minutes.

Mr. Chairman, let me first of all pay tribute to my friend, the gentleman from Michigan [Mr. CONYERS]. We sit side-by-side in the committee, and we have fought many a fight and many a good cause together, as we have this one, and I want to salute him on all the good work he has done. It has certainly helped us in reaching this point.

Having said that, I do have to oppose the gentleman's amendment. I think the adoption of the amendment would really put us in jeopardy of getting anything through the other body, through the conference, and to the President for whatever its fate is at that point. I say that even though the original Mazzoli amendment or the original Mazzoli bill, H.R. 3844, did have temporary protected status in it. But after my very distinguished subcommittee met and after we had our hearing and after we meditated on this thing, it came to us that we had to change this bill to make it a more limited bill, a bill that could actually become law and actually work.

So I say, again with respect to the gentleman from Michigan, that his amendment, with the temporary protected status designation for all of the Haitians who are at Guantanamo or would be at Guantanamo, would have a magnet effect. I think it would constitute a reason for people to leave Haiti and to be rescued by the Coast Guard and taken to Guantanamo, because the gentleman's amendment applies not only to those on the island by February 5, which is the date in the bill before this committee, but also any time thereafter. So any Haitians who would leave Haiti today, for instance, and be in Guantanamo tomorrow or the day after would be covered by this bill. They are not covered by the committee bill.

Furthermore, unlike any other temporary protected status the gentleman from Kentucky has ever seen, the amendment offered by the gentleman from Michigan would not have any date certain connected with it. Every other TPS bill says it is good for a year, it is good for 18 months, or it is good for 60 days, or it gives an actual date. The gentleman's amendment is open-ended. It would apply to any Haitians covered today, covered tomorrow, or covered the day after.

I say again that we had this in our original bill. We thought about it, and felt it would be the ideal. But, I think in this case if we went for the ideal, we would be missing the mark because, as I said yesterday, in the course of general debate, we have to keep our eye on the sparrow, and the sparrow here is the Haitians who are at Guantanamo as of February 5. It is for them that we are trying to work our judgment, trying to protect them against being forcibly repatriated to Haiti.

So, Mr. Chairman, I urge the committee to support both the Subcommittee on Immigration, which I am honored to chair, and the full Committee on the Judiciary, in which the gentle-

man's amendment was offered and defeated. I hope that the committee will defeat the amendment and move forward with the bill as it is constituted today.

□ 1630

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I think we are all grateful to the gentleman from Kentucky [Mr. MAZZOLI] and the minority members of the subcommittee. They have done a very good job. However, in a very modest way and a conservative way, I think the amendment of the gentleman from Michigan [Mr. CONYERS] improves the bill.

This 6-month limitation is kind of frightening for the Haitians who are at Guantanamo. If the period is going to run, every morning they are going to wake up and think another day has passed, another week has passed, another month has passed. Yet all the amendment of the gentleman from Michigan [Mr. CONYERS] does is say that they can stay until democratic government has been restored to Haiti.

Mr. Chairman, this seems to me a perfectly reasonable and more humanitarian response than the very excellent bill provided by the subcommittee. I urge approval of the Conyers amendment.

Mr. Chairman, I rise today in support of H.R. 3844 and to express my appreciation to the chairman of the Immigration and International Law Subcommittee, ROMANO MAZZOLI, for his leadership on this issue. Chairman MAZZOLI has worked hard to craft a responsible approach to a problem that offers no easy answers.

While I respect and support the chairman's work on this bill, I believe the amendment offered by my friend and colleague, JOHN CONYERS, presents a more humanitarian and comprehensive approach to dealing with the needs of those Haitians who come to our shores.

By granting temporary protected status to Haitians until a democratically elected government has been restored in their country, the Conyers amendment recognizes that this restoration may take more than the 6 months allowed for in the committee bill.

The amendment also takes into account the fact that there may be more Haitians fleeing their country after the February 5 deadline set out in the committee bill. We need to have a policy for all Haitians, not just the ones with the good fortune to have come into United States custody before February 5.

We have provided temporary protected status to Salvadorans whose homeland was torn apart by civil war. The United States Government also routinely permits those escaping the Castro regime in Cuba to enter our country. Thus, we have established a tradition of providing refuge for immigrants from other troubled nations in our hemisphere. We should continue that tradition today by adopting the Conyers amendment.

Mr. MAZZOLI. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM], the distinguished ranking member.

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding. I want to thank the gentleman from Kentucky [Mr. MAZZOLI] right up front as the chairman of my subcommittee for being very gracious through this process and very deliberate. I think that the chairman's comments just made in opposition to this amendment are right on the mark with regard to the distinctions, with regard to the temporary protective status that is offered in this bill versus what we have done historically.

I would like to add to that with a couple of points. First of all, the gentleman offering this amendment, Mr. CONYERS, says something that I absolutely agree with. We should treat the Haitian refugees no different than we treat other refugees.

That, frankly, is what we are doing in this bill. Actually we are treating them fairer than we treat most other refugees, in a different way. As a matter of fact, we are treating them better in the process the Government is going right now at Guantanamo than we treat most refugees.

They are being treated as asylees under the administration's procedures, and that is what they would be treated as if this bill were passed. That is, they are being given the opportunity, if they have a plausible claim for reasonable fear of persecution if they are sent back home, which is our Refugee Act status and our asylum status, they are being given the right to come into this country and being paroled into this country and go before an immigration judge to have their case heard and to argue their point.

That is different. In a sense, that is better for them, in that sense of difference. It is a thing most refugees do not get. Most refugees we look at around the world, before we decide to bring them in here, are screened completely by the State Department, never see an immigration judge, never set foot in this country until that decision is fully made and adjudicated.

So in that sense they are being treated better. But they are not being treated any differently in any discriminatory fashion.

Second, if you adopted this amendment we would be doing far more than we are doing in this bill than simply a distinction with temporary protective status we have given other people.

What we are doing in the bill, if it were to pass, and what the administration is doing, is leaving the people at the island of Cuba at Guantanamo. They are not being brought into the United States at all, except the ones that have been prescreened that I mentioned. But everybody would come in who is there right now. Everybody would come to the United States if this amendment were to pass, economic refugee, plausible claim, or otherwise, they would all be brought here and they would all have work authorization. They would get into our work force.

What happens? We have a history of that. We do not have the manpower at Immigration Service to go and keep track of all those people. We do not authorize enough money. We do not have enough personnel. We cannot begin to know who does and who does not stay here.

That is the very magnet that people are talking about that is so fearsome if we bring everybody over here. The fact that you can stay here and the chances are you are going to get to stay here is the lure. That is why, quite frankly, I am opposed to this bill. But I am even more opposed to the amendment of the gentleman from Michigan [Mr. CONYERS], because he provides the magnet.

We cannot take in all the economic refugees from Haiti nor anywhere else. It would be nice if we could. I know conditions are bad down there. I am sympathetic to them. But this country cannot take them all here. We have to find other means of dealing with the problem. The means that are going on now are the fairest means. I do not agree with the bill, but it is certainly far preferable to what Mr. CONYERS is proposing, to bring them all here.

Mr. Chairman, I thank the gentleman for yielding.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I do it only to respond to my friend, the gentleman from Florida [Mr. MCCOLLUM], because at least he has been upfront and has put it on the table why he is opposed to temporary protective status. The gentleman gave all the reasons rather eloquently. He cannot come back now and say that this provision that we are currently debating, which allows only those in the country before February 5, 1992, is doing as much or more as we have done for other refugees. I would refresh his memory.

January 3, 1992, temporary protective status period was extended for another year for 6,761 Lebanese. On January 3, 1992, temporary protective status period was extended for another year for 4,393 Liberians. And 2,227 Palestinians under TPS can stay in the United States until 1996, and 40,000 Chinese.

So that is completely different from what the gentleman has pointed out. What I am trying to do is get them the same rights that we have granted Lebanese, Liberians, Palestinians, and Chinese.

Mr. MAZZOLI. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I think it is worth noting for the RECORD that were the amendment of the gentleman from Michigan [Mr. CONYERS] to be adopted, it would cover all Haitians, those at Guantanamo or those in this country,

whether they are here because they passed the asylum prescreening or because they are here illegally. They would in any event receive this temporary protected status.

Furthermore, there is, as I mentioned earlier, no limit on when this status will be granted. There is no starting time and there is no ending time, unlike all other applications of temporary protective status.

The temporary protective status itself contemplates people being in this country. The very nature of the statute, the wording of it, the benefits conferred, the work authorities conferred and other kinds of support are contemplated only for people who are already in this country. You have here the bulk of the Haitians in Guantanamo. And, some are in some other South American countries.

So the very nature of the TPS statute is awkward when you deal with any except people already in this country. I think it is fair to say that the other body has before it a bill identical with the committee bill that was introduced by the senior Senator from Massachusetts. If we can match up with that bill, we can move our bill along more swiftly.

The CHAIRMAN. The Chair would advise Members that the gentleman from Michigan [Mr. CONYERS] has 6 minutes remaining, and the gentleman from Kentucky [Mr. MAZZOLI] has 3 minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. OWENS], who has worked so very hard on this subject matter.

Mr. OWENS of New York. Mr. Chairman, I rise in support of the amendment. Although the resolution is an honorable compromise, the amendment is closer to the tradition of compassion and generosity of the American people than the resolution.

I would like to remind Members that when the Soviets invaded Hungary, we brought more than 50,000 Hungarians into the country. We flew them over miles and miles of ocean and brought them here under temporary protective status. Within a year we blanketed them all in as permanent resident status.

More than 400,000 Cubans have been treated in a similar manner. There are many, many other examples that can be given.

This resolution is out of step with that practice, out of step with that spirit. We can resolve the problem of the Haitian refugees by using the tremendous power and influence of this Nation to regenerate and restore democracy in Haiti. That is what we can do to solve the problem.

Before Aristide was kicked out, the number of Haitians trying to get into this country had gone down to almost zero. That is the way to solve the problem, restore democracy and use our influence. Until we do that, it is an illegal government, it is a terroristic government, it is a bunch of military thugs. To send people back where they are fingerprinted and photographed, and there is only one reason they can be fingerprinted and photographed, is in order to intimidate them and later on to persecute them, so let us move in step with the amendment, which is more in step with our traditions in this country.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, in 1989 Haitian Jean-Bertrand Aristide wrote the following:

Haiti is a prison. In that prison, there are rules you must abide by, or suffer the pain of death. One rule is: Never try to escape, for escape means a certain return to this prison, and worse cruelty, worse torture. If you dare to escape in your little boat, the corrections officers from the cold country to the north will capture you and send you back to eke out your days within your eternal prison, which is Haiti. If we live by its rules, we will certainly perish beneath its whip.

Since the overthrow of Haiti's first freely elected President, Jean Bertrand Aristide, by the Haitian military in September, 20,000 Haitians have sought refuge in the United States. Thousands of these people have been returned to Haiti. Although both Americas Watch and Amnesty International have documented that the military has unleased a widespread terror campaign on the population, the State Department claims there is no threat to refugees on their return. Of course, it has been hard for the United States mission in Haiti to document abuses; their personnel have been evacuated due to the "unstable political environment."

Haitians need refuge at this moment. We have answered the pleas of Salvadorans, Liberians, Lebanese, Kuwaitis, Afghans, Ethiopians, Chinese, Iranians, Cubans, and 11 other countries, including the Dominican Republic with either temporary protected status or similar relief. Why not Haiti? Since the passage of the 1980 Refugee Act, we have welcomed over 1 million refugees to our shores; 52 of those have been Haitians.

Human rights abuses are rampant. People's lives are at risk. President Bush is playing warden at the gates of Prison Haiti. Does Congress care plan on joining him?

Vote "yes" on the Conyers amendment. Give Haitians temporary protected status.

Countries that have received blanket protection from deportation: Lebanon, Kuwait, El Salvador, Somalia, Afghanistan, Ethiopia, China, Nicaragua, Iran, Uganda, Cambodia, Cuba, Chile, Czechoslovakia, Laos, Hungary, Romania, Dominican Republic, and Vietnam.

DISOBEY THE RULES

(By Jean-Bertrand Aristide)

Haiti is a prison. In that prison, there are rules you must abide by, or suffer the pain of death. One rule is: Never ask for more than what the prison warden considers your share. Never ask for more than a cupful of rice and a drink of dirty water each day, or each week. Another rule is: Remain in your cell. Though it is crowded and stinking and full of human refuse, remain there, and do not complain, That is your lot.

Another rule is: Do not organize. Do not speak to your fellow prisoners about your plight. Every time you get two cups of rice, another prisoner will go hungry. Every time another prisoner gets two drinks of dirty water, you go thirsty. Hate your fellow man.

Another rule is: Accept your punishment silently. Do not cry out. You are guilty. The warden has decreed it. Live in silence until you die. Never try to escape, for escape means a certain return to this prison, and worse cruelty, worse torture. If you dare to escape in your little boat, the corrections officers from the cold country to the north will capture you and send you back to eke out your days within your eternal prison, which is Haiti.

Fort Dimanche is Haiti. Fort Dimanche is Latin America today. Latin America and Haiti today are Fort Dimanche. Fort Dimanche spits out bullets and tear gas and death. It spews rules, regulations, law, order, decree, and death. It vomits on us a system of cruelty, repression, exploitation, misery, and death. If we live by its rules we will certainly perish beneath its whip.

I say: Disobey the rules. Ask for more. Leave your wretchedness behind. Organize with your brothers and sisters. Never accept the hand of fate. Keep hope alive. Refuse the squalor of the parishes of the poor. Escape the charnel house and move toward life. Fill the parishes of the poor with hope and meaning and life. March out of the prison, down the hard and pitiless road toward life, and you will find the parishes of the poor gleaming and sparkling with joy in the sunrise at the road's end. Children with strong bodies will run with platefuls of rice and beans to greet their starving saviors. That is your reward. Along that hard and pitiless road toward life, death comes as an honor. But life in the charnel house is a disgrace, an affront to human kind.

□ 1640

Mr. MAZZOLI. Would the Chair advise the gentleman from Kentucky the amount of time remaining on both sides?

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] has 4 minutes remaining, and the gentleman from Kentucky [Mr. MAZZOLI] has 3 minutes remaining.

Mr. MAZZOLI. Mr. Chairman, is the gentleman from Kentucky correct that he has the opportunity to close debate?

The CHAIRMAN. The gentleman is correct.

Mr. MAZZOLI. Mr. Chairman, I have no other requests for time, and I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. WATERS]

Ms. WATERS. Mr. Chairman, I rise in support of the Conyers amendment to H.R. 3844. I would like to commend my

good friend for his leadership on this issue.

This country's handling of the Haitian refugee crisis is cynical, hypocritical and mean-spirited. How can we remove our own Ambassador to Haiti in protest of human rights violation—and then repatriate refugees arguing that their human rights will not be infringed?

Between 1981 and President Aristide's inauguration, 24,000 Haitians left Haiti for the United States. Of these, only 11 were able to pursue asylum claims. The rest were returned to Haiti. During the same time period, this country admitted 75,000 out of 75,000 Cubans seeking asylum. Tragically, refugees have become a pawn in this country's foreign policy gamesmanship.

In the 5 months since Aristide's overthrow, 16,000 more Haitians have fled and been picked up by the United States Coast Guard. Clearly, these new refugees are fleeing political instability and oppression.

Nonetheless, the State Department continues to maintain that they are economic refugees, and thus, must return to Haiti.

What the Conyers amendment would do is grant temporary political status, or political asylum, that the fleeing Haitians deserve. We owe the brave men and women who have risked their lives in search of freedom the same humanitarian treatment that this country granted Liberians during the fall of Samuel Doe, Salvadorans during their civil war, and Kuwaitis during the gulf war.

The time for word games and political hypocrisy must stop. Support the Conyers amendment.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, once again I rise in strong support of this legislation. This situation is painfully reminiscent of the tragic and misguided policy of our Government when Jewish refugees were turned away from our shores as Hitler was gaining strength in their homeland.

Mr. Chairman, we cannot allow such a tragic mistake to be made again. Passage of this legislation is absolutely essential to ensuring that our Nation lives up to its promise of being the world's beacon of hope and freedom.

Mr. Chairman, I heard firsthand from a mother talking to a daughter on the telephone with gunshot sounds in the background. Let us not make this mistake again.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR], the distinguished whip of the House.

Mr. BONIOR. Mr. Chairman, I rise in support of this amendment and this bill and commend the chairman and the gentleman from Michigan [Mr. CONYERS] and all those who have worked so hard and passionately on this piece of legislation.

Mr. Chairman, the Bush administration says we should force Haitian refugees back to their homeland because there's no proof they will be mistreated.

No evidence, the State Department says.

But the administration does not tell us why they have not been able to gather any evidence.

It's because the level of violence and repression in Haiti is so great that most of the United States Embassy staff left the country.

We only have a handful of people in Port-au-Prince—the U.S. Ambassador did not return there until yesterday.

How can so few people monitor the thousands of refugees we have forced to return?

The administration doesn't know for sure—because they can't investigate.

But there are a few things we do know—without any doubt.

First of all, we know that the military coup in Haiti last September unleashed a wave of violence and terror—and that human rights abuses now rival the darkest days of the Duvalier dictatorship.

Hundreds of Haitians were murdered within days of the coup.

An estimated 1,500 have been killed by the military since then.

Arrests and beatings are commonplace.

Religious organizations, trade unions, student associations—all have been targeted by the military.

The repression has forced tens of thousands to flee the country in rickety boats.

Over the last few days, we've seen some encouraging signs. Perhaps democracy can be restored in Haiti over the next few months. We all hope it will.

But in the meantime, the violence and the brutality continues.

Mr. Chairman, that is what we know for certain.

What more proof do we need that the refugees at Guantanamo Bay are in danger if we force them to return home?

What more evidence do we have to gather?

Mr. Chairman, so many of us in this House can remember our own ancestors who came as refugees to America.

They came through Ellis Island. They walked off the ships in Galveston. They came through San Francisco and Boston and Savannah.

This country welcomed them. It sheltered them from the political winds—whether religious persecution in the 17th century—or Cossacks pillaging Russian towns in the 19th century.

Sometimes we made mistakes—like the time the United States turned back the *St. Louis,* that ship filled with Jewish refugees from Germany in 1939.

That was also a time when we were unable to monitor what was going on.

We found out later, when our troops walked through the gates of Auschwitz and Bergen-Belsen.

Let us not send the Haitian refugees back to the country they risked their lives to escape.

If we can't welcome them permanently, at least grant them a few months of safe haven in the tents of Guantanamo.

Mr. CONYERS. Mr. Chairman, I yield one-half minute to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Chairman, I rise today in support of the Conyers amendment and support of the bill. I believe that temporary protective status is appropriate in that it has been used in the past in nations where there has been armed conflict. Clearly one must define what is happening in Haiti as armed conflict, even though the arms are on one side and on the wrong side.

This Nation cannot afford to continue to send these persons back to these dangerous situations. Rather they must open the doors as they have done to others who have fled to America looking for this land of liberty to receive them.

I rise in support of the amendment, urge others to support it because it is the right thing to do.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the seriousness of this matter of life and death collides with our immigration policy, and we are acting in the absence of the executive branch declaring an emergency that would allow a safe haven, as they have done over the last 32 years in 20 different instances.

The forced repatriation of Haitians is no different from those other 20 cases. We have now the weight of what this country stands for. Is this a nation of fairness or not? Is this a matter of the poorest country in our hemisphere being denied the basic rights under the existing law as no one else has been denied?

Never before in the history of the United States have we repatriated people in a circumstance in which their government was declared illegitimate by our government.

There is a war going on. Criminal thugs of the military rule the country. The violence has been attested to by six human rights organizations.

We do not need any more facts. The burden is upon us.

Please, do not buy into a February 5 date. It is a wonderful attempt. I commend the gentleman from Kentucky [Mr. MAZZOLI] for bringing the vehicle to have this debate to the floor, but the solution in our heart of hearts is to grant temporary protective status to these desperate, heroic people who will be remembered long after anything we do here in this Chamber today.

I urge my colleagues to support the Conyers amendment.

Mr. MAZZOLI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, once again let me pay tribute to my friend from Michigan for the wonderful fight that he has fought in getting this bill to where it is today. I think it would not be here without having had his input and his urgency.

Let me also particularly name the people on our subcommittee who

worked so hard late at night to get this bill reported: The gentleman from New York [Mr. SCHUMER], the gentleman from California [Mr. BERMAN], the gentleman from Texas [Mr. BRYANT], and the gentleman from Oregon [Mr. KOPETSKI]. And then on the minority side: The gentleman from Florida [Mr. MCCOLLUM], my long-time friend, the gentleman from Virginia [Mr. ALLEN], our new Member, and the gentleman from Texas [Mr. SMITH].

I am really proud to have worked with this subcommittee of very talented and dedicated people.

□ 1650

Again I have to express my opposition to the gentleman's amendment. It would constitute, if passed, a magnet effect. It would, I think, encourage people to leave Haiti, and we are not in a situation on which there may be a return of the Aristide government, which could stabilize the situation in Haiti. I do not think we should do anything that would reverse that trend.

There is no date certain for either the start of this temporary protected status nor for the end of it, which would make it different than any other protected status arrangement that has ever been invoked. They have always had a starting date and an ending date.

Temporary protected status is a status granted to those already in the United States. The very nature of the statute, the wording of it, the benefits it confers, the opportunity for work authorizations, all those are implicitly designed for people in the United States already.

Of course, in this case the bulk of the Haitians who would be qualified under our bill, not to be sent back to their country at this time of woe, are not in the United States at this point.

Mr. SAVAGE. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I am happy to yield to the gentleman from Illinois.

Mr. SAVAGE. Mr. Chairman, let me ask the gentleman, in the 1990 immigration bill, with which he is certainly familiar, he allotted 132,000 spaces for refugees coming to this country, correct, and 63,000 went to refugees from the Soviet Union, and obviously the Soviet Union is more democratized now than is Haiti, since we are sending them money to show that we approve of their democratization.

Mr. MAZZOLI. Mr. Chairman, if the gentleman would yield back for a moment, actually the gentleman will be happy to know that if this bill before him could ever be signed into law there is a refugee program created with Haiti for the first time in history. The gentleman from Kentucky has always felt that was very much of a blind spot in our refugee law, that we had 3,000 numbers for Cuba and none for Haiti. So now in our bill we have 2,000 numbers for visas, as a result I think of the gentleman's bill which was introduced last autumn. There will be refugee processing beginning in Port au Prince in short order.

Mr. SAVAGE. Mr. Chairman, if the gentleman will yield, what I was getting at is that he does not want it to be a magnet, but he is not worrying about it being a magnet for Europeans. He says it would be a magnet if we let some stay. It might cause others to come.

Mr. MAZZOLI. Under the circumstances in which we are dealing today it would be a magnet.

Mr. SAVAGE. Mr. Chairman, what would be wrong with it being a magnet for people from Haiti fleeing from persecution?

Mr. MAZZOLI. Mr. Chairman, I urge defeat of the gentleman's amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MAZZOLI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 96, noes 304, not voting 34, as follows:

[Roll No. 32]

AYES—96

Abercrombie	Hayes (IL)	Owens (UT)
Ackerman	Jacobs	Pallone
Anderson	Jefferson	Pastor
Andrews (ME)	Jones (GA)	Payne (NJ)
Atkins	Jones (NC)	Pelosi
Bennett	Jontz	Penny
Berman	Kennedy	Peterson (MN)
Blackwell	Kennelly	Rangel
Bonior	Kildee	Roe
Boxer	Kopetski	Roybal
Bustamante	Lantos	Sabo
Clay	Lehman (FL)	Sanders
Collins (IL)	Levin (MI)	Savage
Collins (MI)	Lewis (GA)	Scheuer
Conyers	Lowey (NY)	Schroeder
Coyne	Markey	Serrano
Dellums	Martinez	Sikorski
Dixon	Matsui	Smith (IA)
Downey	McDermott	Solarz
Early	McNulty	Stark
Edwards (CA)	Mfume	Stokes
Engel	Mineta	Studds
Espy	Mink	Towns
Evans	Moakley	Traxler
Fazio	Moody	Vento
Flake	Moran	Washington
Foglietta	Nagle	Waters
Ford (TN)	Neal (MA)	Weiss
Frank (MA)	Oakar	Wheat
Gejdenson	Oberstar	Wolpe
Gilman	Olver	Yates
Gonzalez	Owens (NY)	Yatron

NOES—304

Allard	Barrett	Boucher
Allen	Barton	Brewster
Andrews (NJ)	Bateman	Brooks
Andrews (TX)	Bellenson	Broomfield
Annunzio	Bentley	Browder
Anthony	Bereuter	Brown
Applegate	Bevill	Bruce
Archer	Bilbray	Bryant
Armey	Bilirakis	Bunning
Aspin	Bliley	Burton
Bacchus	Boehlert	Byron
Baker	Borski	Callahan
Camp	Hubbard	Porter
Campbell (CA)	Huckaby	Poshard
Campbell (CO)	Hughes	Price
Cardin	Hunter	Pursell
Carper	Hutto	Rahall
Carr	Hyde	Ramstad
Chapman	Inhofe	Ravenel
Clement	Ireland	Reed
Clinger	James	Regula
Coble	Jenkins	Rhodes
Coleman (MO)	Johnson (CT)	Ridge
Combest	Johnson (SD)	Riggs
Condit	Johnson (TX)	Rinaldo
Cooper	Johnston	Ritter
Costello	Kanjorski	Roberts
Coughlin	Kaptur	Roemer
Cox (CA)	Kasich	Rogers
Cox (IL)	Kleczka	Rohrabacher
Cramer	Klug	Ros-Lehtinen
Crane	Kolbe	Rose
Cunningham	Kostmayer	Roth
Darden	Kyl	Roukema
Davis	LaFalce	Rowland
DeFazio	Lagomarsino	Sangmeister
DeLauro	Lancaster	Santorum
DeLay	LaRocco	Sarpalius
Derrick	Laughlin	Sawyer
Dingell	Leach	Saxton
Donnelly	Lehman (CA)	Schaefer
Dooley	Lent	Schiff
Doolittle	Lewis (CA)	Schulze
Dorgan (ND)	Lewis (FL)	Schumer
Dornan (CA)	Lightfoot	Sensenbrenner
Dreier	Lipinski	Sharp
Duncan	Livingston	Shaw
Durbin	Lloyd	Shays
Dwyer	Long	Shuster
Eckart	Lowery (CA)	Sisisky
Edwards (OK)	Luken	Skaggs
Edwards (TX)	Machtley	Skeen
Emerson	Manton	Skelton
English	Martin	Slattery
Erdreich	Mavroules	Slaughter
Ewing	Mazzoli	Smith (FL)
Fascell	McCandless	Smith (NJ)
Fawell	McCloskey	Smith (OR)
Feighan	McCollum	Smith (TX)
Fields	McCrery	Snowe
Fish	McCurdy	Solomon
Franks (CT)	McDade	Spence
Frost	McEwen	Spratt
Gallegly	McGrath	Staggers
Gaydos	McHugh	Stearns
Gekas	McMillan (NC)	Stenholm
Gephardt	McMillen (MD)	Stump
Gibbons	Meyers	Sundquist
Gilchrest	Michel	Swett
Gillmor	Miller (CA)	Swift
Gingrich	Miller (OH)	Synar
Glickman	Miller (WA)	Tanner
Goodling	Molinari	Tauzin
Gordon	Mollohan	Taylor (MS)
Goss	Montgomery	Thomas (GA)
Gradison	Moorhead	Thomas (WY)
Grandy	Morella	Torricelli
Green	Morrison	Traficant
Guarini	Mrazek	Unsoeld
Gunderson	Murphy	Upton
Hall (OH)	Murtha	Valentine
Hall (TX)	Myers	Vander Jagt
Hamilton	Natcher	Visclosky
Hammerschmidt	Neal (NC)	Volkmer
Hancock	Nichols	Vucanovich
Hansen	Nowak	Walker
Harris	Nussle	Walsh
Hastert	Obey	Waxman
Hayes (LA)	Olin	Weber
Hefley	Oxley	Weldon
Hefner	Packard	Williams
Henry	Panetta	Wilson
Hertel	Parker	Wise
Hoagland	Patterson	Wolf
Hobson	Paxon	Wyden
Hochbrueckner	Payne (VA)	Wylie
Holloway	Pease	Young (AK)
Hopkins	Perkins	Young (FL)
Horn	Peterson (FL)	Zeliff
Horton	Petri	Zimmer
Houghton	Pickett	
Hoyer	Pickle	

NOT VOTING—34

Alexander	Barnard	Coleman (TX)
AuCoin	Boehner	Dannemeyer
Ballenger	Chandler	de la Garza

Dickinson	Levine (CA)	Stallings
Dicks	Marlenee	Tallon
Dymally	Ortiz	Taylor (NC)
Ford (MI)	Orton	Thomas (CA)
Gallo	Quillen	Thornton
Geren	Ray	Torres
Hatcher	Richardson	Whitten
Herger	Rostenkowski	
Kolter	Russo	

□ 1714

The Clerk announced the following pair:

On this vote:

Mr. Ford of Missouri for, with Mr. AUCOIN against.

Mr. ENGLISH changed his vote from "aye" to "no".

Messrs. COYNE, DOWNEY, and McDERMOTT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The SPEAKER pro tempore (Mr. SKAGGS) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

HAITIAN REFUGEE PROTECTION ACT OF 1992

The Committee resumed its sitting.

The CHAIRMAN. It is now in order to consider amendment No. 2, printed in House Report 102–436.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, pursuant to the rule, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SHAW: At the end insert the following new section:

SEC. 7. REIMBURSEMENT FOR STATE AND LOCAL GOVERNMENT COSTS.

There are authorized to be appropriated such sums as may be necessary to reimburse State and local governments for incremental costs associated with Haitians permitted to enter the United States under this Act.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. SHAW] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, very simply, an explanation of this amendment can be best understood as just being read.

There are authorized to be appropriated such sums as may be necessary to reimburse State and local governments for incremental costs associated with Haitians permitted to enter the United States under this Act.

Mr. Chairman, we have found from past experience that some 87 percent of the Haitians coming into the United States end up in the State of Florida. Under the estimates of Governor Chiles' office of the State of Florida, for 2 years each one of these refugees cost State and local governments in the State of Florida, and I will assume this is also across the country, some $5,000.

It is easy to understand when you start talking about the numbers that might come in, might very well come in and end up coming in under this particular statute, that that could be talking about many millions of dollars at a time when our State, as well as so many of the States across the country, are strapped for finances.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the distinguished gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I rise to join my colleague in support of this amendment. It is a very important amendment. Statistically, the gentleman has pointed out the costs that are involved. We are several hundred million dollars behind actual costs now for people already admitted, and the people of Florida have been extremely generous in trying to support the people who are in trouble, whether they are Haitians or others; but from a humanitarian standpoint, if we are going to extend the services, which we should, and I am talking primarily about health and education, then from the same humanitarian point of view, if not from fairness, we ought not to put that burden on the local taxpayers of Florida or Dade County or any other place. That is a Federal responsibility, and I would hope our colleagues would unanimously support this amendment.

Mr. SHAW. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. JOHNSTON]

Mr. JOHNSTON of Florida. Mr. Chairman, I rise in strong support of the Goss amendment and the Shaw amendment.

Floridians are feeling torn these days. While thousands of Haitians flee the poverty and violence of their own country, thousands of Floridians are out of work and suffer from an 8.7 percent unemployment rate. Hundreds of Floridians are victims of street crimes each day and there are 90.6 percent more Floridians on food stamps than there were in July 1989. And that is only second to New Hampshire.

For many immigrant groups, Florida has historically been the gateway to the United States. In the past 40 years, of the 2 million refugees entering the United States, nearly 1 million entered through Florida and almost 800,000 remained. We have recognized their struggles, welcomed them into our communities, and done the best we can to provide for them. We have done so with little assistance from the Federal Government.

The amount that States are reimbursed per refugee has decreased from $5,000 in 1985 to $1,300 in 1991. President Bush's 1993 budget proposal would decrease cash and medical refugee assistance from $8 million to $1.6 million. While many Floridians truly feel for the plight of the Haitians, the pain of the recession is immediate. It is difficult to continue extending a hand to others when the costs are incurred at their expense.

Immigration control is a Federal responsibility and until that responsibility is met, Floridians will be unable to share the American dream with Haitians and others like them who may have a valid claim to asylum.

Support the Goss amendment and restore Federal involvement in what is, rightfully, a Federal responsibility.

□ 1720

Mr. SHAW. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Chairman, it is my understanding from the original bill, and I have given assurances to my colleagues, especially on the gentleman's side of the aisle, that tens of thousands of Haitians are not going to end up on our shores. Now the gentleman from Florida [Mr. SHAW] is saying that he would want to be reimbursed for those who do come here. I just want to make it abundantly clear, and I believe the gentleman would agree with me, that the legislation which the gentleman from Kentucky [Mr. MAZZOLI] drafted is carefully drafted and narrow and to the point, that these Haitians are going to be on a Government base, but that is in Cuba, not Miami. Does the gentleman from Florida have that understanding?

Mr. SHAW. Reclaiming my time, the gentleman is absolutely correct in his assessment of the legislation. I would, however, speculate that coming around July and August there is going to be tremendous pressure in this House if these Haitian refugees are still down in Guantanamo on the tarmac, that we are going to come back and decide whether that is actually humane and they may very well end up here. But the gentleman is absolutely correct. I do not want to mislead anyone in this House.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in support of his amendment.

Mr. Chairman, it is all too clear that Federal immigration policy does not address the impact of mass immigration on State and local entities. A mass influx of refugees means increased educational, social and eco-

nomic burdens, burdens that are increasingly difficult for State and local governments to absorb.

My testimony at the Subcommittee on Immigration, having pointed this out, apparently fell on deaf ears.

Florida has experienced periods of mass immigration over the years, beginning with the Mariel boatlift in 1981. However, Federal compensation to Florida has decreased dramatically from 1983 to 1990. As a matter of fact, Florida is still owed $150 million for expenses incurred during the Mariel boatlift.

Now, I heard the discourse back and forth between the gentleman from Florida [Mr. SHAW] and the gentleman from New York [Mr. RANGEL]. But we still know that the next place for debarkation will be to Florida. The United States has already provided 4,800 refugees with the opportunity to seek political asylum. Many of these refugees will settle in Florida. It is simply not fair for the people of Florida to shoulder the entire cost of the Haitian refugee influx. The Federal Government must provide its share of resources to care for these refugees.

The Mazzoli bill sets a bad precedent. No matter how well intended it is. However, if Congress approves it, then Congress should shoulder it and be held accountable, not the State of Florida and its entities.

During the past 5 years the United States has provided haven for 95,000 Haitians, with tens of thousands of them settling in Florida. We have economic problems in Florida that we must resolve. Therefore, we cannot finance any further economic immigration from Haiti or anywhere else, for that matter. Political asylum we certainly will consider.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. BROOKS. Mr. Chairman, I am opposed.

The CHAIRMAN. The gentleman from Texas will be recognized for 10 minutes.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I must oppose the gentleman's amendment. The amendment seems to imply that H.R. 3844 somehow permits Haitians to enter the United States. It does not. The legislation simply suspends for 180 days the return of less than 3,000 Haitians—who had to be in United States custody by February 5.

The bill has no effect on the administration's Refugee Asylum Program where refugees with plausible claims of political persecution are allowed to pursue their claims in this country. For this reason, the amendment is basically without effect on this legislation and should be voted down.

Mr. Chairman, I reserve the balance of my time.

Mr. SHAW. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, I think it is important for us to understand; I do not believe the gentleman from Florida [Mr. SHAW], in proposing this amendment, assumes there is going to be a wholesale entry of Haitians into the United States. We all want to give Haiti back to the Haitians and we hope that happens soon.

The problem is that under existing law some have already been cleared to come into the United States. Under the Refugee Authorization Act, theoretically that is supposed to be paid for by the United States. The problem is, as you have heard other speakers say, that is only in theory. We have had a great number of Haitians and other refugee groups come into the United States, come into Florida, for which Florida has paid the price. We pay for those items which the Federal Government should have been paying.

What the gentleman's amendment does is anticipate that any under existing law will be allowed to enter into Florida because that is where they come, Mr. Chairman, into Florida, will be paid for by the Federal Government. He is seeking, basically, to reaffirm what the Federal position should be and has not been in practice. And I commend the gentleman for that and hope all will support his amendment.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I want to correct the record, it is not 30 minutes, it is more like 3 and I will take even less than that.

Mr. Chairman, I would respectfully rise in opposition to the amendment of the gentleman from Florida, not because it is not a good amendment, but because it is extraneous. It is really unnecessary, because our bill, as the gentleman from New York pointed out, contemplates bringing no persons into this country. Therefore, there is no need to reimburse for costs that will never be expended in the first place.

Let me just reflect for the record, and I will sit down. That is, under existing law the Refugee Act of 1980 provides 100-percent Federal reimbursement for up to 36 months for refugees who are in the country and are here under admission through the Refugee Act. We have some 140,000 who are possibly to be admitted this year.

Under the Fascell-Stone Act of 1980, Haitian and Cuban refugees are to be treated exactly as those who come in under the 1980 act, which means that 100-percent reimbursement for 36 months. So, whether these individuals who get to Florida are admitted because they pass prescreening process or because some other way they come into the country later on, not under the auspices of our bill, but however they come in there is a coverage under existing law, either the 1980 Refugee Act or the Fascell-Stone Act to provide reimbursement.

So, I would just ask my friends and colleagues in the committee, we are trying to get a bill passed; the senior Senator from Massachusetts has introduced a bill in the other body, identical, verbatim, word for word with our bill.

We want to get something done for the people who need to be protected from being forcibly repatriated to a country in stress, a country in turmoil.

Mr. Chairman, I hope that we can keep our bill before you as it is today so that we can move that forward as quickly as possible and, hopefully, to the President's desk.

Mr. SHAW. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, very briefly, I know the hour is late and Members want to catch planes and get home to their districts. But very, very briefly, it is about time that the Federal Government looked to the States of Texas, California, Florida, Arizona, New Mexico, all of these border States that are taking in so many of the people from foreign countries, legally and illegally. It is time that we look at these States and say that we have got to pick up the tab for the expenses that we are causing these States. This is a small step. Admittedly, if none of these refugees come in under this particular bill, there will be zero expense. If there is expense, it is subject to appropriation. But this gives the Congress an opportunity to say if we cause the expense to the State—and we are not just talking about 8 months, as Mr. MAZZOLI quite properly spoke of, in existing law—we are talking about going on beyond that.

□ 1730

Mr. Speaker, it is about time that we accepted responsibility as those that are responsible for the immigration laws of this country, that we also take some of the responsibility for the cost that we are shoving off onto all of the States. Congress will have an opportunity in just a few minutes to vote on this, and I urge passage of this amendment. It is vital, believe, to many of the States, not just the State of Florida.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SHAW].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHAW. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 144, not voting 49, as follows:

[Roll No. 33]

AYES—241

Abercrombie	Henry	Packard
Allard	Hobson	Pallone
Allen	Hochbrueckner	Panetta
Andrews (ME)	Holloway	Parker
Andrews (NJ)	Hopkins	Pastor
Applegate	Horton	Paxon
Archer	Houghton	Payne (VA)
Armey	Hunter	Pease
Atkins	Hutto	Pelosi
Bacchus	Hyde	Penny
Baker	Inhofe	Peterson (FL)
Barrett	Ireland	Peterson (MN)
Barton	James	Porter
Bateman	Jefferson	Rahall
Bennett	Johnson (CT)	Ramstad
Bentley	Johnson (SD)	Ravenel
Billirakis	Johnson (TX)	Regula
Blilley	Johnston	Ridge
Boehlert	Jones (GA)	Riggs
Boucher	Jones (NC)	Rinaldo
Boxer	Jontz	Ritter
Broomfield	Kanjorski	Roe
Bunning	Kaptur	Rogers
Callahan	Kasich	Rohrabacher
Camp	Kennedy	Ros-Lehtinen
Campbell (CA)	Klug	Rose
Campbell (CO)	Kolbe	Roukema
Cardin	Kyl	Sangmeister
Clinger	LaFalce	Santorum
Coble	Lagomarsino	Sawyer
Coleman (MO)	Lancaster	Saxton
Combest	Lantos	Schaefer
Condit	Leach	Scheuer
Coughlin	Lehman (CA)	Schiff
Cox (CA)	Lehman (FL)	Schulze
Coyne	Lent	Shaw
Crane	Lewis (CA)	Shays
Cunningham	Lewis (FL)	Sikorski
Darden	Lightfoot	Sisisky
DeLauro	Lipinski	Skaggs
DeLay	Livingston	Skeen
Dellums	Long	Smith (FL)
Dixon	Lowery (CA)	Smith (NJ)
Donnelly	Lowey (NY)	Smith (TX)
Dooley	Machtley	Snowe
Doolittle	Martin	Solomon
Dornan (CA)	Martinez	Spence
Downey	Mavroules	Stearns
Dreier	McCandless	Stenholm
Duncan	McCollum	Studds
Dwyer	McCrery	Stump
Edwards (OK)	McDermott	Sundquist
Emerson	McEwen	Swett
English	McGrath	Swift
Fascell	McHugh	Tanner
Fawell	McMillan (NC)	Thomas (WY)
Fazio	McMillen (MD)	Torricelli
Fields	Mfume	Traxler
Fish	Michel	Unsoeld
Ford (TN)	Miller (OH)	Upton
Franks (CT)	Miller (WA)	Vander Jagt
Gallegly	Mink	Vento
Gejdenson	Moakley	Volkmer
Gekas	Molinari	Vucanovich
Gibbons	Mollohan	Walker
Gilchrest	Montgomery	Walsh
Gillmor	Moody	Waters
Gilman	Moorhead	Weber
Goodling	Moran	Weldon
Goss	Morrison	Wise
Gradison	Mrazek	Wolf
Grandy	Murtha	Wolpe
Green	Myers	Wyden
Guarini	Nagle	Wylie
Gunderson	Neal (MA)	Yatron
Hall (TX)	Nowak	Young (AK)
Hammerschmidt	Nussle	Young (FL)
Hancock	Oberstar	Zeliff
Hansen	Olin	Zimmer
Hastert	Olver	
Hefley	Oxley	

NOES—144

Ackerman	Blackwell	Bustamante
Anderson	Bonior	Byron
Andrews (TX)	Borski	Carper
Annunzio	Brewster	Carr
Beilenson	Brooks	Chapman
Bereuter	Browder	Clay
Berman	Brown	Clement
Bevill	Bruce	Collins (IL)
Bilbray	Bryant	Collins (MI)
Conyers	Huckaby	Rangel
Cooper	Hughes	Reed
Costello	Jacobs	Roberts
Cox (IL)	Jenkins	Roemer
Cramer	Kennelly	Roth
DeFazio	Kildee	Rowland
Derrick	Kopetski	Roybal
Dingell	Kostmayer	Sabo
Dorgan (ND)	LaRocco	Sanders
Durbin	Levin (MI)	Sarpalius
Early	Lewis (GA)	Savage
Eckart	Luken	Schroeder
Edwards (CA)	Manton	Schumer
Edwards (TX)	Markey	Sensenbrenner
Engel	Matsui	Serrano
Erdreich	Mazzoli	Sharp
Espy	McCloskey	Shuster
Evans	McCurdy	Skelton
Ewing	McNulty	Slattery
Feighan	Meyers	Slaughter
Flake	Miller (CA)	Smith (IA)
Foglietta	Mineta	Solarz
Frank (MA)	Morella	Spratt
Frost	Murphy	Staggers
Gaydos	Natcher	Stokes
Gephardt	Nichols	Synar
Glickman	Oakar	Tauzin
Gonzalez	Obey	Taylor (MS)
Gordon	Owens (NY)	Thomas (GA)
Hall (OH)	Owens (UT)	Towns
Hamilton	Patterson	Traficant
Harris	Payne (NJ)	Valentine
Hayes (IL)	Perkins	Visclosky
Hayes (LA)	Petri	Washington
Hefner	Pickett	Waxman
Hertel	Pickle	Weiss
Hoagland	Poshard	Wheat
Horn	Price	Wilson
Hubbard	Pursell	Yates

NOT VOTING—49

Alexander	Gallo	Ray
Anthony	Geren	Rhodes
Aspin	Gingrich	Richardson
AuCoin	Hatcher	Rostenkowski
Ballenger	Herger	Russo
Barnard	Hoyer	Smith (OR)
Boehner	Kleczka	Stallings
Burton	Kolter	Stark
Chandler	Laughlin	Tallon
Coleman (TX)	Levine (CA)	Taylor (NC)
Dannemeyer	Lloyd	Thomas (CA)
Davis	Marlenee	Thornton
de la Garza	McDade	Torres
Dickinson	Neal (NC)	Whitten
Dicks	Ortiz	Williams
Dymally	Orton	
Ford (MI)	Quillen	

□ 1750

The Clerk announced the following pairs:

On this vote:

Mr. Williams for, with Mr. Ford of Michigan against.

Mr. AuCoin for, with Mr. Anthony against.

Mr. Thomas of California for, with Mr. Quillen against.

Mr. HAYES of Louisiana, Mr. TAUZIN, Mrs. SCHROEDER, and Messrs. WILSON, HUCKABY, OWENS of Utah, PETRI, and HUGHES changed their vote from "aye" to "no."

Messrs. RITTER, McDERMOTT, and MFUME, and Mrs. UNSOELD changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY CHAIRMAN OF THE COMMITTEE ON RULES

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

Mr. MOAKLEY. Mr. Chairman, earlier today, I made an announcement regarding the Rules Committee's intentions regarding the budget resolution. In that announcement, amendments to the budget resolution were to be submitted to the committee by 5 p.m. on Monday, March 2. After discussions with the Budget Committee and after consultation with the minority, the Rules Committee will extend that time until Tuesday, March 3, at 10 a.m.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I do not believe Members heard what the gentleman from Massachusetts [Mr. MOAKLEY] just said. What the chairman of the Committee on Rules has just said is that Members of the House will have the opportunity to file amendments to the budget bill that will be coming before us on Wednesday. The gentleman will extend that time from Monday at 5 o'clock until Tuesday at 10 o'clock. As I understand it, the Committee on the Budget will not have the report ready until probably close to 5 o'clock on Monday. This at least will give us that opportunity to read the bill overnight.

Mr. Chairman, I want to thank the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Chairman, the gentleman is exactly right.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 102–436.

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Florida: At the end insert the following new section:

SEC. 7. SENSE OF CONGRESS.

It is the sense of the Congress that the President, in conjunction with the legitimate democratically-elected government of Haiti, should urge the United Nations Security Council and, as appropriate, the Organization of American States—

(1) to dispatch a peacekeeping force to Haiti—

(A) to provide security for human rights monitors,

(B) to provide protection for Haitians repatriated from abroad, and

(C) to assist in establishing a climate of security in Haiti in which the rights of all persons will be respected; and

(2) to send human right monitors to Haiti, under the aegis of an appropriate international human rights organization such as the United Nations Human Rights Commission or the Inter-American Human Rights Commission, to assess and report to the international community concerning internationally-recognized human rights in Haiti.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. SMITH] will be recognized for 10 minutes, and a

Member opposed to the amendment will be recognized for 10 minutes.

The Chair now recognizes the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the well-dressed gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I rise in support of H.R. 3844, the Haitian Refugee Protection Act. I recognize that this piece of legislation is not perfect, and in my opinion does not go far enough. However, it does go directly to the problem of the Haitian refugees, and due to the emergency nature of this situation, it is imperative that this body move forward with H.R. 3844. Since the September coup overthrew the democratically elected Government of President Jean-Bertrand Aristide, conditions have deteriorated rapidly in Haiti and are continuing to deteriorate. Human rights organizations and religious groups have continuously described the acute state of repression that exists in Haiti. The Organization of American States [OAS] has estimated that more than 1,500 innocent civilians have been killed since the coup, but since the military has blocked access to the morgue and rumors persist of mass graves, it is feared that the numbers are much higher.

With a crisis of this dimension, we often forget that behind those numbers are real people with real fears for their safety. Amnesty International documented an incident of a young boy being arrested for reportedly stopping to look at a picture of President Aristide. The soldiers scolded him for looking at the picture, then accused him of sticking it up himself. This was not only false, but impossible because the boy was too small to reach it, which became apparent when the soldiers tried to force him to take the picture down. Nonetheless, the soldiers severely beat him and he was imprisoned several hours before he was eventually released. This is just one of many incidents of harassment and intimidation.

The administration is well aware of the crisis in Haiti; yet the administration persists in claiming that these refugees are not fleeing political repression and persecution, but are economic refugees. Claims have been made that Haitians are only fleeing for the United States, and that this proves that they are economic refugees rather than political ones. In fact, reports show Haitians landing in Cuba, and tens of thousands fleeing into the Dominican Republic, which has in the past treated Haitians very poorly. I find it hypocritical that the administration has denounced the de facto government and its policies but considers Haitians fleeing this Government economic migrants and returns them to the control of the government that the United States does not recognize. Further, the Coast Guard picks up Haitians and immediately starts back to Port-au-Prince, but picks up Cubans and takes them to the United States. This policy is blatantly discriminatory and racist. Because Haitians are not fleeing a Communist country, they are not recognized as political refugees, and because they are black, they are told we cannot accept them. We cannot allow this policy to continue.

The State Department claims that there is no proof that anyone repatriated has been harmed, and that a system is in place to monitor those repatriated. That system consists of an embassy staff reduced to 30 or 40 that rarely leaves Port-au-Prince, and priests and other Americans placed around the countryside. There is in actuality no real system to monitor repatriated Haitians. Monitoring has been virtually impossible. Many of the refugees live in areas where communication and information gathering has been very difficult. Many of those repatriated go into hiding. Others fear to talk to foreigners. Haitians seen talking to reporters or foreigners are quickly picked up for questioning and harassed by local authorities. Even the monitors that the State Department relies upon have been imprisoned and harassed, clearly given the message of the consequences of reporting human rights abuses. If repatriated Haitians are not going to be targeted, why are they being fingerprinted and photographed by the defacto governmental authorities? People that are suspected of preparing to leave are beaten and imprisoned; why then would those having left, be safe? Without any effective mechanisms to monitor or protect repatriated Haitians, we cannot in good conscience continue this policy. I strongly urge support for the Conyers amendment that would grant temporary protected status to all Haitians. Until we can assure the safety of those persons returned, we must offer them the protection that international law requires.

The administration claims that granting this temporary protection would result in a magnet effect, giving the incentive to many more Haitians to take to the high seas in rickety, overcrowded and ill-provisioned boats. In fact, there are many Haitians right now that would risk leaving the country if they could. Those in the countryside fear being apprehended during the difficult voyage to the port cities where they could depart. Others do not have the money to pay the high price for a spot on those overcrowded boats. The military has cracked down upon the port cities attempting to prevent people from leaving. This crackdown can explain the decreasing numbers of refugees being picked up, not the repatriation policy. Haitians do not need a magnet effect to provide incentive to leave Haiti. The incentive is already there in the form of political repression and persecution.

Congress must rectify the failure of the executive branch to respond to the pleas of thousands fleeing repression and persecution. We must cease condemning to death Haitians willing to risk their lives for liberty by returning them to their persecutors. Let us send a message to the coup leaders, that the United States will not tolerate circumvention of the democratic process. More importantly, let us send a message of hope and support to the Haitian people.

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, I rise in support of the bill.

There can be reasonable differences on various amendments to the bill but there should be none on the core message intended to be sent by this bill.

The United States stands for freedom—a beacon for the entire world. It should shine in all directions, for those close as well as far.

In this vital regard, our policy towards Haiti has badly faltered. It is clear that the large majority of Haitian people desire freedom. I could see that when I visited Haiti 10 years ago. My son Andrew witnessed that firsthand when over 3 years ago he was on a private observer team viewing the Haitian election. The physical security of thousands of Haitians and the observer team was placed in jeopardy by a roving armed band simply because the Haitian people were trying to exercise a democratic right to vote.

U.S. Government policy since then has been at best confused. Indeed, for the people of Haiti, it has been tragic. Our recent retreat on the embargo is a vivid example.

We can do better. There may be no easy answer, but clearly use of the Presidential veto is an unsatisfactory policy. May this bill serve to tell the administration that inertia in the defense of freedom is not a defensible policy for the United States of America, inside as well as outside the hemisphere.

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. COSTELLO].

Mr. COSTELLO. Mr. Chairman, I rise today to voice my opposition to the administration's policy toward Haitian refugees. I also rise in strong support of the Haitian Refugee Protection Act, the bill which suspends the forced repatriation of Haitians seeking refuge from political repression and violence in their homeland.

Since the military coup ousted Jean-Bertrand Aristide, Haiti's first democratically elected President on September 30, about 15,000 Haitians have fled their homeland to escape acute, continuing repression and human rights violations in Haiti. Upon fleeing, thousands of Haitians have been intercepted by the Coast Guard and taken to the United States naval base at Guantanamo Bay, Cuba.

International law dictates that refugees seeking political asylum may not be returned to their homeland if there is a threat of persecution. The United States, however, has forced the repatriation of Haitian refugees despite the undeniable threat of political persecution upon return. Contrary to the administration's statements, the majority of detained refugees are not economic migrants, but political targets for the military regime.

Mr. Speaker, I question why United States policy toward Haiti has changed dramatically since the overthrow of a democratic government. According to the United Nations, the current military dictatorship is not the legal government of Haiti. The easing of the United States embargo gives the impression that the United States recognizes the current Haitian military dictatorship as a legitimate governing body.

In my own district of southwestern Illinois, the world-renown dancer and choreographer, Katherine Dunham, continues her hunger strike. Ms. Dunham, who is 82, spend much of her life and dancing career in Haiti. Now is St.

Mary's Hospital in East St. Louis, Ms. Dunham has been fasting since February 1, in opposition to the President's policy of repatriation of Haitian refugees.

I realize that opposing the President's policy may not be popular, especially in southwestern Illinois; however, it is the right thing to do. The administration has an arbitrary policy of denying political asylum to Haitian refugees. It is important that Congress act responsibly in upholding our national tradition of humanitarian protection of those in danger until the administration changes its policy.

I urge my colleagues to join me in support of the Haitian Refugee Protection Act, H.R. 3844. This bill suspends for 6 months the repatriation of Haitian refugees in United States custody by February 5, and instructs the administration to report on the fate of refugees returned to Haiti.

The current deportation process is inequitable and should be stopped immediately. Congress must take action now to support the struggle for democracy in Haiti.

Mr. SMITH of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I know the hour is late. These last two amendments to this bill are important and we certainly urge the attention of Members.

Mr. Chairman, this amendment which I am offering today is about returning Haiti to the Haitians. Only when President Aristide returns and democracy is restored can we start to think about any stability or economic development in this troubled country.

Mr. Chairman, one might ask our colleague, the gentleman from Ohio [Mr. HALL], the chairman of the Select Committee on Hunger, to tell you about this abject misery and disease on the island of Haiti which, if it goes unchecked, will give us some of the worst poverty and worst disease that this hemisphere has ever seen.

This immigration crisis we are now discussing before us today will be the tip of the iceberg if we ignore this country and this region.

Mr. Chairman, you heard the eloquent statements of the majority leader a few moments ago in this well in reference to this bill, talking about what the problems of human rights are on the island, the problems that are being faced by the Haitians who are there, and the repatriated Haitians who have already come.

Mr. Chairman, this amendment provides vital support to the agreement last weekend between President Aristide and Haitian parliamentary leaders to restore democracy in Haiti with Aristide as president. Acceptance by both sides of Mr. Theodore as Aristide's new prime minister finally cleared the way for the signing of the accords.

But just weeks ago when Theodore was first designated as the candidate, military thugs riddled his house with bullets, nearly killing him and his bodyguards. I wonder if my colleagues here would suggest that this amendment would get in the way of last week's agreement and if they are naive enough to believe that the Haitian military intends to carry it out.

This amendment basically does the following. It says that the President of the United States, with our sense of Congress, and that is all this is, a sense of Congress, should urge the U.N. Security Council and as appropriate the OAS to dispatch a peacekeeping force to Haiti to provide security for human rights monitors, to provide protection for Haitians repatriated from abroad, and to assist in establishing a climate of security in Haiti in which the rights of all persons will be respected, and to send human rights monitors to Haiti under the umbrella of some human rights organization designated as such, like the UNHRC or the Inter-American Human Rights Commission.

It is that simple. This is how we start on the road to getting Haiti back for the Haitians. The only way we will ultimately solve this refugee problem is if we restore the elected government and get Haiti back in the hands of the Haitians, who deserve their own country back.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I rise in support of the amendment. It is obvious that despite our best intentions, the solution of the Haitian problem and the inhumanity that goes on is not going to be solved here in the United States. It can only be solved in Haiti.

This amendment lays down a process and a policy which might make that possible.

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I support the amendment of the gentleman from Florida [Mr. SMITH]. I think it is well thought out. There is no question that the only way that Aristide can go back to Haiti is that the democratic institutions be allowed to develop their roots. This includes the Parliament that is there, the House of Deputies, as well as the Senate.

Mr. Chairman, this ruthless army has coerced the Parliament as well as they have the President, and I think you need this international peacekeeping force there in order for Haiti to regain its democracy.

□ 1800

Mr. SMITH of Florida. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding time to me.

I lived in Haiti for 3½ years. I taught English to Haitians; French and Creole to Americans.

I lived there during the early years of the Duvalier government, when Poppa Doc created the civil militia, the Ton Tons Macoutes, which literally means "uncle bogeyman." And they performed that function to intimate the army and the people, 300,000 of them, armed thugs, throughout the country.

The election of 1990 was all about getting rid of Macoutes and Duvalierism. And for one brief shining moment Haiti enjoyed democracy for the first time in its 200-year history.

Then the forces of Macoutes and Duvalierism crushed the Aristide government. During that 7 months there was no stream of refugees coming to the United States. They stayed in Haiti, hoping for democracy.

There is a beautiful Haitian song that says, "Haiti chevie pi bon pei pase ou nan point," beloved Haiti, there is no more beautiful country in the world than you.

The Haitians want to go back to their land. They do not want to stay here. This legislation makes it possible for them to return in dignity and, meanwhile, let us not hold them to our standard of due process of law. They are not a government of laws.

During the Duvalier government, law school was shut down. The jurists were chased out of the country. People hunted down.

We need to give them an opportunity to restore that brief moment of democracy.

There is a Haitian Creole proverb that says, "crayon de die pa gan gomme," the pencil of God has no eraser.

We cannot erase what the military did in September, but we can restore dignity to the Haitian people.

Mr. SMITH of Florida. Mr. Chairman, I yield myself such time as I may consume.

In closing, let me just say that Members would be amazed about the strong impact that this apparently negligible resolution can have over the tiny Haitian military of just 7,000 that brutally rules over a nation of 6 million people. I will stand on the words of the gentleman from Minnesota [Mr. OBERSTAR].

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member in opposition to the amendment?

If not, the Chair recognizes the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding time to me.

I do not rise exactly in opposition, but I think it is needful for us to make clear to the House that this situation not only puts another lump or bulge onto a bill that we had hoped we could

keep rather clean in order to match up with the other body. But even beyond that legislative situation, there is in the accord of February 22 of this year, signed by President Aristide and the Parliamentary Commission that negotiated this current settlement in article 5 of that, paragraph 8 suggests that both President Aristide and the Parliamentary Commission oppose and condemn any intervention by foreign military in the affairs of Haiti.

The gentleman's amendment is a sense of the Congress. It is not a statute. The gentleman calls them, and they are peacekeepers, not necessarily foreign military. But the fact of the matter is, there is an intervention. There is a movement into Haiti at a very sensitive time when President Aristide and the Parliament and Mr. Teodor and the OAS are trying to broker something other than using armed forces.

I only say that this could be counterproductive in a way, and I think it is just important to bring that to the attention of the committee before the committee works its wisdom on the gentleman's amendment.

Mr. SMITH of Florida. Mr. Chairman, I yield myself such time as I may consume.

Let me close by saying that while I understand what the gentleman from Kentucky has just said, the reality is that what we are asking the President to do is to talk with the United Nations and the Organization of American States about a force of peacekeepers, no armed security. That is not contemplated within this amendment. We are talking solely about the possibility.

Remember, even if Mr. Aristide is returned, there is no guarantee they will not force him out once again. So all we are asking is the President to start consulting with the United Nations and the Organization of American States. It is a sense of Congress, but it sends a very powerful message to the military that if they do not cooperate, then something else eventually could happen.

I urge approval of this amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I have no objection to the amendment now that I have heard all about it at great length.

Does the gentleman from Florida [Mr. MCCOLLUM] have any objection to the amendment?

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I have no objection.

Mr. SMITH of Florida. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4, printed in House Report 102–436.

AMENDMENT OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GOSS:

At the end insert the following new section:

SEC. 7. SENSE OF CONGRESS.

The Congress urges the President and the Attorney General to take all appropriate actions to ensure that no State is impacted, disproportionately, with respect to the provision of services for Haitian refugees and displaced persons entering the United States.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. GOSS] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I would say to my good friend, the gentleman from Florida [Mr. GOSS] that I have looked over this amendment. I think it is somewhat redundant, but it does represent a viewpoint. The gentleman from Florida [Mr. GOSS] and the gentleman from Florida [Mr. LEWIS] were very much concerned about it.

I do not think it does any harm. It is a sense of Congress, and I would see no objection to accepting it and going on to final passage.

Mr. GOSS. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I rise in strong support of the Goss amendment.

Mr. Chairman, I support the amendment offered by my colleague, Mr. GOSS.

Many of the Haitian refugees that have been given the opportunity to seek political asylum, will settle in Florida. It simply is not fair for the people of Florida to shoulder the entire burden of refugees without help from the Federal Government. As a matter of fact, Florida is still owed for expenses incurred during the Mariel boatlift.

The message of the President must be clear. The Federal Government has a responsibility to share the cost of caring for Haitian refugees.

Mr. FOGLIETTA. Mr. Speaker, Congress must take the lead now to delay the repatriation of Haitian refugees. Congress must pass H.R. 3844, which cleared the House of Representatives on February 27, 1992.

The Bush administration has sent thousands of Haitian refugees back to their country to meet persecution. Clearly, this policy is wrong and immoral. We cannot force these refugees into an uncertain and dangerous future. This breaks the rules of political asylum and world refugee procedures.

We have to ask, "Would the treatment of these people be any different if they had been fleeing a Communist regime in Eastern Europe or if they were trying to get out of Cuba?"

The administration's policy sends the message that these people aren't important enough, that they are too poor, and that they are not from an influential part of the world. But I disagree. The refugees are important, and they are suffering, 2,000 people are being returned each week. At this rate, all refugees will be returned within 2 weeks, but this won't solve the problem.

These Haitians are yearning to breathe free, as everyone did who landed on these shores. But the words on the inscription at the base of the Statue of Liberty apparently do not apply to Haitians.

With passage of this bill, the House is asking for time, time for things to settle down. This is the least the refugees could hope for.

Unfortunately, I was called away to Philadelphia. I want to place on the RECORD that I would have voted "aye" on final passage.

Mr. GOSS. Mr. Chairman, as others have pointed out, H.R. 3844 has serious drawbacks. However, I believe all Members can find common ground around the proposition that the burden of caring for refugees and displaced persons who enter the United States should be equitably shared.

The amendment I have offered acknowledges the disproportionate burden which Florida and some other States have borne over the last decade in looking after many thousands of persons fleeing the turmoil of Central America and the Caribbean. The arrival in the United States of these desperate people with little more than their hopes and their needs has brought our foreign relations home in a very personal—and costly way.

Florida, along with many of our sister States, has met the challenge which our geography has thrust upon us. However, our response circuits are now on overload.

Let me be clear: We are not confronting compassion fatigue. Floridians have always done their part, but our social services delivery systems and supporting community infrastructure are stretched to capacity. With the economy faltering, new arrivals are no longer finding an employment environment that can readily absorb them as contributing members of our society. This means a prolonged period of Government assistance.

Immigration control is a Federal responsibility. However, the Federal Government has historically reimbursed State and local governments for only about half the calculable costs of resettlement and absorption of new arrivals. Based on my State's experience with the Mariel boatlift, the unreimbursed cost to our State and local governments of the latest Haitian arrivals is expected to be more than $5 million the first year. Moreover, we don't have the capability to accurately measure the longer term costs to our social and physical infrastructure—for which there is no local reimbursement formula.

Given all this, the amendment before us conveys the sense of Congress that the Federal Government should—as a basic policy approach—look at all methods that could be employed to ensure that no State bears a dis-

proportionate impact of special immigration problems. As States continue to face serious budget shortfalls, the Federal Government should take steps to ensure that State and local taxpayers do not incur what is appropriately a Federal cost in attempting to provide services for Haitian and other refugees and displaced persons.

Mr. Chairman, we need national, not regional, solutions to national problems.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there a Member in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from Florida [Mr. GOSS].

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MCNULTY] having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3844) to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti, pursuant to House Resolution 375, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 165, not voting 52, as follows:

[Roll No. 34]

AYES—217

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Atkins
Bacchus
Bennett
Berman
Bilbray
Blackwell
Bontor
Borski
Boxer
Brooks
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Clay
Clement
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hubbard
Huckaby
Hughes
Hunter
Hyde
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kildee
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Rangel
Reed
Riggs
Rinaldo
Roe
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roybal
Sabo
Sanders
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swett
Swift
Synar
Thornton
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Weber
Weiss
Wheat
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOES—165

Allard
Allen
Applegate
Archer
Armey
Baker
Barrett
Barton
Bateman
Bellenson
Bentley
Bereuter
Bevill
Billrakis
Bliley
Boehlert
Boucher
Brewster
Broomfield
Browder
Bunning
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carr
Chapman
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Darden
DeLay
Doolittle
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fields
Franks (CT)
Gallegly
Gaydos
Gekas
Gilchrest
Gillmor
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Hobson
Holloway
Hopkins
Horton
Houghton
Hutto
Inhofe
Ireland
James
Johnson (TX)
Kanjorski
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Martin
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Myers
Nichols
Nussle
Oxley
Packard
Parker
Patterson
Paxon
Pease
Petri
Pickett
Porter
Pursell
Ramstad
Ravenel
Regula
Ridge
Ritter
Roberts
Rogers
Roth
Roukema
Sangmeister
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—52

Alexander
Aspin
AuCoin
Ballenger
Barnard
Boehner
Burton
Chandler
Coleman (TX)
Dannemeyer
Davis
de la Garza
Dickinson
Dicks
Dymally
Foglietta
Ford (MI)
Gallo
Geren
Gingrich
Hatcher
Herger
Hoyer
Johnston
Kleczka
Kolter
Laughlin
Levine (CA)
Lloyd
Marlenee
McDade
Moakley
Murphy
Ortiz
Orton
Peterson (MN)
Quillen
Ray
Rhodes
Richardson
Rostenkowski
Rowland
Russo
Sarpalius
Smith (OR)
Stallings
Tallon
Taylor (NC)
Thomas (CA)
Torres
Whitten
Williams

□ 1829

The Clerk announced the following pairs:

On this vote:

Mr. Hoyer for, with Mr. Rowland of Georgia against.

Mr. Kleczka for, with Mr. Boehner against.

Mr. Williams of Montana for, with Mr. Thomas of California against.

Mr. Aucoin for, with Mr. Taylor of North Carolina against.

Mr. Orton for, with Mr. Marlenee against.

Mr. Ford of Michigan for, with Mr. Quillen against.

Mr. Ortiz for, with Mr. Gallo against.

Mr. SHAYS changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

□ 1830

TITLE AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. BROOKS: Amend the title so as to read: "A bill to assure the protection of certain Haitians in the custody of the United States, and for other purposes."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3844, the bill just passed.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BALLENGER. Mr. Speaker, the House considered H.R. 3844. I was away from the House and could not be present for several votes. Had I been present, I would have voted "nay" on rollcall No. 32, "aye" on rollcall No. 33, and "nay" on rollcall No. 34.

1992 TRADE POLICY AGENDA AND 1991 ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

To the Congress of the United States:

In accordance with the provisions of section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1992 Trade Policy Agenda and 1991 Annual Report on the Trade Agreements Program.

GEORGE BUSH.

THE WHITE HOUSE, *February 27, 1992.*

LEGISLATIVE PROGRAM

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, on behalf of the Republican leader, I have asked for this 1 minute to engage the majority leader in a colloquy about the schedule, if the majority leader would be good enough to inform the House about the schedule for the rest of the week and next week.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, we are obviously finished today. There will be no votes on tomorrow.

On Monday, the House meets at noon, but there will be no legislative business.

On Tuesday, March 3, the House will meet at noon and will consider 12 bills on suspensions. Recorded votes on suspensions will be postponed until after debate on all suspensions, and I might add to the gentleman that in that this is a primary day in some States, we will try to work together to see that there are few, if any votes, advisable. After we hear the bills that are here, Members may better understand that there could be very few, if any, votes.

The suspensions are as follows:

H.R. 939, veterans' housing amendments.

H.R. 2184, Udall scholarship.

H.R. 2321, to establish the Dayton Aviation Heritage National Historical Park in Ohio.

S. 996, to terminate a reservation of use and occupancy at the Buffalo National River.

S. 1467, to designate the "Frank M. Johnson, Jr. Federal Building and U.S. Courthouse."

S. 1889, to designate the "Ewing T. Kerr Federal Building and U.S. Courthouse."

H.R. 2539, to designate the "Clarkson S. Fisher Federal Building and U.S. Courthouse."

H.R. 3818, to designate the "George C. Young U.S. Courthouse and Federal Building."

H.R. 3041, to designate the "L. Douglas Abram Federal Building."

H.R. 2475, to designate the "Mitchell H. Cohen U.S. Courthouse."

H.R. 2818, to designate the "Silvio O. Conte Federal Building."

H.R. 3118, to designate the "Theodore Roosevelt Federal Building."

On Wednesday, March 4 and the balance of the week, the House will meet at 2 p.m. on Wednesday. The House will meet at 11 on Thursday, and if we meet on Friday, to take up an House concurrent resolution with regard to the concurrent resolution on the budget for fiscal year 1993, subject to a rule, and H.R. 3732, the Budget Process Reform Act of 1991, again subject to a rule.

Mr. SOLOMON. Well, Mr. Speaker, if the majority leader could enlighten us, earlier the gentleman from Massachusetts [Mr. MOAKLEY], the chairman of the Rules Committee, had extended the time for filing amendments to the budget until 10 a.m. on Tuesday.

Under what time schedule which is in effect right now for the report to be filed on Monday, does the majority leader know that?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, we will be attempting to ask unanimous consent that the Committee on the Budget have until 8 p.m. on Monday, March 2, to file a report on the concurrent resolution on the budget.

Mr. SOLOMON. So the gentleman does intend to ask for that filing period of 8 p.m.

Mr. GEPHARDT. That is correct.

Mr. SOLOMON. Which would give the Members a chance to look at the report overnight.

Mr. GEPHARDT. That is correct.

Mr. SOLOMON. Well, I certainly thank the majority leader for answering our questions.

Mrs. BENTLEY. Mr. Speaker, will the gentleman from New York yield?

Mr. SOLOMON. I am glad to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, I would like to respectfully request the leadership that if any votes on suspensions are called for on Tuesday that they be carried over until Wednesday because of the primary vote in both Maryland and Georgia on Tuesday.

Mr. MFUME. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Maryland.

Mr. MFUME. Mr. Speaker, I would like to join the gentlewoman in making that request of leadership on both sides of the aisle, for the same reasons.

Mr. GEPHARDT. Mr. Speaker, if the gentleman yield further, let me say as I stated before, it is our great hope that votes will be avoided.

I would also, however, say that for the purpose of getting the budget finished next week, which we very much want to do, we need to get Members who are not engaged in primary elections on Tuesday to be here so that we can finish the work of the Rules Committee and in the Budget Committee and be able to move forward on Wednesday; but I would assure both my friends from Maryland and other States that have primaries that the leadership, and I would suspect the leadership on both sides, will do everything in our power to see that there are no votes on Tuesday.

Mr. SOLOMON. Mr. Speaker, as the majority leader has pointed out, of those 12 suspensions we have reviewed them over here. None of them are controversial, and I do not expect anyone on this side of the aisle to be asking for a vote on any of those 12 resolutions.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for stating that. That certainly is our view.

Mr. SOLOMON. and Mr. Speaker, I thank the gentlewoman for bringing up the question.

ADJOURNMENT TO MONDAY, MARCH 2, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON THE BUDGET TO HAVE UNTIL 8 P.M. MONDAY, MARCH 2, 1992, TO FILE REPORT ON CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEARS 1993 THROUGH 1997

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the committee on the budget have until 8 p.m., on Monday, March 2, 1992, to file a privileged report on the concurrent resolution on the budget for fiscal years 1993 through 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GENERAL LEAVE

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the subject of the special order today of the gentleman from Florida [Mr. BILIRAKIS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ORDER OF BUSINESS

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent to transpose my name in the special order calendar with the gentleman from Ohio [Mr. STOKES], and I do this with the concurrence of my colleague, the gentleman from Ohio [Mr. STOKES].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

[Mr. DORNAN of California, addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

□ 1840

TOY INJURY REDUCTION ACT, H.R. 3809

The SPEAKER pro tempore (Mr. MCNULTY). Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, yesterday the Subcommittee on Commerce, Consumer Protection, and Competitiveness held a hearing on the Toy Injury Reduction Act, House Resolution 3809, which I have sponsored.

Balloons, marbles, and balls are familiar to all of us. So are toys with small parts. While these common toys seem innocent, they can be dangerous and even life threatening to young children. Many of us have probably given one of these toys to a young child without realizing the potential danger. In addition, many of us have probably given a toy intended for children over age 3 to a child under that age, unaware that the toy is not recommended for children under three because it contains small parts which may present a choking hazard. Like many consumers, we probably thought that the age recommendation label on the toy referred to an educational development level, not safety.

We are not alone. The CPSC reported 146 choking-related deaths from January 1980 through April 1989. The analysis showed that common everyday balloons were responsible for over 40 percent of those deaths. In addition, 32 children choked to death on another familiar toy, the ball. Another old favorite—the marble—was also associated with many deaths and injuries.

Unfortunately, Mr. Speaker, every year, new youngsters are added to the list of those that have been injured or choked to death on small toys and small parts of toys. According to the CPSC, in 1990 alone, 23 deaths and an estimated 164,500 injuries were associated with toys.

Some of these children's lives could have been saved and others could have been spared serious health consequences if their parents had been warned that the toy in question presented a hazard to their child.

Some toy companies voluntarily use labels; however, in many cases, age warning labels are so blandly written that they fuel the erroneous idea that the age level is more related to educational development than to safety. This fact is illustrated in a recent study entitled "The Impact of Specific Toy Warning Labels," published in the Journal of the American Medical Association.

During the study, toy buyers at a shopping mall were surveyed to evaluate the adequacy of various toy labels. The study found that the current voluntary labels used by manufacturers "may not by sufficiently explicit to alert buyers of toys with small parts to the potential choking hazards to children under 3 years of age." The study concludes that an explicit label warns of the hazards, "might substantially reduce inappropriate toy purchases without imposing any substantial cost on the consumer, the government, or the manufacturer."

The Toy Injury Reduction Act requires warning labels on toys that are intended for children between 3 and 6, but pose a hazard to younger children due to small parts, and on certain toys which have been associated with many tragedies: balloons, games of skill with small balls, and marbles.

According to the CPSC, in 1990, 19 children under the age of 3 died at the hands of toy balls. The legislation alleviates this hazard by requiring minimum choke proof size requirements for balls intended for children under age 3.

This bill does not require labeling of anything but toys. And toys should be labeled because they are specifically intended for, marketed to, and targeted to children.

Children are invited to play and use these potentially hazardous consumer goods. When parents are buying a toy, and there is no explicit warning of its hazardous properties, parents just assume that the items must be safe for children to use when in fact, the opposite is true.

Mr. Speaker, proper labels will serve to educate toy purchasers so that they will know which toys to buy for their children.

Well, Mr. Speaker a recent study by the CPSC showed that the labeling costs to industry will be minimal. The CPSC's analysis showed that the cost to the entire toy industry of these requirements is less than $500,000. They may spend more on their lobby efforts. Most importantly, how can this minimal cost compare with saving the life of even one child?

Mr. Speaker, we need to put an end to these senseless toy-related deaths at once. Just recently during the holiday season, we were reminded again by the U.S. Public Interest Research Group in a study entitled "Trouble in Toyland," of the hazardous toys sitting on store shelves. In just a quick survey in local Washington metropolitan stores, U.S. PIRG found 21 hazardous toys sitting on store shelves just begging to be bought and placed into the hands of a youngster in time for the holidays.

In conclusion, Mr. Speaker, too many children are dying at the hands of something that is supposed to provide entertainment, promote imagination, and facilitate education. I hope we can start on the road to reducing these unnecessary deaths by passing the Toy Injury Reduction Act.

RESOLVING THE SAVINGS AND LOAN CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 5 minutes.

Mr. MCCOLLUM. Mr. Speaker, I rise tonight to speak for a moment about the savings and loan crisis aftermath and what is going on now with the Resolution Trust Corporation in its refunding.

When we passed the law back a few years ago in 1989, called FIRREA, to resolve some of the thrift problems, I am very pleased to say I voted against that law. But when we passed that law back in 1989, part of the provision in that was to begin the funding process for

the resolution of the institutions that were to be closed or merged or whatever that were failing. And in that process, Congress did a number of things, raised capital requirements and standards, also put some money out there.

Well, over the years since then we have allocated about $105 billion to the Resolution Trust Corporation for that purpose, and we are engaged in a process right now, through our committee, which will come to the floor shortly, allocating another $25 billion or so, maybe even a greater amount, but at least $25 billion, that will bring the total amount up to $130 billion that the RTC would have to use as loss funds for the losses incurred to the Government of the United States and to the taxpayers ultimately because of the failures of the savings and loans.

I do not think we need to lose all that money. And I think it was outrageous today in the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, upon which I sit, when the chairman and others decided on the committee that there would be no amendments allowed to a clean bill, they called it, to provide for further money to be allocated to the RTC, the $25 billion additional, plus lifting a reservation cap that comes into play the first of the month of April to keep some that is already there from being spent.

We need to make measures clear to the RTC, to the office of Thrift Supervision, to the other regulators in this matter that they are to go the least costly method possible in any of these resolutions; that we do not want them out here spending money willy-nilly to close institutions unnecessarily. That is what is about to happen if we let this reauthorization proceed. We are going to be spending billions and billions and billions of American taxpayer dollars that we do not need to spend. I would like to elaborate on why I am so concerned and what precisely was not allowed today, and I hope that the full committee will allow an amendment on this subject. Certainly, the floor, if not the committee, will be given a chance to vote on it.

We have to go back before the failures occurred to look at the action of the Home Loan Bank Board that oversaw the savings and loans back in the early 1980's. When we had failures, we did not have any money to do anything with them in the insurance fund. So, Home Loan Bank Board, in many people's opinions and in mine too, made a mistake. They went out and they said to very healthy, good, well-managed savings and loans that, "If you will take on these bad failing ones, since we do not have any money to close them down, we will give you a credit for 40 years of what we call goodwill, supervisory goodwill, and you can write that off over 40 years."

Well, to a lot of these well-managed institutions, that was a pretty good deal because they got new retail outlets and they got business in the area and they did not have bad things on their books that they could not take care of. They had 40 years.

Well, not, when FIRREA was passed, that law in 1989, Congress did away with that, They said, "You have got to pay that off in 20 years." Not only that, but within 5 years, on a phaseout program, "You can no longer count this supervisory goodwill toward capital."

At the same time, we passed a law that said, "You have got to have a certain minimum amount of 2 percent of capital on your books."

Well, there are at least 70 institutions today that are perfectly well managed that are about to be closed, those that have the supervisory goodwill, that would not be closed but for the fact that they cannot count that goodwill anymore as capital.

If we paid them—they have about $2 billion, now much goodwill they have—if we paid them off the $2 billion, they would be very healthy. They would be the best capitalized savings and loans in the country. But the fact of the matter is we are about to close them all. The way they close institutions when RTC and OTS get a hold of this is through a process that costs taxpayers about 15 to 20 percent of the total assets of those institutions.

The total assets of those 70 institutions is $180 billion. Fifteen to 20 percent of that ranges in the neighborhood of $27 billion to $36 billion it is going to cost to close them. That is not the least costly method of resolving these institutions. The least costly method is by paying $2 billion, paying off that supervisory goodwill and getting rid of it that way.

□ 1850

Mr. Speaker, we ought to have the privilege of doing it that way instead of the other way. We ought to give the power to the OTS and the RTC to do that. We have not done that, and the committee up to this point in time, the Committee on Banking, Finance and Urban Affairs, has ducked that issue. I think it is a terrible thing to duck. I do not know any good argument for doing that. The least costly method is that method.

Mr. Speaker, I yield to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I thank the gentleman from Florida [Mr. MCCOLLUM] for yielding. I want to join him in his remarks.

Mr. Speaker, I was one of those on my side of the aisle that voted against this appropriation today of a large sum of money without any safeguards, without looking at what would be cost-effective to consumers, simply a willy-nilly approach of throwing bad money after more bad money. So, I commend the gentleman for taking this approach.

As the gentleman knows, it is not a favorable approach in our committee, but I have been of the firm belief for a long time that the RTC and OTS have mismanaged taxpayer dollars and ought to have some sort of basic discipline and guidelines under which they operate.

I thank the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman from Maryland [Mr. MFUME] for that very much.

I think my 5 minutes is probably about expired at this point, but I do thank my colleagues for listening to me. It is a problem, we need to resolve it, and, if we do not, it is going to cost multibillions of dollars.

INTRODUCTION OF LEGISLATION TO ENCOURAGE THE USE OF SAFER MEDICAL NEEDLES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, the AIDS epidemic continues to multiply and health care personnel to fight this public health care battle are essential. It is also essential that these health care workers be protected—to the maximum extent possible—from accidental exposure to HIV. Therefore, Representative RANGEL and I are today introducing a bill designed to provide a safer workplace for health care personnel in the years to come.

The bill basically will use the Tax Code to make it economical for health facilities to use safer needle devices. The tax provision will not take effect until 1997, so as to give manufacturers, marketers, and health care facilities time to develop the most reliable, low-cost, mass-produced safe needles possible. Using the Tax Code to place an excise tax on unsafe needles will ensure that there is a future mass market for safe needles, and this mass market will result in manufacturing economies of scale that should greatly reduce the price of currently available safe needles.

I would like to thank Congressman WYDEN, chairman, Subcommittee on Regulation, Business Opportunities and Energy for the very informative hearing held on February 7, 1992, on the needlestick issue. The information obtained at this hearing dramatized the need for quick legislative action to help solve the problem

GROWTH OF HIV AND HEPATITIS CASES

Individuals infected with HIV may require frequent and intensive health care intervention. It has been estimated by the CDC that 1.5 million Americans have contracted HIV. Of these approximately 206,000 have been diagnosed with AIDS. In addition there have been approximately 130,000 deaths due to AIDS.

It has been estimated that approximately 5 million health care providers in the United States alone are at risk for contracting diseases through exposure to infected blood and body fluids on a daily basis. According to the

latest CDC statistics, approximately 29 health care workers have seroconverted to HIV positive after known occupational exposures. Three of these have gone on to develop AIDS.

It has also been estimated that 200,000 to 300,000 people annually acquire Hepatitis B [HBV]. Of these, approximately 10,000 cases occur in health care providers. It has been estimated that annually 5 to 10 percent become chronic carriers of the Hepatitis B virus. In addition approximately 2,500 individuals die annually due to acute infection with hepatitis B; this number includes 300 health care workers per year.

These infections are most frequently transmitted in the hospital setting by percutaneous exposure, most often due to needlesticks, or mucous membrane exposure.

It has been estimated that each needlestick costs between $350–$800 (this only reflects the cost of treating the initial needlestick only; i.e. testing, counseling, screening, prophylactic AZT treatment. It does not include the cost of treatment if disease develops). The direct cost of testing after accidental needlesticks approximates $750 million per year according to "MedPRO Month". It has also be estimated that the additional cost of transitioning one hospital with needle safety devices would be approximately one-twelfth of the annual cost of treating one AIDS patient.

SAFER NEEDLES ARE POSSIBLE

People who have not thought about it will probably laugh at the idea of making a safe needle. AIDS is not a laughing matter. Actually, many new products have been introduced into the market that attempt to make devices with needles safer to work with. These products either do not use needles at all or cover the end of the needle with some form of protective housing that extends past the needle when it is not in use. However, they are not being used due to the cost increase over the price of conventional needles.

Preliminary data from a recent New York study reviewing needleless IV catheters, as well as those with protective housings and phlebotomy equipment, indicates health care providers favor the new designs. It should be pointed out that standards for the use of this equipment are only now being developed.

In a study conducted by the New York State Department of Health in 1991, after implementation of devices using safer technologies, overall the number of sharps related injuries decreased 30.8–55.9 percent and IV related injuries decreased 75–93.8 percent. Data gathered by Dr. Janine Jagger, et al, at the University of Virginia suggest that "88 percent by needlestick injuries could potentially be eliminated by product redesign or substitution." (David Bell, M.D., Chief, HIV Infections Branch, Hospital Infections Program, National Center for Infectious Diseases, Center for Disease Control, statement before the Subcommittee on Regulation, Business Opportunities, and Energy, February 7, 1992)

Unless something is done about the price differential, every year millions of at-risk health care workers will suffer in silent agony after receiving a needlestick and many of those will die needlessly from infections like AIDS and Hepatitis B.

TYPICAL COST DIFFERENTIALS

Few health care facilities have this equipment due to the cost involved. As an example, for a hospital to transition to a needleless IV system can cost as much as $10,000 for each 100 beds. Currently IV systems with safety devices can cost as much as 2.5 to 6.5 times the current market rate for devices without safety features. What may not be apparent to health care facility administrators is that the decrease in injuries that will result will offset the incremental cost increase. This is significantly less than the cost of treating an individual for AIDS and/or Hepatitis B. For example, the estimated average cost of treating an adult with AIDS can range from $40,000 to $80,000 depending on the severity of illness.

Regardless of the size of the cost differential, this is a safety step which should be taken. As K. Seifert, director of sales, BioPlexus, Inc., stated in his testimony before the Subcommittee on Regulation, Business Opportunities, and Energy, on February 7, 1992, "In any other high risk occupation; no one would be asked to justify the cost of safety goggles compared to losing an eye. The risk from a needlestick is not to sight but to life * * *."

CONCLUSION

Mr. Speaker, this is a tax bill, but I expect—I hope—it will never raise a dime. It's purpose is to signal the marketplace that a change is needed to save lives. Its purpose is to get rid of unsafe devices in an area where we know how to provide safe devices. Passing this bill in 1992 could ensure that by the beginning of 1997, health care professionals would be free from the fear of contracting deadly diseases from blood borne pathogens.

The full text of the bill follows:

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 32 of the Internal Revenue Code of 1986 (relating to manufacturers excise taxes) is amended by inserting after subchapter D the following new subchapter:

"Subchapter E—Certain Medical Items

"Sec. 4191. Imposition of tax.
"Sec. 4192. Definitions and special rules.

"SEC. 4191. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable needle sold by the manufacturer, producer, or importer thereof.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

In the case of sales during calendar year:	The tax per needle is:
1997	10 cents
1998	6 cents
1999	2 cents

"(c) TERMINATION.—No tax shall be imposed by this section on any sale after December 31, 1999.

"SEC. 4192. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE MEDICAL ITEM.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'taxable medical item' means any item—

"(A) which is—

"(i) a syringe, or

"(ii) an item which is designed to be part of an intravenous system and to which a standard prescribed under paragraph (2) applies,

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing, and

"(C) which does not meet the applicable standard prescribed under paragraph (2).

"(2) ANTI-NEEDLESTICK PREVENTION STANDARDS.—Not later than January 1, 1996, the Commissioner of the Food and Drug Administration shall prescribe safety standards for syringes, and such components of intravenous systems as such Commissioner deems appropriate, for purposes of preventing accidental needlestick injuries.

"(b) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subchapter—

"(1) UNITED STATES.—The term 'United States' has the meaning given such term by section 4212(a)(4).

"(2) IMPORTER.—The term 'importer' means the person entering the item for consumption, use, or warehousing.

"(3) CERTAIN USES TREATED AS SALES.—Any manufacturer, producer, or importer of a taxable medical item which uses such item before it is sold shall be liable for the tax imposed by section 4191 in the same manner as if such item were sold by such manufacturer, producer, or importer.

"(4) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to the tax imposed by section 4191."

(b)(1) Subsection (a) of section 4221 of such Code is amended by adding at the end thereof the following new sentence: "Paragraphs (2), (3), (4), and (5) shall not apply to the tax imposed by section 4191.".

(2) Paragraph (2) of section 6416(b) of such Code is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to the tax imposed by section 4191.".

(c) The table of subchapters for chapter 32 of such Code is amended by inserting after the item relating to subchapter D the following new item:

"Subchapter E. Certain medical items."

(d) The amendments made by this section shall apply to sales after December 31, 1996.

AFRICAN-AMERICAN HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 60 minutes.

Mr. STOKES. Mr. Speaker, each year during the month of February, our Nation celebrates Black History Month. I have reserved this special order today along with the chairman of the CBC, the gentleman from New York [Mr. TOWNS] so that the House of Representatives can join in this national observance. I want to thank my colleagues who have taken time from their busy schedules to join me for this special order. We take pride in the opportunity to highlight and pay tribute to African-Americans who have contributed so much to this great Nation.

Our celebration of Black History Month dates back to 1926, when Dr. Carter G. Woodson, who is known as the father of negro history, initiated the observance of Negro History Week. He chose the dates embracing the birthdays of Abraham Lincoln and Frederick Douglass in February for the

opportunity to bring the achievements of African-Americans to the attention of the public. In 1972 the Association for the Study of Negro Life and History changed the name of Negro History Week to African-American History Week. And, in 1976, our Nation began its first month-long celebration of Black History Month.

Mr. Speaker, as we celebrate Black History Month, we celebrate an America more culturally enriched, intellectually developed, and technologically advanced because of the contributions of African-Americans.

The theme for the 1992 observance of Black History Month is "African Roots Explore New Worlds: Pre-Columbus to the Space Age." I want to use my time today to pay tribute to an individual who, in my opinion, best exemplifies this theme. An individual who, during his lifetime, not only brought a new dimension to African-American history, but enlightened the Nation and the world. That individual is the late author Alex Haley. We are deeply saddened by the recent passing of this literary giant.

Mr. Speaker, Alex Haley's 12-year search for his African ancestry produced a 1977 Pulitzer Prize winning novel, and a stirring television miniseries, "Roots: The Saga of an American Family."

In "Roots", Haley reached back seven generations to discover the birth of his great-great-great-great grandfather, Kunta Kinte, in the village of Juffure, on the Gambia River in West Africa. The saga recorded the kidnapping of Kunta Kinte into slavery; his passage across the ocean on a slave ship; and his sale to a Virginia slaveowner.

The book went on to describe the birth of Kunta Kinte's children; their passage from slavery to freedom following the Civil War; and the settling of the family in Alabama and Tennessee in the late 19th and 20th century.

Mr. Speaker, I am pleased at this time to yield to my distinguished colleague and friend, the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, this February is the 16th celebration of Black History Month. The idea of setting aside a period of time to acknowledge the heritage, achievements, and contributions of black Americans is attributed to Dr. Carter G. Woodson in 1926.

Dr. Woodson's contribution to American life and letters is enormous. The author of many scholarly books, his work has given us insights into how the Afro-American experience enriched American history. Dr. Woodson's work has served to shape our understanding of the American experience. The culture and experience of Afro-Americans is intertwined with our culture and identity as Americans.

In order to comprehend the contributions and achievements of Afro-Americans, information on the black experience in the United States had to be published. Dr. Woodson's most popular work, "The Negro in Our History," was published in 1922. Hitherto, the true facts of the Afro-American contributions to the discovery, pioneering, and development of the United States had not been adequately presented in the textbooks, media, and films.

Born of ex-slaves in the year 1875, 10 years after the Civil War, Dr. Woodson embodies so much of the courage and dignity at the heart of the Afro-American experience in the New World.

Self taught until the age of 17, he earned his Ph.D. from Harvard in 1912. He was an educator. His mission was to study and disseminate knowledge on African-American history. Understanding and appreciating the Afro-American experience not only enriches our national life, but it reminds all Americans of their ethnic roots and the uniqueness of the great American experience: the nurturing of mutual respect for differing traditions and backgrounds.

I find Dr. Woodson's life to be exemplary. He believed in the need and the value of understanding our history. He believed in the value of society's search for knowledge.

By offering the world an understanding of the richness of the African-Americans' history and culture, Dr. Woodson paved the way for generations of Afro-Americans. In the realms of government and community service, civil rights, arts, education, science, business, sport, and entertainment, Afro-Americans continue to contribute to American society. Talented men and women such as Booker T. Washington, W.E.B. Du Bois, Langston Hughes, Duke Ellington, Marian Anderson, Rosa Parks, Jackie Robinson, Dr. Martin Luther King, James Baldwin, Diana Ross, Toni Morrison, Thurgood Marshall, and Gen. Colin Powell continue to make great contributions. They have provided leadership. Their civic and cultural contributions continue to make history.

Mr. STOKES. Mr. Speaker, I thank the gentleman from Nevada [Mr. BILBRAY] for his remarks.

I yield to the distinguished gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I would first like to thank my colleague from Ohio Mr. LOUIS STOKES for calling this special order today in honor of African-American History Month. The need to know our heritage is at such a crucial point. 29 days, or the usual 28, just does not seem enough. We should make every month African-American History Month by learning about our ancestors, and ourselves, all year long.

Today I would like to pay a special tribute to one of our greatest revolutionaries. This sister was a pioneer journalist, activist, suffragist, and antilynching crusader of the late 19th and early 20th centuries. This great African-American was Mrs. Ida B. Wells-Barnett. Born Ida B. Wells in 1862, her parents were both slaves in Holy Springs, MS. In 1878, she lost both her parents, along with other siblings, to the yellow fever epidemic that had invaded the Mississippi Delta. She was left alone to raise her remaining brothers and sisters at the tender young age of 16.

Ms. Wells became a teacher in Memphis, TN, where she wrote articles in local and national black publications exposing the corruption and poor conditions in the Memphis school system. It was because of these writings that she was eventually fired from her teaching position. It was also during this time in the mid-1880's that Ms. Wells sued the railroad company for throwing her off a train when she refused to move out of the segregated ladies' car into the smoking car. She won the lawsuit and was awarded $500. The railroad appealed and in 1887, the Supreme Court reversed the decision.

The loss of her job as a teacher mounted with the loss of her court case prompted Ms. Wells to become a full time journalist with the Memphis Free Speech newspaper where she would be afforded the opportunity to speak out on such injustices. She soon became editor. She also became one of the major figures in the struggle for human rights in America, and in the women's suffrage movement along with Susan B. Anthony.

Using her pen as a weapon against injustice, Ms. Wells advocated self-help and voluntarism in the African-American community, while challenging the forces of race hatred and segregation.

A product of the Reconstruction era, she went on to become a major figure in journalism and in social and political reform. She prompted most of the African-American population in Memphis to move west after the lynching of three African-American grocers.

She encouraged a boycott of the street cars by the remaining African-Americans in the community, predating the Montgomery bus boycott in 1955.

A staunch advocate of freedom of the press, Ms. Wells was supported early in her career by the legendary Frederick Douglass, and celebrated throughout African-American communities nationwide for her courageous leadership of the antilynching movement.

She wrote stinging articles in retaliation for the growing number of lynchings that were being perpetrated against African-Americans. Mobs as large as 100,000 gathered together to beat, burn, and eventually murder innocent men, women, and children. Train schedules were printed and extra cars put on for the convenience of the crowds.

Her writing angered white people to the point that they physically destroyed her paper and press. She went to New York and stayed in exile from the South for 30 years. Outraged in 1894 at the 197 persons lynched that year, she organized the first national antilynching campaign.

As the organizer of the antilynching campaign, Ida B. Wells was very politically active in New York. She kept the pressure on elected officials to investigate the false claims that led to the murder of these innocent victims.

When the elected officials dropped the ball, she picked it up by exposing through her writings the horrendous crimes being committed in the name of law and order. On one occasion she chastised President McKinley face to face for not pushing through antilynching legislation.

By the late 19th century, her stature was on a par with that later attained by such eminent contemporaries as Booker T. Washington and W.E.B. DuBois. She died in Chicago, IL, on March 25, 1931.

The ideas and strategies of Ida B. Wells have directly, or indirectly, influenced the thinking of almost every major African-American leader who has come after her; from A. Philip Randolph to Malcolm X and Dr. Martin Luther King, Jr.

In recent times, the legacy of Ida B. Wells has been virtually forgotten. For years, her work as an antilynching activist was ignored by social scientists and the media alike. Today, however, Ida B. Wells is being rediscovered. In 1987, she was inducted into the Tennessee Newspaper Hall of Frame. In 1988, the Society of Professional Journalists inducted her into its national hall of fame. And in 1990, the U.S. Postal Service issued over 200 million copies of Ida B. Wells commemorative stamps.

Her work is being duplicated in grassroots community organizations around the country. It is a shame and a disgrace that today although lynchings have ceased in practice we still have cases of police brutality and unexplained incidence against many minorities. Because these actions have not totally dissipated we must all keep up the fight until all Americans are safe in this society.

As we honor Ms. Wells, we honor all of our ancestors who made it possible for all of us to be who, and where, we are today. So Mr. Speaker, I ask my colleagues to join me in saluting Ms. Ida B. Wells by recognizing the outstanding achievements of this great African-American woman.

□ 1900

Mr. STOKES. Mr. Speaker, I thank the gentleman for his contribution.

I am pleased now to yield to the distinguished gentleman from New York [Mr. RANGEL], who distinguished himself so well in the well of this House this afternoon in his valiant fight on behalf of the Haitians.

I am pleased to yield to the gentleman from New York, my friend, Mr. RANGEL.

Mr. RANGEL. Mr. Speaker, I rise to commemorate Black History Month by paying special tribute to Katherine Dunham, one of America's preeminent performing artists. As a dancer and choreographer, she revolutionized modern dance in the 20th century by blending rhythms of America with those of Africa and the Caribbean.

First, I want to thank my friend, the gentleman from Ohio, Chairman LOUIS STOKES, who every year brings us to this well to allow other Members of Congress to share and raise our voices in recognition of the contributions that have been made by African-Americans, to join the ranks of our heroes and heroines.

Indeed, the gentleman from Ohio [Mr. STOKES] and his brother, Carl Stokes, the first African-American mayor of one of our great cities, are part of that living history in the contributions that we make, where people from all over have come to make this great Nation what it is today.

So we as black Americans during this month focus on extraordinary people and events as a way of educating our children and all Americans, so that someday we may celebrate them at all times, with one voice.

But as long as history has ignored the contributions of African-Americans, we must take this special time to come together and reflect on the patchwork of cultures that make America such a gorgeous mosaic. Most importantly, this is the time to celebrate who we are, as other Americans do remember the various backgrounds from which we sprang. As Americans we are indeed a glorious mosaic of nationalities, of colors and religions, who have come together to live in harmony.

I call on my colleagues to join with me in saluting Katherine Dunham. Today she lies, although in satisfactory condition, at St. Mary's Hospital in east St. Louis, on the 27th day of a fast. She entered this fast in protest to the treatment of the Haitian boat people which my colleague, Mr. STOKES, just mentioned. She pledged to take nothing but cranberry juice and water until our Government ceases and desists from deporting these unfortunate souls back to Haiti.

She is now 82, but she demonstrated her love for Haiti and the Haitian culture, and it inspired much of her work. She has had a love affair with Haiti beginning in the 1930's. She has done so many Broadway shows and movies, and her history of dancing and providing to art goes from Haiti to Harlem.

Mr. Speaker, it is indeed a great pleasure not only to read our history and the contributions that African-Americans have made, but to know that there are people that are still alive, and we have the honor to allow them not just to receive roses when they are gone, but to help them to smell those roses while they are alive.

When someone 82 years old can risk her life so that others might be aware of the consciousness that is so necessary for us to survive as a people and as a nation, then I feel that we ought to give her a lot of praise for what she has done.

When the question is asked, "What did you know about Haiti, and did you do anything about it," she, like us, Mr. Speaker, she knows and she has done something about it.

So let me join with others in praising the gentleman for his constant legislative contributions and in thinking enough about the problem to give us the opportunity to share our thoughts in the RECORD today.

Mr. STOKES. Mr. Speaker, I thank my distinguished friend from New York for his brilliant remarks regarding Black History Month and the contributions made here to this special order.

I am pleased at this time to recognize the gentleman who presided over the House this afternoon and did such an excellent job, we are all proud of him, the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I thank the gentleman for the opportunity, and for his leadership in this House.

Mr. Speaker, I am happy to be part of this special order and to pay tribute this evening to the great people of African ancestry throughout both Baltimore City and Baltimore County, and those who perhaps are not of African ancestry but who have tried to reach out this month and in other months toward those who are in an effort to better understand and to realize and to hold high the very special contributions by people of color to this Nation.

We have a rather diverse area, like most metropolitan areas around this country. Baltimore City, Baltimore County, from East to West Baltimore, from Cantonsville to Randallstown, a number of organizations and individuals in their own way have brought about the commemoration of African-American history, not for the purpose of singling out just the month of February but for the purpose of using the month of February as a vehicle for the 11 months that follow.

□ 1910

The Eubie Blake Museum, the Baltimore Museum of Art, the Alvin Ailey Dance Theater of Maryland, Great Blacks in Wax Museum, the Arena Playhouse, the Walter's Art Gallery, Center Stage, the School Systems of both Baltimore City and Baltimore County, the African-American Newspaper, one of the oldest newspapers in this country, and the Baltimore Times,

have taken this month as a vehicle for the other months to chronicle in detail the contributions of people of color in this country, people of African ancestry, in the arts, in the sciences, in education, in sports, in politics, in publishing, and in the ministry.

So, as we in our own way in our part of this Nation remember through a number of different activities the contributions that we think about this evening, we also remember the poignancy of individuals who words are stinging reminders of not just how far we have come, but how far we must go.

It was in fact Langston Hughes who said,

I too sing America. I am the darker brother. When company comes, they send me to the kitchen to eat.

He said,

Oh, but I laugh and eat well and grow strong. For tomorrow when company comes, they won't dare send me to the kitchen then, for they will look at me and see how beautiful I am and be ashamed, for I too am America.

Hughes' words were prophetic and he uttered even better than he knew. For even in the latter half of this century, there are many who have yet to learn that lesson.

So as we in the Greater Baltimore area go about the task that others have throughout this Nation, we remember and we are poised never to forget that the contributions of African ancestored Americans are really American contributions; that they are one and the same, and they ought to be remembered as such.

It was only a few years ago that the late Dr. Benjamin Mays of Morehouse College, shortly before his passing, said to us in another poignant statement that he or she who starts behind in the race of life would have to either run faster or forever remain behind.

So those great people who laid down and made their bodies bridges that we might run across, some of us, and get to the Congress and make contributions elsewhere, even though they are gone, they ran faster, and their sterling examples remind us that no daring is fatal, that the maximum hope is always close to the maximum danger, and that for the true believers, the darkness would be light enough.

And so I commend and salute them. I commend and salute Dr. Carter G. Woodson for providing the vision to begin this celebration many, many years ago. And I commend also and thank the people of Baltimore City and Baltimore County, who in their own special way have tried to bring special meaning to this month.

I thank the gentleman from Ohio for allowing me to participate in this special order.

Mr. STOKES. Mr. Speaker, I thank the distinguished gentleman from Maryland [Mr. MFUME] for his contribution.

Mr. Speaker, at this time I am pleased to yield to the distinguished gentleman from New Orleans, Louisiana [Mr. JEFFERSON].

Mr. JEFFERSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today to participate in this special order in observance of Black History Month. Organized by my distinguished colleague, the gentleman from Ohio, this special order is an integral part of our Nation's annual recognition of the history of its African-American citizens.

I commend Representative STOKES and Representative TOWNS, chairman of the Congressional Black Caucus, for their efforts to give Americans a better understanding of the contributions of African-Americans. Since Dr. Carter G. Woodson began the observance of Negro History Week in 1926, we have come a long way in elucidating the unique and noteworthy achievements of black Americans. Yet, there is still widespread ignorance about African-Americans and their contributions to America.

As the 20th century nears its close, it is appropriate to call the attention of Americans of all colors to the stellar contributions of this Nation's first African-American Supreme Court Justice. His life and his work are deeply rooted in the American ideals of freedom, justice, and equality. In this sense, this giant legal scholar and practitioner took all of us on a journey back to our roots of a true constitutional democracy in which the voice, the vote, and the aspirations of every American counts exactly the same. I speak, of course, of Hon. Thurgood Marshall, who has helped plant the seeds from which the revolutionary changes have grown in the way this Nation has sought to overcome the effects of slavery.

Today, the seeds sown by Justice Marshall have not only taken root, they are firmly embedded in American society. Many lawyers, particularly African-Americans, Hispanics, and women have been affected and inspired by this great man's contributions to the practice of civil rights law and by his persistent demands that this Nation make equality of opportunity a reality, not just an amorphous concept.

Thurgood Marshall, was born in Baltimore, MD, in 1908, and graduated with honors from Lincoln University in Pennsylvania and Howard University Law School. He began his career as a lawyer 59 years ago, when he was admitted to the Maryland Bar. Even as we speak, he continues his active love affair with the "jealous mistress" called the law.

From his first major case to desegregate the University of Maryland Law School, *Pearson* v. *Murray*, 169 MD. 469 (1935), to his distinguished tenure of the U.S. Supreme Court, Thurgood Marshall's mark on civil rights law and constitutional law has been indelible and enduring. Doors have been opened to blacks in education, employment, housing, voting, and public accommodations because of his stellar advocacy and brilliant litigation strategies.

Working with distinguished African-American lawyers such as Charles Hamilton Houston, William H. Hastie, Robert Carter, James Nabrit, Spottswood Robinson, Oliver Hill, Wiley Branton, Louis Redding, and many others, Thurgood Marshall conducted a concerted, intense assault on *Plessy* v. *Ferguson* (163 U.S. 537 (1896)) and its nefarious progeny. With each battle, legal segregation fell victim to justice unbridled and unleashed by Thurgood Marshall and the NAACP Legal Defense and Educational Fund [LDF] litigation team. By the time of the landmark *Brown* v. *Board of Education*, 347 U.S. 483 (1954), Marshall's litigation had eviscerated de jure segregation, leaving it too weakened to sustain the likes of Orval Faubus, George Wallace, Ross Barnett, and other arch segregationists. Although the enemies of democracy tried to halt the march of freedom and justice in America, there were no legal stanchions to support their brand of American apartheid.

Marshall's management of the LDF spawned numerous opportunities for young lawyers interested in civil rights litigation to secure solid practical training in civil rights law. I confess, Mr. Speaker, it inspired this speaker as well to become a lawyer. Women, Mexican-Americans, Puerto Ricans, as well as African-Americans, worked and learned well enough to form organizations similar to LDF, to address the needs of specific minorities and women. It is no exaggeration that without the LDF to serve as a model, devising litigation strategies to address the needs of Mexican-Americans, for example, would have been inordinately more difficult. So the roots for these vital organs of sound change in the legal system were established through the work of Justice Marshall.

With Thurgood Marshall's nomination to the U.S. Court of Appeals for the Second Circuit by President John F. Kennedy in 1961, he began a distinguished career as a public servant. After 4 years as an appellate judge, Marshall became U.S. Solicitor General, the first African-American to occupy this important position. There he continued his advocacy of civil rights, arguing successfully to uphold the Voting Rights Act of 1965 in *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966), and to overturn a California constitutional amendment prohibiting open housing legislation in *Reitman* v. *Mulkey*, 387 U.S. 369 (1967).

On October 2, 1967, Thurgood Marshall was sworn in as the 96th Justice of the U.S. Supreme Court, where he continued his full-time public service

until his retirement last year. Today, he continues to hear assigned cases by designation by the Chief Justice.

How we miss his spirit, his lawyerly skills, his intelligence, and his sensitivity.

Thank you, Justice Thurgood Marshall, for your work in the law 59 years. Our lives have been transformed immutably, and we shall never forget your contributions to our Nation. Your commitment to justice, your character, your competence, and your life's work are like a good tree whose roots are firmly fixed; like a tree planted by waters. It is for succeeding generations to continue nuturing that tree, and to continue to ensure that its roots, our roots hold and grip the solid rock of opportunity that is and will forever be his continuing contribution to African-Americans and to all Americans.

□ 1920

Mr. STOKES. Mr. Speaker, I thank the gentleman from Louisiana for his very fine remarks. I want to once again express my appreciation to my friend and colleague from New York [Mr. OWENS] for yielding his time to me on this occasion and to also recognize him for the outstanding leadership he gave along with the leadership of the gentleman from New York [Mr. RANGEL] on behalf of the Haitians on this floor here today, along with the great fight he has waged on their behalf long before today throughout the trials and tribulations that they have encountered having come to our country.

Mr. Speaker, I yield to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Speaker, from the time that African people were first brought to this country in chains, they understood that education was the key to freedom and self-determination. African people have a heritage of valuing education; many ancient African kingdoms founded elaborate school systems and some even had universities.

In the South, African slaves struggled to learn to read, often in secret, because in some States a slave who knew how to read would be killed or severely beaten. The plantation masters feared that a slave who could read might teach other slaves, who would then revolt against their condition, making real the saying "a little education is a dangerous thing."

In the North, free African-American communities also placed a premium on education as a means for advancement and empowerment. This was no less true in the African-American community of Brooklyn, NY, whose 12th Congressional District I represent. According to Brooklyn historian Robert J. Swan, during the 18th and 19th centuries the schools in Brooklyn, which was then a city, were rigidly segregated. The first African-American schools in Brooklyn were founded by African-American religious leaders. Peter Croger inaugurated a day and evening school for recently freed slaves and freemen in January 1815 in his home on James Street. It soon closed due to a lack of competent teachers.

Brooklyn's Common School System, which initiated public school education in the city, was established in May 1816, but the system decided that African-American children could only be educated in segregated facilities. In 1818, 45 African-Americans were taught in a room of a white school, and after 1824 William Read, an African-American graduate of the New York African Free School, was hired as their teacher. But by 1827, these students were forced to give up their space in the white school.

In October 1827, Brooklyn's first African Free School was opened by Henry C. Thompson, the city's first African-American businessman and the President of the Brooklyn African Woolman Benevolent Society, and Abraham Brown. The two men purchased land in Brooklyn and erected a building for a schoolhouse and other African interests. William Read taught there until his death in 1830, when George Hogarth became its second and most famous teacher. Hogarth grew to prominence in the African Methodist Episcopal Church movement and was ordained a deacon in 1832. By 1836, he was elected general book steward of the A.M.E. Church.

As is the case with many predominantly African-American schools today, the African Free School faced numerous financial difficulties, and it received less than half of the State funds appropriated for it. Despite the funding problems, Hogarth continued to teach, unpaid, until about 1840 when he resigned to devote himself to his religious activities on a fulltime basis. Augustus A. Washington, the school's next teacher, taught for about 1 year. In September 1841, William J. Wilson, one of early Brooklyn's most respected African-American intellectual leaders, was appointed principal.

In 1834, some African-Americans from Manhattan sought refuge from racial tensions there and settled in Carrville, located in Brooklyn's ninth ward. By 1839, a second African Free School was opened in Carrville. This school was also met with operating difficulties and was taken over by the white district trustees of neighboring Bedford's school. This school had a few African-American teachers.

In December 1840, a meeting of the Kings County Bar, concerned with the intellectual improvement of Brooklyn's African-American community, appointed a committee consisting of Brooklyn's Mayor, Cyrus P. Smith, its corporation counsel, Joshua Van Cott, and Nathan B. Morse, a judge of common pleas, for "devising a plan for the better education and moral culture of the Negro population" of Brooklyn. Two months later three African-Americans, George Hogarth, Sylvanus Smith, and Henry Brown were appointed by Mayor Smith as district trustees of the African School, becoming Brooklyn's first African-American district trustees.

But African-Americans were ignored by the Brooklyn Board of Education, which was established in 1843; African-Americans were not allowed to be represented on the Board, the African Free Schools were denied their share of public education funds and the schools were excluded from the jurisdiction of the Board of Education. In 1845, after petitions from the former African-American trustees, the entire city was made a district for colored children and the African-American schools were brought under the jurisdiction of the Board of Education on separate but equal status with white schools.

It was assumed by African-American school administrators that as a result of this action which formalized separate but equal education, African-American schools would finally receive the funds necessary to uplift African-American educational standards, but such was not the case. A few improvements were made. A new school building was erected on Raymond Street near Willoughby Street for Colored School No. 1 in 1847 and a new building was opened in Weeksville for Colored School No. 2 in 1853. But these buildings were inadequate for education as soon as they were opened. They remained underequipped, underrepaired, understaffed, and African-American teachers were underpaid. These schools had to serve the needs of all of Brooklyn's African-American children. As late as 1883, the Board of Education would not allow African-American children to attend white schools which were geographically closer to where they lived, forcing them instead to walk miles to the nearest Colored School.

Brooklyn's schools were not officially desegregated until late 1883. The first African-American to be appointed to the Board of Education, Phillip A. White, introduced a resolution to desegregate the schools, and it passed in December 1883 by a vote of 14 to 11. But "de facto" segregation still prevailed, and the "Colored Schools" continued to exist, maintaining the designation until 1887, when the names of the three Colored Schools were changed to P.S. 67, P.S. 68, and P.S. 69.

Phillip A. White died in 1891 and was succeeded on the Board by T. McCants Stewart, a lawyer, politician, and close friend of T. Thomas Fortune, founder of New York City's African-American newspaper the New York Globe and a persistent crusader for equal rights for African-Americans in all areas of life. Under Stewart's leadership the African-American children of P.S. 68 were

integrated with the new white school P.S. 83 at Bergen Street and Schenectady Avenue. Stewart's championship of racial equality and his political activism may have caused his removal from the Board of Education in 1894; shortly afterward, he emigrated to Liberia.

Stewart was succeeded on the board by Samuel R. Scrottron, entertainer Lena Horne's grandfather. Scrottron briefly succeeded in having an African-American Ph.D., William L. Bulkley, appointed to head a white department in P.S. 114 in Canarsie. However, the pressures of racial bigotry resulted in Bulkley's removal.

By the early 1900's it looked as though African-American children would finally be integrated into the white schools of Brooklyn, which was now a borough. Only one of the original colored schools remained in existence; the other two were forced to close due to the declining African-American population and health hazards. But de facto segregation reared its ugly head again in the 1920's. Southern African-Americans, looking for employment and an escape from racial oppression fled North to New York and to Brooklyn in record numbers, prompting white flight from the borough and reestablishing separate-but-equal education. Despite the 1954 Supreme Court decision that outlawed de facto public school education, Brooklyn's schools, like many urban public schools nationally, are once again underequipped, underfunded, dilapidated, and populated primarily by poor African-Americans and other poor students of color. In New York City the per pupil expenditure is $5,000 and going down as a result of budget cuts, thus ensuring that these urban schools remain unequal.

Despite various barriers throughout Brooklyn's history placed in the way of African-Americans' efforts to achieve a world class education, and the persistent savage inequalities that have made this goal almost impossible; despite education policies like the Bush administration's America 2000 education reforms that deliberately overlook the crises in public schools in poor communities such as those in my 12th Congressional District; African-Americans continue to insist that their children learn, and that the pubic schools meet their children's education needs.

Last year, in my capacity as the chairman of the Congressional Black Caucus Education Braintrust, I established a National Citizens Commission for African-American Education. The Commission will provide a critical review of existing national education policy while offering alternative national education policies and strategies for the benefit of African-American children. It will also provide national guidance to the African-American community for educational policies, strategies, programs and practical activities, as well as stimulate mobilizations for education in African-American communities all over America.

African-American parents of Brooklyn's past were clear on the fact that an education would save their children, and future generations of their young people, from growing up to become society's underclass laborers forever. Today's African-American parents in Brooklyn and elsewhere know that if we are to save African-American children from the fate of being obsolete drones in the work force of the next century, we need an overwhelming crusade to establish and maintain world schools for all children. Those early African-American Brooklyn pioneers who insisted on the best education available inspire us now as we press Federal, State, and local governments to provide funding and leadership for the massive national effort to end the savage inequalities of education opportunity.

Mr. STOKES. Mr. Speaker, I thank the gentleman from New York for his contribution to this special order.

Mr. Speaker, I yield to the gentleman from Oregon [Mr. KOPETSKI], and I am pleased to have him participate.

Mr. KOPETSKI. Mr. Speaker, I rise today to commemorate Black History Month by calling attention to several African-Americans who played important roles in the history of my home State of Oregon.

The theme for the observance of Black History Month for 1992 is "African Roots Explore New Worlds: Pre-Columbus to the Space Age." Oregonians are proud of the role African-Americans played in the exploration and settlement of Oregon and the Pacific Northwest. I want to highlight the lives of several of these African-Americans.

The first known African-American to land on Oregon's shores was Marcus Lopeus. Lopeus was a cabin man on the sloop *Lady Washington* during Capt. Robert Gray's first voyage to the Pacific Northwest in 1787–88. Unfortunately, in August 1788, Lopeus was killed by a band of Tillamook Indians as he and other members of the crew searched for drinking water. Captain Gray gave what is now known as Tillamook Bay the name "Murderers' Harbor" as a memorial to this tragedy.

An African-American slave, named York, was a member of the Lewis and Clark Expedition of 1804–06, the first Government-sponsored overland journey to the Pacific Coast and back. York proved to be a vital member of the expedition. He was lauded for his skill as a hunter, his knowledge of French, and his ability to live off the land. With the expedition party, York helped construct Fort Clatsop on the south side of the Columbia River. In one of the murals at our State capitol building in Salem, York is pictured with Lewis and Clark on the shores of the mighty Columbia River.

Sir James Douglas, known to fur traders as Scot West Indian, was the son of Scottish merchant John Douglas and a Creole woman of British Guiana. Mr. Douglas learned the fur trade as an apprentice, at age 16, to the North West Co., rising to second-class clerk when that company merged with the Hudson's Bay Co. in 1821. He rose quickly through the ranks of the Hudson's Bay Co. During the chief factor's absence in 1838–39, Douglas was placed in charge of Fort Vancouver and in 1839, he was promoted to chief factor. Hudson's Bay Co. obtained a royal grant to Vancouver Island in 1849, and 2 years later Douglas was appointed governor and vice admiral of the island. Under his leadership, agriculture and industry thrived in the newly settled region.

Early in Oregon's history, African-Americans also were mountain men, gold miners, cowboys, wealthy entrepreneurs, even founders of cities in the Oregon Territory.

In 1844, a wagon train pushed across the plains toward the Columbia River Valley. The expedition's leaders were Michael Simmons, an Irish immigrant, and an African-American, George Washington Bush. Mr. Bush had become wealthy from trading cattle in Missouri. The successful American claim against the British to the Puget Sound Territory was based on the Simmons-Bush settlement. But this brought Mr. Bush under the control of the Oregon Legislature laws, which excluded African-Americans from settling in the Oregon Territory. Mr. Simmons, elected to the legislature, sponsored a bill in 1854 to exempt Mr. Bush and his family from these laws, and asked Congress to grant him a homestead. Both bills passed, and in 1855 Congress granted Bush a 640-acre homestead between Tumwater and Olympia, WA, now called Bush Prairie in his honor.

During this celebration of Black History Month, I want to commend the efforts of the Oregon Historical Society which provided materials for schools through Oregon to help commemorate Black History Month. The Oregon Historical Society also held meetings with the Northwest African-American Writers' Workshops earlier this month to commemorate African-American authors, poets, and historians. In addition, the Oregon State Department of Transportation held a multicultural forum in Salem for its employees, celebrating and enhancing the national heritages coming together under our great roof of liberty and justice.

Mr. Speaker, I commend the Congressional Black Caucus for holding this special order today. I also want to thank Congressmen ED TOWNS and LOUIS STOKES, the gentleman from Ohio, for their efforts today recognizing the achievements of African-Americans.

Mr. STOKES. Mr. Speaker, I thank our distinguished friend and colleague for his interesting and articulate statement.

Mr. Speaker, I yield to the gentleman from Florida [Mr. HUTTO], a distinguished friend and colleague, and appreciate his participation in this special order.

Mr. HUTTO. Mr. Speaker, I thank the gentleman for yielding.

It is with great pride that I rise here today to participate in observance of Black History Month. Throughout our Nation's history many African-Americans have contributed in meaningful ways to our Nation's accomplishments. Today I wish to draw attention to a modern-day contributor, Nathaniel Smith, Jr., of Fort Walton Beach, FL.

Nate Smith had over 20 years of executive management experience in the U.S. Air Force. He gained extensive experience in management of time, money, and people while serving his country. These skills laid the foundation for his business success today. Nate and his wife, Jannie Vee, started Ver-Val enterprises as a small assembly shop in 1979. Originally, they operated out of their garage. Their initial work force consisted of Nate, Jannie, and his two daughters, Veronica and Valerie, from whose names the company's name was derived.

Since 1979, Ver-Val Enterprises has continued to grow and succeed. Nate, who is the company's president, works diligently to keep a solid business foundation. In fact, Ver-Val is recognized today as a key defense contractor. Over the past 11 years, Ver-Val has expanded their product line, and they now include design engineering, precision computer numeric controlled machining and metals fabrication.

In 1982–85, Ver-Val was involved in substantial plant expansion and in buying more complex machinery. These expansions enabled the company to compete for more sophisticated and larger programs.

Today Ver-Val is a dynamic company which has a reputation for providing superior products and reliable service. Ver-Val now has experienced management and has greatly diversified its products.

These honors and accomplishments are directly attributed to Ver-Val's president, Nate Smith. The company has received the Nation's Outstanding Minority Business Contractor of the Year Award. Nate personally has been recognized as the Minority Business Contractor of the Year for the Departments of Defense and Commerce in 1986. He was the Minority Federal Contractor of the Year for the Federal Government in 1986. He was the Regional Small Business Prime Contractor of the Year in 1985. He was the Small Minority Owned Business of the Year Award winner in 1984 for the Kennedy Space Center. The awards go on and on.

On the personal side, Nate is an active participant in his community. He is past president of the Regional Contractor Association, and past president of the Florida State Job Service Employer Committee. He is past president of the Economic Development Council in Okaloosa County, FL. He is a former member of the Private Industry Council in Okaloosa County, FL.

His appointed offices include membership in the Okaloosa Walton Community College Foundation. He is a delegate to the White House Conference on Small Business. He is a member of the board of the Florida Department of Commerce. He is a member of the Governor's commission on space and he is a member of the task force on economic development for the State of Florida.

During this time when we recognize and honor African-Americans in our Nation's history, I am proud to share with you the significant accomplishments of a modern-day hero. Nate Smith is a dynamic, enterprising American who has contributed to the success of America today. We in northwest Florida are exceptionally proud of Nate Smith.

□ 1930

Mr. Speaker, again I want to thank the gentleman from Ohio [Mr. STOKES], for taking this special order here today.

Mr. STOKES. Mr. Speaker, I thank the gentleman for his participation also.

Mr. Speaker, I now yield to a distinguished friend and colleague from the State of Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Speaker, I thank the gentleman for yielding and would like to thank him for this opportunity afforded me today. I had intended today to speak about a great black man, W.E.B. DuBois, probably one of the greatest men who ever lived, and certainly one of my heroes, even in death. But because of the fact that we had someone pass in Philadelphia just this week who I feel was one of the great ones, I am pleased with the opportunity to offer this statement on the floor on behalf of the late Hon. John Allen.

Mr. Speaker, because February is the month that has been officially designated as Black History Month, I am so pleased with the opportunity to offer this statement in honor of the late John Allen.

This special order provides a valuable opportunity for us to celebrate the richness of our African-American heritage.

In the city of Philadelphia, there are numerous black Americans who have struggled throughout their lives paving the way for many of us to enjoy a greater quality of life. Philadelphia has long prided itself on being a city where many black Americans have made exceptional contributions to society.

Mr. Speaker, I would be remiss to pass up this opportunity to memorialize the late John Allen, who was a man of great conscience and integrity; a man who dedicated the greater part of his life helping his people. John made many sacrifices, thus it is more than fitting for me to dedicate my segment of this special order solely to him, indeed an envisionary.

John Allen is well known for being the founder of the renowned Freedom Theater in Philadelphia, which has long been regarded as one of the Nation's leading sites for the black performing arts.

John Allen was inspired to establish this institution because of a love of people. Since its inception, the institution has not only been referred to as a place that promotes a love for the arts but a love for the community. In 1966 in the midst of the civil rights movement, the Freedom Theater opened its doors—what a significant accomplishment.

John Allen was certainly a major figure in black history; one whose life was exemplary of the wonderful blessings yielded by hard work and dedication.

The lifestyle that John led was the type that should be emulated by our young people. He was dedicated to uplifting all people. He opened up the cultural facility in the area of north Philadelphia which is one of the city's most economically disadvantaged African-American neighborhoods. The facility exemplifies a successful attempt at revitalizing a community and introducing people to a certain culture of which they may not have otherwise been exposed. The emphasis that John placed on education, hard work, and community service was indeed his hallmark.

Even at the lowest points of his sickness, John continued to keep a positive attitude and fought on for excellence. He continued to harbor in his heart his vision of the Freedom Theater as a model for other African-American organizations wanting to improve the quality of life for thousands of people living in communities like north Philadelphia.

I am proud to relate to you how much of a special friend John was to me; no doubt he was an outstanding member of the African-American community who will be greatly missed.

Mr. Speaker, on behalf of the citizens of Philadelphia to John I say, God bless you, John. We love you. May your soul rest in peace.

Mr. STOKES. Mr. Speaker, I thank my distinguished friend and colleague for his contribution.

Mr. Speaker, I am pleased to yield to another friend and colleague who himself made history in the State of Tennessee a few years ago when he became the first African-American to be elect-

ed to the Congress from that State. I am pleased to yield to my distinguished friend, the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Speaker, I thank the gentleman from Ohio for yielding. It is a pleasure to join with my colleagues in the Congressional Black Caucus and other Members of this body to pay tribute in this month of February as we think in terms of all of the accomplishments of African-Americans. It is an honor for me to take part in this special order in observance of Black History Month, and again I want to thank the gentleman from Ohio [Mr. STOKES] for observing this by taking this special order and for really saying to the House of Representatives that we want these special orders not only this year, but the gentleman has also in the past led these special orders and been so great in thinking in terms of February as Black History Month.

Mr. Speaker, it is a pleasure and an honor for me to take part in special orders in observance of Black History Month. The theme, "African Roots Explore New Worlds: Pre-Columbus to the Space Age," provides me the opportunity to pay tribute to the accomplishments and contributions of one great American, a man who awakened the consciousness of every American—both black and white—Alex Haley.

In his novel "Roots: the Saga of an American Family," Mr. Haley set forth an emotional shot which deeply affected the hearts and educated the minds of an untolled number of people.

As the first black Member of this body from the State of Tennessee, I was touched by the grueling story of Haley's family, a story that could have been told about my own family and the families of many African-Americans. As a youth growing up in Memphis, TN, I prevailed the indignities of racial hatred and the abuses of our system of justice. It was in the very city that I represent here in Congress that the late Reverend Martin Luther King, Jr. a giant among men, the leader of the greatest American freedom movement since the American Revolution in 1776, was cut down by an assassin.

Mr. Speaker, just as Dr. King's senseless assassination made the people of this Nation and the world brutally aware of the deep-seated prejudices engrained in the American tradition, Alex Haley's literary masterpiece, "Roots," in a far less violent way, so too, brought us face to face with the horrors and repression that are part of our American heritage.

History books and oral stories have provided us with a vast understanding of the suffering caused by slavery. But not until "Roots" did this nation have a real look at the corrosive and dehumanizing side of slavery. Only by bringing this saga to the television screen did we as a Nation have a chance to realize the human essence of this debasing and humiliating way of life.

The overwhelming impact of Alex Haley's "Roots" has in a single, Pulitzer-prize winning achievement raised an extraordinary level of interest of people everywhere to the great continent of Africa, its past and its future, and the contributions of Americans whose forefathers came from those shores.

Alex Haley's "Roots" may not have ended discrimination or violence, or inequality, but it did heighten Americans' awareness of our past and our heritage.

In addition, "Roots" issued a challenge to the people of this country—both black and white. A challenge to understand the American legacy of injustice so that we may work together in order to create a more compassionate and richer America heritage—not one founded on inequality and embarrassment, but rather one grounded in brotherhood, equality, and fairness.

Alex Haley has rightfully earned all honor bestowed on him. This American literary champion serves as an inspiration of immaculate hope for those who share the belief that their humble origins must always be a part of their strength.

All of use owe a great deal to Alex Haley. It took his genius, his vision, his research, and his commitment to the betterment of humankind to open the eyes of many Americans who would not have otherwise heard or understood the powerful words of the Declaration of Independence: "that all men are created equal."

□ 1940

Mr. STOKES. Mr. Speaker, I thank my friend, the gentleman from Tennessee, for his eloquent remarks concerning Alex Haley.

Earlier in my remarks, Mr. Speaker, before I began yielding, I was talking of Alex Haley, and I wanted to go on.

"Roots" has been hailed as a triumph of faith, creativity, and scholarship, a unique contribution to American History, and an invaluable reaffirmation of the black heritage. The book sold 6 million copies in hardcover edition, millions more in paperback, and has been translated into 37 languages. Haley's moving account of the black experience in America has touched people of all races, all over the world.

Mr. Speaker, Alex Haley grew up in Henning, TN, where his maternal grandparents lived. In 1939 at the age of 17 he joined the U.S. Coast Guard. It was during his Coast Guard career that Alex Haley's talent as a writer was discovered. He wrote free lance articles, articles related to Coast Guard activities, and even wrote love letters for his shipmates while at sea. In 1949 he was selected and served as chief journalist for the Coast Guard.

Upon his retirement from the Coast Guard in 1959, Alex Haley became a full-time writer. He received writing assignments from Readers Digest and conducted interview for Playboy Magazine with individuals including Miles Davis, Muhammad Ali, Dr. Martin Luther King, Jr., George Rockwell, and Malcolm X.

Alex Haley's interview with Malcolm X, the former leader of the nation of Islam, led to the writing of his first book, "The Autobiography of Malcolm X." The book was published in 1965, shortly after Malcolm X was Slain, and sold more than 6 million copies in eight different languages.

It was in 1964 that Alex Haley signed a contract with Doubleday & Co. to write a book about the South before the 1954 Supreme Court school desegregation ruling. The proposed title of the book was "Before This Anger." The book project turned into a journey of half-a-million miles and years of arduous research, culminating with the publication of "roots."

Alex Haley also published "A Different Kind of Christmas" in 1988, which is the story of a slave's escape on the underground railroad.

Mr. Speaker, I will always remember my first meeting with Alex Haley. That meeting took place during my first trip to Africa in 1971. Alex approached me in the airport in Senegal and introduced himself. He explained that he was traveling to Gambia to research a book he was writing. We talked at great length about Haley's book, "Before This Anger," which later became "Roots."

From that point we became friends and over the years remained in touch with one another. I remember with pride when, at my invitation, Alex traveled to my congressional district in Cleveland to speak before the 21st District caucus. Alex Haley was a warm and gentle individual, who spoke with great affection of his family and heritage. I have also benefited from a close friendship with his brother, George W. Haley, a distinguished lawyer who serves as chairman of the U.S. Postal Rate Commission.

Mr. Speaker, Alex Haley passed away on February 10, 1992 at the age of 70. At the time of his death, he was completing two books; one is a book on Henning, TN; the other is the story of his paternal grandmother, Queen Haley. With the passing of Alex Haley, our Nation has lost a literary giant, a skilled historian, and a great human being. We extend our sympathy to his wife, My Haley, and his brothers, George and Julius.

Mr. Speaker, Alex Haley hoped that "Roots" would encourage African-Americans—and indeed all races—to explore and take greater pride in their heritage. Haley once said that "You can never enslave somebody who knows who he is." As we celebrate our 1992 ob-

servance of Black History Month, we celebrate an America that is richer and more culturally aware because of the undertakings and accomplishments of Alex Haley. Today, as we celebrate our "Roots," let us remember the contributions of this great American.

Mr. Speaker, I want to again thank my colleagues who are joining me in paying tribute to Black History Month.

Mr. GUARINI. Mr. Speaker, the theme for this year's observance of Black History Month is "African Roots Explore New Worlds: Pre-Columbus to the Space Age." From those who were present on the ships of Columbus to individuals like Guion S. Bluford, Jr., one of the first black astronauts, African-Americans have played an essential role in expanding our understanding of our world.

Education is one of the surest paths to great discoveries and has always been an integral part of the black experience in America. This is because education has been one of the primary means by which black Americans have fought to free themselves from oppression and discrimination. Today, this struggle is still being fought, most notably, by the large number of black educators in America. Their frontier is the classrooms and colleges of our Nation. In part, it is through their efforts, that high school completion and college enrollment rates for young blacks recently reached an all time high. Between 1986 and 1990, enrollment increases in historically black colleges outpaced enrollment increase in all U.S. colleges by 12 percent.

Black Americans may look to their heroes throughout history as excellent examples of how education leads to empowerment, in spite of overwhelming odds. For example, the black scholar, Carter Godwin Woodson, who first conceived of the idea of Black History Month in 1926, was largely self-taught until the age of 17, overcoming the discrimination and poverty he experienced as a youth. In an earlier period, Frederick Douglass, struggled to educate himself and others in spite of the fact that he was a slave. Later he founded a newspaper in Rochester, NY, which gave momentum to the abolitionist movement.

One of the greatest examples of how an education can empower an individual is that of Malcolm X. The young Malcolm X knew only suffering and discrimination. When he was 4, he watched his house burn to the ground as white firefighters looked on. Malcolm was involved in a tragic life of violence and crime when he was thrown in jail for burglary at the age 21. During this time, however, Malcolm began to educate himself in his prison cell, mostly through correspondence courses and by reading the dictionary from A to Z. Through his self-teaching efforts, Malcolm grew to become one of the most powerful spokesmen for black empowerment this country has ever known. His words, his ideas, and his mind would have a profound effect on our country.

Throughout our history, there have been countless people working to increase understanding and improve the lives of others. In my congressional district in Hudson County, NJ, members of the Hudson County's African-American community are working to educate and expand the horizons of our fellow countrymen. Glenn Cunnigham, former Jersey City Council president and a noted historian and Arnold McKinnon and Dennis Benjamin of Jersey City Cable Television recently teamed up to create a documentary detailing the historical struggles and accomplishments of black Americans in Hudson County. This program entitled "Hidden Footprints" has helped to educate the current residents of Hudson County as to the rich, and largely unrecognized, history of black Americans in my district. Through such efforts to better understand black history, African-American citizens as well as others can come to better understand this rich heritage.

The thirst for knowledge and the spirit of discovery are alive and well within the African-American community in our country. On this day, I wish to join my distinguished colleagues in celebrating black American history and recognizing the black Americans who are making history by educating and empowering the people of our Nation.

Mr. DELLUMS. Mr. Speaker, it gives me great pleasure to rise and speak before you today in honor of Black History Month.

The history of African-Americans in this country has, to say the least, been distorted. Many of us were taught in one or two brief history lessons about Africans who, in 1619, were brought to this country in chains and for the next 400 years were subjected to the worst forms of oppression ever known to man. What we were not told was that as early as 1311 Africans were coming to North America exploring unknown lands. We never learned that the King of Mali himself made a voyage across the Atlantic in 1312. Most importantly we were never informed of the fact that Christopher Columbus had heard about these African mariners and went to Africa to hear their stories before crossing the Atlantic. Yet, thanks to African-American historians, writers and educators like Dr. Carter G. Woodson, who in February 1926 organized the first Negro History Week, the precursor to Black History Month, we have been able to acquire true knowledge about our people.

Although, Black History Month is not the only time we choose to reflect on and learn about our heritage, it is during this time, unlike any other throughout the year, that we as a people come together on a more frequent basis to disseminate information about our history on a greater scale. February is a month when we can take our children to almost any museum, library or cultural activity and learn interesting facts about our forefathers and mothers. These are not only important history lessons for our children but they are significant reminders to us of the legacy we must uphold and continue to see progress beyond the 21st century.

Clearly Mr. Speaker, Black History Month is a time of reflection, celebration and pride for many African-Americans, but we are not the only recipients of this valuable experience. The country as a whole is enriched by Black History Month. During this time of year many people of various ethnicities and races are exposed to our heritage and culture through a variety of activities offered. This knowledge oftentimes gives them a greater appreciation of the many contributions African-Americans have made not only to this country but also the world. A better understanding between cultures leads to a stronger community; this is imperative if we are to move our Nation above and beyond the confines of racism.

As we come to the close of Black History Month, let us not come to an end in the search for truth and knowledge. We must never forget the legacy of struggle, survival and perseverance left to us by the great kings and queens of Africa as well as our own African-American forebears. The memories of Sojourner Truth, Harriet Tubman, Denmark Vesey, James Weldon Johnson, Lorraine Hansberry, James Baldwin, Martin Luther King, Jr., Malcolm X, Patricia R. Harris, and Congressman Mickey Leland should only serve to fuel our fires in the continued quest for solving the many problems our communities face. We must not reflect upon our great past and at the same time look upon our future with contempt. All of us must rise to the occasion and pull our people from the wells of despair and hopelessness. It is up to us and we must meet the challenge head on.

Ms. WATERS, Mr. Speaker, I would like to thank Representative LOUIS STOKES for providing members of the Congressional Black Caucus the opportunity to observe National Black History Month.

I would like to open with a quote from Frederick Douglass:

> If there is no struggle there is no progress. Those who profess to favor freedom and yet depreciate agitation, are [people] who want crops without plowing up the ground, they want rain without thunder and lightening. They want the ocean without the awful roar of its many waters. This struggle may be a moral one, or it may be a physical one, and it may be both moral and physical, but it must be a struggle. Power concedes nothing without a demand. It never did and it never will * * * [People] may not get all they pay for in this world, but they must certainly pay for all they get.

By December of this year, one of the most exciting and extraordinary movies in history will be available. Directed by the dynamic and talented Spike Lee, the upcoming film about the life and times of Malcolm X will cause us to struggle within ourselves, to struggle with each other and to struggle with our history.

Tackling history is never easy. It is particularly difficult when it is recent history. Witness the controversy in which the movie "JFK" has engaged us. Many wondered whether or not this was the time in which to make a film about Malcolm X? And beyond that, others wondered if Spike Lee was the one to produce and direct a film about him?

None of these questions deterred Spike Lee. Lee accepted the challenge of trying to present the life of a man that has been as highly controversial in his death as he was when he lived. Spike Lee had the vision and the commitment to try and capture the life of Malcolm X on film. Without a doubt, in its completed state, the movie will produce as much controversy as the man himself. I can not predict whether or not even I will agree with Lee's interpretation of Malcolm X's life. However, I do want to note what I feel is a courageous act on the part of Spike Lee.

I am pleased and proud to add my voice to the documentation of the life of Malcolm X. I am doubly proud to have lived and witnessed Malcolm X, though I did not know him personally. And, I am pleased that I have the privi-

lege of calling his wife, Betty Shabazz, and his daughter, Attallah Shabazz, friends.

Who was Malcolm X? Why in 1992 is the discussion of Malcolm X one of the most highlighted discussions on college campuses of traditionally black institutions. Black students on other campuses are also discussing Malcolm X. All are attempting to establish their own relationship and understanding of the man, his life, his work and his teachings.

Each year, there are Malcolm X celebrations all over the country. The District of Columbia has one of the largest and most expensive celebrations of Malcolm X.

Revered and castigated, clearly, Malcolm X changed the political landscape of America forever. He provided a forum that forced us to confront who we are and what we have achieved as a nation and as a country.

For young black men today, Malcolm X stands as strong role model—a black man who felt good about himself and was proud of his heritage. Malcolm X had much respect for women and for committed relationships. He enjoyed being a father and was very devoted to his wife, Betty Shabazz. He understood that violence committed against ourselves serves only those who would just assume keep us down.

When Malcolm X entered the room a hush fell over the crowd. As he mounted the stage, the chills rose up the spine. Before speaking, his eyes would take in the entire audience as if he could hold the stare of each and everyone at the same time. And when he spoke, his voice riveted you to your chair. Malcolm was one of our greatest orators, one of our greatest thinkers, and he had a powerful vision for the black community.

He wanted African-Americans to be a strong, politically aware and active people. He organized voter registrations drives, promoted the organization of independent political organizations, and encouraged African-Americans to run as Independent candidates. He dreamed of African-Americans being politically mature. Malcolm X sought to change the entire political system in this country such that black people would be powerful enough to sweep all racists out of office.

Born in Omaha, NE, on May 19, 1925, Malcolm Little was one of eight children born to a West Indian woman and her Baptist minister husband. The violence of racism chased the Littles out of Omaha, burned their home in Lansing MI, and beat Malcolm's father nearly to death before leaving him on streetcar tracks to be killed.

After dropping out of school at the end of eighth grade, Malcolm Little drifted through life. He became known as Detroit Red, then Big Red. He dealt drugs, ran numbers, sold bootleg whiskey, pimped, pulled robberies. Eventually, he was caught, convicted, and jailed.

It was during his imprisonment at Concord State Prison in Massachusetts that Malcolm first learned about Elijah Muhammad and his street-tough theological and ethical teachings. These teachings inspired Malcolm to change his life. He worked to improve his vocabulary and reading skills. It was his habit of reading under the inadequate light of his prison cell which earned him the scholar's mark of wire-rimmed glasses.

It was after his release from prison that he met Elijah Muhammad. Muhammad could not help but be impressed by the critical mind, excellent oratorical and organizing skills of Malcolm X. Within a short amount of time, Muhammad named Malcolm X as his national representative and minister of Harlem Temple No. 7.

In April 1964, Malcolm X made a pilgrimage to Mecca. It was on this trip that he was exposed to white Muslims. Exposure to other countries and cultures proved to be transformative. He changed his name to El Hajj Malik el Shabazz to signify his new understanding of himself. World travel and his growing political sophistication forced Malcolm X to let go of his talk of white devils and developing a territory for African-Americans.

Previously, Malcolm X had been criticized for being violent and angry. He and Dr. Martin Luther King were often pitted against one another, philosophically. This was due, primarily, to Malcolm X's refusal to accept nonviolence as the means to empowering African-Americans. And, while he never did embrace nonviolence, he did begin to use conventional civil rights tactics such as boycotts and rent strikes.

Many of his thoughts and messages are very relevant to the crises facing our African-American community today. It is for this reason that we continue to salute Malcolm X.

He was assassinated 7 years ago on February 21, 1965. He is survived by his wife, Dr. Betty Shabazz, the director of communications and public relations at Edgar Evers College in Brooklyn; and his daughters, Attallah, Llyasah, Gamilah, and Qubilah.

Mr. CONYERS. Mr. Speaker, I thank you for this opportunity to join my esteemed colleagues in commemorating the history of African-American struggle and achievement. We have progressed as a people in every way since the first slaves were brought to America, and I truly believe that Black History Month gives Americans the opportunity not only to reflect upon the accomplishments of African-Americans, but to, through this reflection, somehow try and influence a group of young Americans who will carry on the traditions of black achievement, strength, and perseverance for years to come.

All Americans, black and white, benefited from the accomplishments of such inspirations as Dr. Martin Luther King and Ms. Rosa Parks, but none more so than young African-Americans. For them, the road has been paved by the brave and dedicated members of the civil rights movement—many of whom were young, many of whom lost their lives for their beliefs and their desire to be treated with respect, and with equality. Their simple desires caused a revolution, the fruits of which can be seen in African-American accomplishments today; for them, apathy was unheard of, complacency unknown. I am not saying that it has been easy for this new generation—prejudice is very much with us, and we see the cycle perpetuating itself everyday—but I am saying that, as the beneficiaries of the civil rights movement, they have the ability to continue the struggle for equality and to inspire others to achievement.

While the percentage of young black adults who completed 4 years of college doubled in the 1970's to 12.8 percent, this percentage has not improved in the last 12 years. And in the 1980's, the number of African-American students who earned degrees dropped—a 2-percent loss for bachelor's degrees, and a startling 34-percent drop for master's degrees. In fact, in the field of education alone, the number of master's degrees was cut in half. And, students who are enrolled in engineering and science courses, are even more rare—in just the last 10 years we have experienced a near 20-percent drop in the enrollment of African-Americans in these programs. Many may be wondering why, on a day when we are celebrating the accomplishments of African-Americans, I am relaying such sobering statistics. The answer is simple: Just as we have made great strides, we have suffered great setbacks, just as we have moved forward, we have been pushed backward. Just as we fought for desegregation of schools and educational equality for all, we have a President who wants to channel money into modern resegregation with his Schools of Choice Program.

In the 1970's, when the percentage of African-Americans attending college grew exponentially, three-fourths of the student financing was in the form of grants. The Pell Grant Program was credited with providing hundreds of thousands of men and women, of all races, the opportunity to pursue higher education. As many students are painfully aware, the Pell Grant Program was slashed under the Reagan administration, and continues to suffer under our current "Education" President, George Bush. Currently, the grant program provides a mere one-third of the total student financing available. Deprived of the chance to obtain a college education, thousands of our neediest young people are being sentenced to life devoid of real opportunity, devoid of hope. What do these young adults have to look forward to? A future of back-breaking manual labor, and jobs which lack the intellectual challenge they so desperately desired to find in higher education. And according to the latest statistics, the wages for those black adults who complete 4 years of college are nearly double those of their less fortunate counterparts. We are perpetuating an underclass of African-Americans for whom there is a diminishing chance of escape. As the proportion of Pell grants plummeted in the 1980's, the amount of guaranteed student loans increased. There are those who argue that guaranteed student loans are just as effective as Pell grants because GSL's are an entitlement. But one look at the state of higher education today tells quite a different story. Thousands of former students are economically unable to pay back these loans—this is especially true for the community colleges and vocational schools which provide their last best chance for minorities to obtain a degree. The administration's answer to these default rates is to exact punishment against the schools for the problem: as we speak, hundreds of schools have been notified that they will lose eligibility for all Federal student aid, including Pell grants. There is a solution to this vicious economic cycle: When the Higher Education Act comes before Congress this year, we will have the opportunity to make Pell grants an entitlement program. The House bill

would make the expanded Pell program effective immediately, and increase the maximum grant allowance to $4,500. To be sure, this will be an expensive initiative; but I have introduced a bill that will help channel money into this, and other essential programs. My Budget Process Reform Act will tear down the budgetary walls, allowing Congress to delve into the bloated Defense budget and put some of those billions of dollars to work for the American people. Educating our poorest and neediest children was one goal of the civil rights movement, and many years later, we may finally be on the verge of recognizing a small part of that goal.

Mr. CLAY. Mr. Speaker, as we pause to celebrate and honor the many contributions of black Americans, I am reminded of how great it would be if this were done as a matter of course, rather than limited to the month of February. Yet, I can recall when this celebration was called Negro History Week.

I suppose some small consolation can be found in the fact that this celebration now goes on 300 percent longer as Black History Month.

It is at times such as these, though, that I feel a special need to recall the contributions of so many of my forebearers who fought and died for freedom and justice—the ones who paid extraordinary dues in order that those coming after them might share more fully in the bountiful harvests brought forth by the toil, sweat, tears, and travails of their efforts.

Some of these early pioneers for justice and equality were honed in slavery, all victims of discrimination, all schooled in life's realities, yet unwavering in their faith in mankind.

They believed more deeply in the promise of democracy than did the Framers of the Constitution who viewed them as less than human. They embraced the essence of the Constitution like no others in America, perhaps because they had no other choice, as their very survival depended upon adherence by the majority to the very tenets embodied in that document.

Among this group to whom I would like to pay special tribute are the millions of black men and women trade unionists who often faced public humiliation, firings, beatings, and even lynchings to have their voices heard in the trade union movement.

While most persons are familiar with the name of A. Philip Randolph, that gentleman who at the 1959 AFL–CIO convention in San Francisco introduced a resolution demanding that racially segregated local unions be eliminated, there were countless other black Americans who fought, struck, and organized their way into the labor movement.

It is very fitting that our theme today, "African Roots Explore New Worlds: Pre-Columbus to the Space Age," could easily refer to those African brickmakers in ancient Egypt who refused to mix straw with clay until changes were made in their working conditions. Here, in this country as far back as 1763, freed black chimney sweepers in Charleston, SC, organized and demanded higher wages from their white employers.

Black workers learned early on how to survive and secure better wages and better working conditions. This was accomplished by creating their own trade organizations when the white unions would not open their doors. In 1850 the American League of Colored Laborers organized in New York City. Frederick Douglass was named vice president and later became its president. There was also the Colored National Labor Union organized in 1869.

Then, beginning in the early 1920's the Brotherhood of Sleeping Car Porters led a 12-year battle against the George Pullman Co. and were finally victorious in having this major American company recognize their brotherhood as a legitimate union.

The gates were now open for other groups to organize low-wage service workers and they, too, gathered strength as unions.

To all of these strong men and women from the ancient Egyptians to today's leaders, black Americans all, we owe a debt of gratitude. They have continued to lead the fight that will ultimately assure that all Americans will be treated fairly and compassionately in the work place.

Mr. TOWNS. Mr. Speaker, it is my distinct pleasure to rise during this special order to commemorate Black History Month.

Carter G. Woodson, a noted historian, launched Negro History Week on February 7, 1926. Dr. Woodson also founded the Association for the Study of Negro Life and History in 1915 and began publishing the Journal of Negro History in 1916.

Dr. Woodson was a gentleman and a scholar. However, he knew that many people would not read the journal or join the association. He also knew that it was unlikely that they would be encouraged to learn about the history and contributions of blacks in America, Africa, and the Caribbean. Dr. Woodson initiated Negro History Week as a way to provoke discussion and interests in the accomplishments of blacks. He believed that the commemoration of 1 week, celebrated in the segregated churches and schools of the North and South, would have the profound impact of reinforcing the dignity and self-respect of an embattled people. We must not forget that black Americans, in the early part of this century, lived in a society which was so strictly segregated that it recalled the apartheid practices in present day South Africa. The need for the average black American to have a sturdy foundation was vital to emotional and physical survival. This knowledge would not be a cloak in which to hide, but a shield to repel the everyday arrows of life. Woodson knew that knowledge could form the bedrock of this foundation and so he founded Negro History Week as a way to provoke discussion and interest in the accomplishments of blacks within and outside of the black community. Today, in an age where heroes are few and villains are certain, knowing about the contributions of people of African descent to the development of world civilization gives a guidepost to the true meaning of courage and success. We cannot help but look at these people who lived their lives in dignity and determination under incredible circumstances and not be inspired. It reminds me of one time when I saw a picture of the Great Wall of China. It occurred to me that thousands of people over the course of decades built this wall without concrete or modern earth-moving equipment. They built this wall out of will and a dream. And then I thought of the difficulties facing America, and especially black America, and it occurred to me that if the ancient Chinese could build this wall without equipment which we would consider necessary today, then we who are rich in intelligence, talent, will, and a history of incredible accomplishments can build beautiful structures out of our own raw materials. That is the purpose of Black History Month—to remind black America of its awe-inspiring past—to steady our footsteps in the present path and give form to our collective vision of the future. In essence, the message is this—if the black Americans who lived under slavery, segregation and legalized discrimination survived and sometimes thrived, then we, who live today can accomplish great things.

We must learn and use history to understand how to turn our dreams into reality. I believe that each black person we know about who contributed to American history is like a brick in our great wall. It is only by viewing it—brick upon brick that we can envision the wall. Today, I offer you a brick—the rest of the wall is up to you—to us all.

DR. SUSAN MCKINNEY

Dr. Susan Smith McKinney of Brooklyn, NY. was the first black woman to graduate from medical school and practice medicine in New York State. She was the third black woman to become a doctor in America.

Dr. McKinney was the daughter of Sylvanus Smith, a Brooklyn merchant. She began her professional career as a public school teacher in Washington, DC. After a few years as a teacher, she decided to enter medicine. In 1870, 5 years after the conclusion of the Civil War, she graduated valedictorian of her class at the New York Medical College for Women. At a time when a woman in medicine was rare and a black woman in any profession was almost unheard of, this brave woman was determined to make her contribution to society by daring to break down barriers and defy odds.

She practiced for more than 25 years and maintained two offices, one in Manhattan and the other on Dekalb Avenue, Brooklyn. She was one of the founders of the Brooklyn Woman's Homeopathic Hospital and Dispensary. Dr. McKinney served on the staff of the hospital until 1895. She also served as the principal physician at the Brooklyn Home for Aged People.

In addition to fulfilling the extraordinary demands placed upon her as a physician, wife and mother, Dr. McKinney found time to take part in the cultural and religious life of the community. An accomplished musician, she was an organist and choir director for 28 years at the Bridge Street African Methodist Church in Brooklyn. Additionally, she contributed to the intellectual life of the community by lecturing frequently on women in medicine.

Dr. McKinney died in 1918. In 1974, the former Sands Junior High School in Brooklyn was renamed for Dr. Susan S. McKinney. I tip my hat to the memory of this brave and determined African-American woman. Her life and work epitomized the strength and purpose that can and must live in all of us.

Mr. ERDREICH. Mr. Speaker, I would like to take a few moments to acknowledge and commend the many outstanding contributions of black Americans, both to the State of Alabama and the Nation, during this year's observance of Black History Month.

The celebration of Dr. Martin Luther King Jr.'s birthday last month reminds us of his efforts to stir the conscience of our Nation. Our remembrance of his vision brings back memories of our tumultuous past, progressive present, and promising future.

Of course, there are many others who, in their own way, were just as great in their efforts to assure that black Americans are afforded all the rights and privileges guaranteed all citizens of these United States in the Constitution. Their combined determination opened American society to all, providing the opportunity to excel in all professions and fields. Because of that, all of us in this Nation have benefited.

Birmingham, AL, which I represent in the House, was a focal point of the civil rights struggle, and we in Birmingham are keenly aware of the importance of access to political and economic opportunity for all citizens. The people of Birmingham have made a concerted effort to overcome the images of the past, applying its lessons and messages to creatively serve present and future needs.

From our Nation's earliest history until today, there is no facet of our society that has not enjoyed the contributions of and leadership from African-Americans. Their successes span across education, science, industry, literature, music, sports, and the arts. This includes people like Mary McLeod Bethune, noted educational leader who became the first black woman to receive a major appointment in the Federal Government: Jesse Owens, world-class athlete and U.S. Olympian; Shirley Chisholm, the first black woman elected to Congress; Edward W. Brooke, the only black U.S. Senator since Reconstruction; Dr. Charles Drew, who developed the first plasma bank; Dr. Daniel Hale Williams, who performed the first successful open-heart surgery; and Percy Lavon Julian, who was the first scientist to synthesize cortisone.

They include Sidney Poitier, the first black to win an Academy Award for Best Actor; Ralph Bunch, U.N. Ambassador and first black to win the Nobel Peace Prize; Gwendolyn Brooks, the first black to win a Pulitzer; Douglas Wilder, the first black Governor; and Colin Powell, the first black to head the National Security Council, and now, Chairman of the Joint Chiefs of Staff.

Many Americans do not know the term "the real McCoy" refers to the numerous creations of inventor Elijah McCoy, or that George Washington Carver gave us over 300 products from the peanut, or that Garrett A. Morgan invented the traffic signal and the gas mask.

I find it appropriate that the National Black History Month theme for 1992 is "African Roots Explore New Worlds: Pre-Columbus to the Space-Age" for it is the forenamed people that have laid the groundwork to take our Nation into the future.

As we observe this year's Black History Month, let us commit ourselves to remember the positive contributions from the past and to continue to work for policies that provide all citizens a chance to share in the opportunities our Nation offers. Let us give Dr. King's dream a continuing reality for tomorrow and all the tomorrows to come.

Mr. WEISS. Mr. Speaker, it is with great pleasure that I participate today in commemorating Black History Month 1992. I would like to thank my esteemed colleague, Congressman LOUIS STOKES, for once again organizing a special order allowing us to share our thoughts and hopes during this special celebration.

History is understood not simply as a list of dates and events that happened but also as the spirit in which those things happened. Black History Month gives us a chance to pay tribute to and remember those African-Americans who, in the past, have been omitted from our Nation's history.

Dr. Carter Woodson, a renowned historian, recognized that a substantial part of our past was ignored, if not undermined, by historians and the public. In 1915 he created the Association for the Study of Negro Life and History to ensure that black Americans would be recognized for the part they played in building this Nation. In 1926, to broaden his audience, Dr. Woodson proposed the creation of a week, set aside each year, to recognize the vital role played by African-Americans in history.

As time went on, it was evident that a week was not long enough to educate the public and celebrate black Americans' contributions to our history. The week was expanded to a month and 1992 marks the 17th year we will remember, celebrate, and admire the accomplishments of black Americans.

A man of African descent was instrumental in Columbus' discovery of America in 1492. But how many history books tell us that it was a black man who was the captain of the *Nina*? How many people know that Matthew Hensen, a black American, reached the North Pole before Robert Perry? It is my hope that Black History Month will let African-Americans look at their rich heritage with a sense of pride and accomplishment and help recognize the pieces of history that were forgotten or omitted.

This month is a time to reclaim black history and reflect on the struggle African-Americans have endured for this country. At the start of the American Revolution, Crispus Attucks, a black man, was the first patriot to die for freedom at the Boston Massacre. During the Civil War, Harriet Tubman and Sojourner Truth, both black Americans, risked their lives to free slaves. The bravery shown by these people has not been surpassed by anyone in our Nation's history.

The struggle for equality and civil rights began when Rosa Parks, with dignity and determination, stood up to racial discrimination and fought for her rights and the rights of all black Americans. The struggle for civil rights was embodied by Martin Luther King, Jr., one of the leading spokespeople in the fight for racial equality. Dr. King was perhaps one of the most influential people in this century and he best exemplifies the impact African-Americans have had on history. Hopefully this month has helped move us a step closer to Dr. King's dream of equality.

African-Americans have contributed to all facets of our history including areas such as medicine, the arts, and music. In 1893 Daniel Hale Williams, a black doctor in Cook County Hospital, was the first person to perform open-heart surgery. Research done on plasma and blood transfusion by Charles Drew, an African-American from Washington, has been the key to saving millions of lives. These are just a few examples of the impact African-Americans have had on medical procedures and research.

African-Americans have been and continue to be a strong influence on the literary world. From the Harlem renaissance of the 1920's which produced such writers as Zora Neale Hurston and Langston Hughes to their contemporaries like the late Alex Haley, the author of the renowned work "Roots," Toni Morrison, and Paule Marshall, African-Americans have been making major strides in literature.

African-Americans prominence in the music world can be traced back to W.C. Handy, a black bandleader who is considered the father of the blues. There are many other great musicians like Duke Ellington and Louis Armstrong who are known as the country's leading jazz musicians and Billy Holiday and Ella Fitzgerald, two famous black female entertainers. Today, the music world is overflowing with the talent of numerous black artists who have become a dominant force in the industry.

No one can forget to mention our country's great African-American athletes like Jesse Owens who made Olympic history winning four gold medals at the 1936 games and Wilma Rudolph, the 1960 Olympic Gold Medal sprinter. We must also express our hope and pride in all of our 1992 Olympic athletes and wish them well in the upcoming games. Today, we can be proud that African-Americans are representing the United States in the Olympics and in playing fields around the world.

One more example of an outstanding African-American athlete is found in Ervin "Magic" Johnson who, after testing HIV positive, retired from the Los Angeles Lakers and is now a leader in educating our country's youth about AIDS and AIDS prevention. This contribution undoubtedly will prove to be even more outstanding than his contribution to the sports world.

It would be impossible to list all the black men and women who have contributed to history and even harder to mention those who continue to add their talent, intelligence, and rich diversity to our country. However, it must be said that we truly need not look further than our own Chamber for outstanding examples of the contributions African-Americans continue to make to our Government and our world.

By reclaiming black history, our Nation is both rectifying the omissions of the past and enriching our national heritage with the brilliance and the dignity of black America.

Mr. FASCELL. Mr. Speaker, I rise to join our colleagues in celebration of Black History Month. Every February we pause to reflect on the achievements and contributions which African-Americans have made to our Nation. Because it sometimes seems that the advances on the playing fields precede those in the rest of society and because this is an Olympic year, I would like to take a moment to honor some of our African-American Olympians.

At the 1936 Summer Olympics in Berlin, Jesse Owens inspired his country and thrilled the world with his Olympic performance. The 1936 Summer Olympics were filled with an atmosphere of racial and ethnic tension resulting from the policies of Adolf Hitler's government.

Using the Olympics as a platform for his politics, Hitler waged a propaganda war of hate. By the end of the 1936 Summer Olympics in Berlin, Owens had won four gold medals, the admiration of the German people, and inspired generations of young Americans as well as generations of future Olympians from other nations. Proving the strength of the human spirit, the partisan German crowd cheered loudly in salute of Owens during the medal ceremony for his victory in the 200-meter dash.

Among his teammates was our former colleague, the late Ralph H. Metcalfe. An ally of Chicago Mayor Richard Daley, he eventually broke with Daley's political machine and became a powerful voice for reform and civil rights. His athletic achievements, his work in local government, and his work in the House of Representatives benefited more than his constituency; they improved our Nation.

Jesse Owens and Ralph Metcalfe served as positive role models for young Americans and inspired them to believe that their goals were reachable. At the 1968 Mexico City Summer Olympics, Bob Beamon shattered the world record on his way to winning the gold medal in the long jump. Beamon's record, which was not broken until last year, served as a goal for athletes around the world for 23 years. Beamon's performance served as an inspiration and a goal for over two decades of athletes in the same way as the performances of Owens and Metcalfe. Today, he continues to serve as a positive role model helping young people reach their goals in his capacity as a Parks and Recreation Manager with the Dade County Department of Parks and Recreation.

The accomplishments of these Olympians contributed to our Nation by providing our youth, both black and white, with role models. They showed that in an environment free of inequality, people, regardless of race, can compete and be the best in their respective fields. That is the lesson which that German crowd taught us in 1936, and it is a lesson which applies to an arena far greater than athletic competition. The achievements of these great athletes and the message of the German crowd is synonymous with Dr. Martin Luther King's vision of a society where people are only judged by the content of their character. As we continue to strive for Dr. King's dream, let us remember all these lessons.

Mr. PICKETT. Mr. Speaker, I thank the distinguished chairman of the Congressional Black Causus, Mr. TOWNS of New York, for requesting this special order to observe Black History Month, and to pay tribute to the millions of African-Americans—both the famous and not so famous—who have worked to make this Nation great and who are an integral part of our history.

It is ironic that this year's observance of Black History Month coincides with the death of Alex Haley, the renowned author and historian whose book "Roots" was so instrumental in creating an appreciation of black history in the United States. His talent and leadership will be sorely missed. It is fitting that the theme for Black History Month in 1992 is "African Roots Explore New Worlds: Pre-Columbus to the Space Age."

Black History Month is something in which all Americans can and should share because it is an important national observance. By recalling the enormous obstacles that blacks have had to overcome during our history, we are reminded that racial injustice must never again be part of the American experience. And this is particularly important right now, when some in our Nation have tried to revive bigotry and fan the fires of intolerance.

Thanks to Black History Month, Americans also find inspiration in the lives of men and women like Rosa Parks, Marian Anderson, George Washington Carver, Booker T. Washington, Andrew Young, Duke Ellington, Langston Hughes, and of course, Martin Luther King. These are just a few of thousands of blacks who through our Nation's history have made contributions to government, literature, arts, science and agriculture.

What makes their lives especially inspirational is that in many cases they made their contributions without being able to share fully in all that this Nation has to offer. Just think about the many young black Americans who fought and died for this Nation in World War I and World War II—before the civil rights movement opened the doors of opportunity to them. These unselfish Americans, though denied much, continued to make contributions for the good of their country anyway.

This sacrifice in the face of adversity is one of the most important lessons to be remembered in Black History Month, and it is one that perhaps illustrates best the pride, resolve, determination, and values of black Americans.

Again, I thank the distinguished chairman of the Congressional Black Caucus for requesting this special order, and I join him in urging all Americans to learn more about black history.

Mr. BACCHUS. Mr. Speaker, I rise today in celebration of Black History Month.

On these occasions, we remember places like Selma, Birmingham, Atlanta, and Washington.

We remember familiar names from the long struggle for equality, Martin Luther King Jr., Rosa Parks, Harriet Tubman, our distinguished colleague from Georgia, Congressman JOHN LEWIS, and many others.

Today I want to remember someone less well-known—a brave and gifted pioneer from the historic black community of Eatonville in central Florida.

Zora Neale Hurston, writer, anthropologist, and folklorist, made her way from small, impoverished Eatonville, following her dreams to New York City and Barnard College, where she studied anthropology.

Rather than pursue a life in traditional academia, she returned to Eatonville to become a chronicler of her times and her people.

Traveling throughout the South in the bitter thirties and forties, Ms. Hurston recorded a history of black culture, rich with images that remain timeless.

She once wrote, "Folklore is the boiled-down juice of human living."

She obviously found that juice in titles such as "Dust Tracks on a Road" and "Their Eyes Were Watching God."

She revealed to her readers the reality of African-American life.

For four decades she wove a tapestry about her people that had never been woven before.

The daughter of a tenant farmer, she knew as well as anyone the pain and suffering of African-Americans in the United States.

But from her mother who urged her to "jump at the sun," she learned the spirit that was the essence of the civil rights movement.

Her words tell of black life with a sense of pride, dignity, and an undying spirit.

Had she lived longer, Zora Hurston had only begun to see successes won by the civil right movement, fought by blacks and whites together in the streets, courtrooms, and in the Congress.

Were she alive, she surely would have found precious images to record the courage displayed in these battles.

Stetson Kennedy, president of the Florida Folklore Society, put it best when he said:

> The songs Zora sang in praise of her people bespeak the common humanity of us all.

As another admirer put it, Zora Hurston was a

> Shooting star which lit up the night skies * * * flashing across the heavens during the thirties and forties in a dazzling literary display that had all the world watching.

Mr. Speaker, I grew up just a few miles away from Zora Neale Hurston's hometown of Eatonville. I stand here today not only to remember her essential role in the telling of the history of the South.

But also to honor the many fine African-Americans who, like her, dreamed of freedom on the smaller battlefields like Eatonville for more than a century.

To Zora Neale Hurston and the many African-American citizens we are saluting today, your pride, spirit, and struggle are an inspiration to us all.

Ms. PELOSI. Mr. Speaker, I rise in proud celebration of Black History Month, which gives us an opportunity to celebrate the accomplishments of black Americans throughout our Nation.

This year's theme for the observance of Black History Month is "African Roots Explore New Worlds: Pre-Columbus to the Space Age." The African contribution to the New world is significant and African roots can be celebrated in many aspects of our lives.

Each year people from throughout the Bay Area attend a Gospel Mass and march through the city of San Francisco to commemorate the birth of Martin Luther King, Jr. I recently attended a labor and community breakfast in San Francisco on Reverend King's birthday. Dr. King was an untiring champion of civil rights for all peoples. By changing the conscience of our Nation he helped increase the strength of African roots.

The activities in San Francisco provide an opportunity to unite different segments of the community that have been instrumental in founding the civil rights movement. They also serve as a bridge between the remarkable history of black Americans and the young people who will lead us into the future.

I am hopeful that these young people will have increased educational and employment opportunities as we move toward a more just society where all peoples are on equal footing. The Civil Rights Act of 1991, despite its faults, will bring down more barriers of discrimination and racism that deny blacks equal opportunity to participate in American society. History will look back on us favorably if we work to improve the future for tomorrow's leaders.

Part of the San Francisco celebration is the presentation of the winning essays from the

annual Martin Luther King, Jr. Essay Competition. I would like to end my remarks, Mr. Speaker, by presenting to my colleagues the inspiration offered by the winning essays from this competition. Here are contributions from the younger generation with the promise of developing into writers of the stature of Alex Haley, or historians in the tradition of Dr. Carter G. Woodson, the man who has deservedly been called the father of black history.

REACHING THE DREAM OF DR. MARTIN LUTHER KING, JR.

(By Tamika Jones, 11th Grade, Lowell High School)

Dr. King's Dream is a roadmap of Human and Civil Rights set forth for all races, creeds, and colors to follow. In reaching for the Dream of Dr. Martin Luther King, youth of today must become involved in various school, community and church organizations in order to make a difference in our society. We must start with "self" to make sure that this Dream stays alive and accomplishes the goals he so graciously set forth for all mankind. To reach for Dr. Martin Luther King's dream, I devote time to improving the black community. For the past four years I have participated in the Beta Nu Chapter Xinos, and African American youth group sponsored by the National Sorority of Phi Delta Kappa, Inc. We are an assortment of gifted teens from the Bay Area. Our main goal is to contribute in making a more loving world. To accomplish our goal we encourage each other to do our best in school. We all know that education is the key that opens doors of opportunity and to success. We also act as a support group. We make every effort to lend a helping hand and a shoulder to cry on in times of need. If we're not there for our brothers and sisters, why should anyone else be?

We must cater to the needs of real people. When holidays such as Thanksgiving and Christmas come around, care baskets filled with food are donated to a needy family. Neither the children nor the elderly are forgotten. Presents are passed out to the youngsters at schools. The seniors of Laguna Honda Convalescent Home are showered with joy-filled carols and wishes of happy holidays from the youth group to which I belong.

In reaching for the dream of Dr. Martin Luther King, African Americans must love their neighbors as themselves, not just in words but also in action. All races must be treated equally; no more homeless, no more prejudice in the world and a good health plan and an excellent child care program for all Americans.

Reaching for the dream of Dr. Martin Luther King means keeping drugs out of the schools, neighborhoods, and homes. We must encourage our youths to obey their parents, to join positive organizations, to belong to worthwhile groups, to be a gang for love and peace, to strive to be the best in school and to have strong minds and determination, then we all succeed.

REACHING FOR HIS DREAM

(By Jamé Scott, Fourth Grade, Cleveland Elementary)

Dr. Martin Luther King Jr. had a dream. A dream of freedom! A dream of peace! He didn't care what color you were, he wanted everyone to be treated fair. He believed in equality and justice for all. He believed so strongly in his dream that he sent out to change the world, by changing unfair laws. Dr. Martin Luther King, Jr. and Rosa Parks started by protesting. They were beaten and thrown in jail, but they never gave up. He continued to struggle to achieve his dream in a peaceful way. He lived his dream by setting an example for others, and now we must continue the dream.

Some things have changed, thanks to his dream. I wish Dr. King was still alive to see the changes and to help make things better. I would like to march against drugs, the homeless and police brutality. He would talk to people about AIDS and he would get the gang leaders together to stop killing each other. Dr. King would be happy to talk with Nelson Mandela who was released from prison after 27 years, just last year. They would work together to stop the apartheid. Dr. King would be happy that the Berlin Wall came down. He would help stop hunger in all nations. I know this sounds like a dream, but that's what reaching for his dream is all about. Peace, love and justice for all.

My grandmother told me, "Everything starts off as a dream. You just be the best you can be, believe in yourself and one day you can have your moment in the sun." I have a dream! My dream is to become a child psychologist. I have to be a good student, a good person and a good Christian. This means I will obey the rules of my family, school, and the community. Through my teachings. I will set my own standards, principles and goals and I will try to achieve them. I'd also like to organize a group of children to go and read to the senior citizens and ill children in the hospital.

Thanks to Dr. King and his dream, I feel all dreams are possible. Keep reaching for the Dream!

REACHING HIS DREAM

(By Heather A. Bias, Eighth Grade, Dr. Martin Luther King, Jr. Academic Middle School)

Everyday, I am reminded of the victories and glories caused by Dr. Martin Luther King's fight for freedom. Because of his strength, he has brought the whole world into one classroom. I look around the from and see to the right of me, Asians. To the left of me I see Afro-Americans. In the front of me I see Jews and behind me there are Muslims. And where is this classroom you ask? In a proud school named after a proud man, Dr. Martin Luther King, Jr. He fought, he protested, he saw hope in a hopeless world. He did all this to fulfill a dream: A dream of a country where all people are equal; where no man or woman is judged by the color of their skin but by the content of their heart; where peace, love and justice are the words we live by.

This dream is being fulfilled everyday by the students at Dr. Martin Luther King, Jr. Academic Middle School. We have learned that there are not many races, but one race, the human race. Everyone who is alive belongs to this race. Therefore, we must all be treated the same. We have learned that though it is important to know where you come from, it is even more important to know where you're going and to strive for your dreams.

Everyday Martin Luther King helps me reach my goals. Whenever I think I can't do something and I'm just about to quit, I think of all the times when Martin Luther King could have quit, but didn't. He was one against the wind and he constantly fought to get what he wanted. Like the time I went to a National swim meet in Virginia. I took a look around at my competition and I almost gave up all hope of winning. But as fast as lightning, something told me not to give up. Something told me that somewhere, someone before me had a dream and didn't quit until it was fulfilled. Just that thought gave me strength to try to win, to go for the goals and fulfill my dream! Though Martin Luther King died over 25 years ago, we still work to keep his dream alive!

A DREAM TO BE SHARED

(By Tiffany Tischell McFarland, seventh grade, Dr. Martin Luther King, Jr., Academic Middle School)

Dr. Martin Luther King, Jr. was a good man and lots of potential and courage, and a mountain range of determination. I am enthusiastic too. I have a cascade of courage, and a waterfall of determination! I do think I can make a difference. The small unnoticed things I do now could some day add up to more important deeds, or may lead me to bigger dreams to fulfill. Even if I don't achieve all my goals in life, I feel that I will have tried my utmost to put all my efforts into it.

As a child I do the small things, not to be noticed but just to get myself started on being outgoing. I join in on a lot of extra curricular activities, after and during school. Mostly, I join these activities to extend my knowledge into a rainbow, such as learning of people's backgrounds, ways of understanding and different ways of learning. I also love being the leader of many things and being the first to do something just as Martin Luther King was a leader in the Civil Rights march. King was remembered as someone special and that's how I want to be remembered.

When I am in the middle of a conversation where people are being discriminated against, I tell people to stop because we are all equal in our Heavenly Father's eyes. We can't choose the way we come into this world. The only thing we can control is what we make of ourselves, the way we act, and how we respect ourselves and others.

I help in my community. In my homeroom we had a food drive for the homeless just in time for Christmas. I was very involved in it. I am the homeroom representative.

I am proud. I think that way, feel that way, live that way, and will achieve all things that way! I will lead myself on the road of success, remembering always Dr. King's dream.

Mr. MAZZOLI. Mr. Speaker, it is my pleasure and privilege to join my colleagues today in honoring the rich heritage of African-Americans. It is a fitting occasion since February is Black History Month.

Black History Month, which was first celebrated in 1976, is a significant reminder of the vital role African-Americans have played in our Nation's history. It brings to mind the many contributions African-Americans have made—often at a great personal sacrifice—to our country's development.

This year I am pleased to note the special contributions of two great African-Americans: Muhammad Ali of Louisville, KY, and Alex Haley, the prize-winning author.

Muhammad Ali, the three-time world heavyweight boxing champion, was born in Louisville and celebrated his 50th birthday earlier this month. He was arguably, the greatest boxer to ever step in the ring, winning the championship three times. He is one of the greatest athletes in the history of American sports, and one of the world's most recognizable celebrities.

Alex Haley, who died on February 10 at the age of 70, wrote "Roots," a history of his family's experience and more broadly the experience of African-Americans in the United States. As a book and later as a much heralded television mini-series, "Roots" had incalculable impact on Americans of all colors. Mr. Haley was scheduled to speak in Louisville on February 15, 1992 at the annual Louisville YMCA black achievers banquet.

Mr. Speaker, in addition to honoring the achievements of great African-Americans of the past, Black History Month is also a celebration of the present and the future.

I would like to acknowledge one organization in the Third District which recognizes and fosters African-Americans. The intergovernmental black history committee, founded in 1981 and composed of representatives from Federal, State and local government, calls attention to the contributions, both past and present, of African-Americans in the workplace, in the community and in the country. A senior member of my Louisville staff, Brenda Sweatt, is a member of this committee.

Mr. Speaker, I hope Black History Month encourages a greater awareness on every American's part of the fundamental and worthwhile contributions to the United States of America of African-Americans. And, I hope the month helps bring about an America of equality and opportunity for all its citizens.

Mr. FAZIO. Mr. Speaker, I join my colleagues today in this special order to recognize the accomplishments of African-Americans and their contributions to our Nation's history.

In 1926, Dr. Carter G. Woodson, the African-American scholar and historian, established the observance of Negro History Week. The son of former slaves, Dr. Woodson realized which way in which historians had traditionally promoted the myth of white superiority and, as a result, distorted and eliminated the African-Americans presence in their work. He therefore set aside a period in February—the week containing the birthdays of Frederick Douglass and Abraham Lincoln—to stimulate awareness of the role of the African-American and to begin correcting this imbalance. February 1992 marks the 16th observance of Black History Month, the expanded version of Dr. Woodson's week of commemoration.

Black History Month gives all Americans the opportunity to appreciate and understand the involvement of African-Americans in America's history and society. Arising from a legacy of slavery and oppression, African-Americans have made ongoing contributions to America's agriculture and industry. There is no area in which their ongoing presence and contributions are not felt—be it the military, government, education, literature, the sciences, entertainment, the arts, sports, or social reform—all while struggling for quality and freedom, and fighting to counteract the effects of the racism that continues to pervade our society.

Race politics are going to play a big role in this year's election. We are going to see the race card played over and over in an attempt to divide us as Americans, and thereby win votes. But Black History Month provides us all with the opportunity to focus on the cohesiveness and diversity that have made our country what it is. We need to focus on this occasion both as a celebration of how far we have come and a recognition of how far we have yet to go.

Mr. Speaker, I would like to close my remarks my commending the distinguished gentleman from New York, [Mr. TOWNS], the chairman of the Congressional Black Caucus; and the distinguished gentleman from Ohio, [Mr. STOKES] for calling this special order. I also thank my other colleagues for their participation today.

Mr. HATCHER. Mr. Speaker, as our country observes Black History Month, we are reminded of the numerous contributions black Americans have made to the development of this Nation and this world. Today I would like to introduce to my colleagues several of the south Georgia blacks who have enriched our history.

Georgia enjoys a particularly rich past that grew from many challenges. From its origins as a penal colony, to the headquarters of the civil rights movement, to home of the 1996 summer Olympics, Georgia moves forward with the determination shown by my constituent Alice Coachman of Albany, GA, in winning a gold medal in the 1948 Olympics.

South Georgians have also excelled in many other endeavors. This and every month of the year we must appreciate the unselfish efforts of heroes like Lt. Henry O. Flipper, who paved the way for blacks in military leadership.

Born a slave in Thomasville, GA, in 1856, Lieutenant Flipper overcame numerous obstacles to become the first black graduate of the U.S. Military Academy at West Point on June 15, 1877. After graduation, he made significant achievements in military and civilian arenas. He served as a calvary officer, a surveyor, a cartographer, a civil and mining engineer, a published author, newspaper editor, special agent for the U.S. Department of Justice, Assistant Secretary of the Interior, a pioneer in the Nation's oil industry, and a college instructor.

Like many other black heroes, Lieutenant Flipper did not receive the recognition he deserved in life, though I am sure recognition was not his motivation. Flipper and countless others were driven by the desire to create a better world for future generations and a chance to give all Americans the opportunity to fulfill their dreams. Unfortunately, my district recently added another hero to our rolls. On February 25, 1991, Serviceman James E. Worthy of Albany, GA, was lost in a Scud missile attack during the Persian Gulf war. The courage and distinction of Serviceman Worthy and all those who served should never be forgotten.

The term "Black History" is not only the study of blacks in history but also the study of blacks in American and international history. An often forgotten aspect of American history are the contributions in labor and agriculture of former slaves. We must remember the sons and daughters of the South and their years of dedication to a Nation that often seemed uninterested in them.

History is not reserved for names and events we can easily recite. The schools and churches that toiled selflessly to keep the black family strong and composed during bleak periods in our past also belong to history. In Thomasville, GA, the Bethany Congregational Church, an institution listed on the National Register of Historic Places, recently celebrated its 101st year of service. Like many black churches around our Nation, this church stands as a cornerstone of our community.

As America prepares to enter a new century, we must chart our course for the future with the events of past in mind. Black Americans have played an important role in the development of our Nation. This and every month we should remember these contributions.

Mrs. MORELLA. Mr. Speaker, it is with great pride that all Americans should recognize this month of February as Black History Month. Regardless of race or color, we all have benefited from the many contributions made by African-Americans in the fields of science, medicine, and technology.

In our everyday life, we are in constant interaction with inventions and other contributions first developed and created by African-Americans. These African-American innovators are numerous. There is Dr. Kenneth Clark, a renowned psychologist recognized for his pioneering studies on the effects of segregation. Dr. Clark's seminal research helped to influence the Supreme Court in its 1954 landmark case of Brown *v.* Board of Education, which outlawed segregated schooling. There is Dr. Charles Drew, a pioneer in the preservation of blood. Through Dr. Drew's innovations with blood plasma, thousands of lives during World War II were able to be saved. There is Dr. Percy Julian who left a legacy of life-saving and health-restoring discoveries. Dr. Julian's inventions and breakthroughs provided relief for millions of Americans suffering from rheumatoid arthritis, and glaucoma, among others. There is also Garrett A. Morgan, the inventor of both the traffic signal and the gas mask.

These examples are but a few of the many African-Americans who have been instrumental in maintaining our Nation's superiority in technology and competitiveness. History has proudly documented the numerous scientific, medical, and technological achievements of African-Americans. Inspired by the accomplishments of these and many other African-Americans, Black History Month heralds those achievements while also challenging our Nation's youth to similar feats of great glory.

Mr. Speaker, I urge all my colleagues to join with me in celebrating Black History Month.

Mr. RAY. Mr. Speaker, I rise today to participate in this special order commemorating Black History Month.

Earlier this month, it was my pleasure to help host the Third District's fifth annual Black History Month observance. I was joined in the program by the distinguished chairman of the Congressional Black Caucus, Mr. EDOLPHUS TOWNS of New York.

Mr. Speaker, I have come to look forward to this annual gathering to commemorate Black History Month. This month has been set aside throughout this country to recognize the individuals, organizations, and communities that have played key roles in America's history. It is entirely fitting that we have this annual event and pay tribute to those individuals who and those institutions which have contributed their efforts and dedicated their existence to the improvement of our blessed Nation.

The United States is the oldest, most enduring Government in the world. It is a democracy which has representative government and the power to change, to adapt, to meet new needs and new challenges. One of those challenges has been the creation of better race relations. This annual meeting has made a contribution toward this goal.

Mr. Speaker, I mentioned in my speech that there is a long list of men and women who have dedicated their lives to the cause of racial harmony and equity in America. The list includes the names of John Lewis, John F. Kennedy, Martin Luther King Jr., Benjamin Mays, Eleanor Roosevelt, Colin Powell, and John Amos. Each of these persons and many, many others—some black, and some white—some rich, some poor—some living and some departed—each tried or are currently trying in their own special way to work for a better America. This spirit continues to flow through many of us and our young people. And it will continue to bolster our free and democratic society.

It was a pleasure to have with us at the observance someone who has played an integral role in this development and who continues to be a moving force in helping others—Congressman EDOLPHUS TOWNS. New York is fortunate to have him as a representative, but we in Georgia should be proud of this gentleman too, for Congressman TOWNS has roots in this great State. His grandparents had a home in Reidsville, GA, and he spent many of his summers there.

Congressman TOWNS and I entered the House of Representatives the same year, following the elections of 1982. He came to Congress via the circle route, having been born in Chadbourn, NC, and having been active in the politics of New York. Congressman TOWNS is a spiritual and intellectual leader in Congress and was a welcome addition to our list of former speakers. Some of those fine individuals include Congressman JOHN LEWIS from Atlanta, former whip Bill Gray, Congressman MIKE ESPY from Mississippi, and Congressman LOUIS STOKES.

Mr. Speaker, I appreciate the opportunity to participate in this tribute to Black History Month, and thank Congressman TOWNS for his assistance in the wonderful observance in the Third District.

GENERAL LEAVE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order of today.

The SPEAKER pro tempore (Mr. ABERCROMBIE). Is there objection to the request of the gentleman from Ohio?

There was no objection.

LONG-TERM HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes.

Mr. BILIRAKIS. Mr. Speaker, as the chairman of the Republican Research Committee's task force on the elderly, I believe long-term health care is an issue that deserves serious debate in the House of Representatives. Health care reform is a subject of national debate these days, but little has been said about long-term care, an issue that is on the minds of almost every senior citizen.

Long-term care services include medical, social, personal, and supportive services needed by people who have lost some capacity for self-care because of a chronic illness or condition. While these conditions occur in all age groups, the elderly are the largest group of individuals where these conditions result in both functional impairment and physical dependence on others for an extended time period.

My congressional district in Florida, which includes Clearwater, Dunedin, New Port Richey, and Holiday, has one of the highest percentages of older Americans over the age of 85. As you can well imagine, most of my constituents insist that any health care reform package must address the issue of long-term care.

Currently, the elderly face significant expenses for long-term care, especially nursing home care. Many times, nursing home care involves catastrophic expenditures that result in the impoverishment of many seniors. Private insurance coverage for long-term nursing home care is very limited and public support under the Medicaid Program is available only after people have first experienced financial catastrophe and have depleted their resources and income on the cost of their care.

In addition, very little coverage exists for home and community-based services which seniors and their families often prefer over institutional care.

In 1988, $53 billion was spent for nursing home and home care, which are two major categories for long-term care services. This figure represents about half of Medicare's total level of current spending. The greatest portion of this spending is for nursing home care.

About $43 billion was spent for nursing home care in 1988. Public programs, primarily Medicaid, paid almost 50 percent of the Nation's total nursing home bill. Many people needed long-term care become eligible for Medicaid because of the high cost of nursing home care, currently averaging $30,000 annually.

On the other hand, national spending for home care is very limited. In 1988, less than $10 billion, or 18 percent of total long-term care costs, was spent for home health services. Of this total, 70 percent was paid by public programs.

As the chairman of the elderly task force, I believe long-term care is an issue that must be addressed by Congress. In my opinion, 1992 is the appropriate time to do so—health-care reform is a top priority of the Congress.

Late last year, I introduced H.R. 3951, a comprehensive health reform package which included several provisions designed specifically to benefit older Americans. One section provides a one-time physical examination for new Medicare beneficiaries. I believe this is essential because it mandates preventive health care for seniors and it encourages medical professionals to provide medical screening services to older Americans. It also allows seniors the opportunity to discuss their dietary needs, physical activities and prescription drug use with a physician.

H.R. 3951 also includes long-term health care legislation that I have consistently introduced in the House of Representatives since the 100th Congress. H.R. 1535, the Elderly Americans' Economic Security Act, allows more families to remain together and delays expensive institutionalization of loved ones by giving primary care givers certain tax incentives.

In addition, the legislation encourages medical professionals, such as doctors and nurses, to donate services to homebound patients by granting them a tax deduction in the form of an extension of the charitable contribution for their services. Health providers who provide services to homebound patients cannot be immediate family members.

Finally, the bill allows certain withdrawals from individual retirement accounts [IRA's] for the purpose of funding long-term care. In this way, an individual may decide to spend his retirement savings for long-term care expenses if he believes it is necessary without suffering tax penalties.

I firmly believe long-term health care should be an important aspect of the health-care reform debate. Seniors must continue to be assured by Congress that this issue is as important as health care access and cost containment for health care. The Pepper Commission's recommendations for long-term care reform encouraged a public-private insurance model for financing long-term health care benefits. However, I believe my legislation is a good beginning and gives families and medical professionals quick financial relief when they provide care to elderly relatives.

The task force's purpose of to encourage more extensive debate on the issue of long-term care, including the financial concerns of the long-term health bills that have been introduced in the House or Representatives. It is my hope and the hope of the task force that Congress will place more emphasis on long-term care in the coming year, especially as our population continues to grow older and wiser.

Mr. LAGOMARSINO. Mr. Speaker, during debate on repeal of the Medicare Catastrophic Coverage Act of 1988, an overwhelming message was sent to Congress. That message was that seniors really wanted and needed long-term health care coverage. I don't think Congress heard the message clearly enough because we have not yet delivered what the people asked us to do.

Since our elderly population is continuing to grow and at the same time living longer lives, we must find a way to provide less costly long-term-care insurance for our seniors. Many of today's seniors live on fixed incomes and would face the possibility of bankruptcy should they be stricken with an unforeseen illness requiring a prolonged stay in the hospital or care in a nursing home facility. This is unconscionable and we cannot allow this to happen.

The Pepper Commission, which was established by the Medicare catastrophic legislation, and was retained when the law was repealed, had as one of its chief tasks to report to Congress on how to provide effective, affordable long-term health care coverage for the elderly.

While a recommendation was made, there was a one major flaw in the plan—how do we finance it.

As health care costs continue to escalate, it becomes even more essential to accomplish this objective. The vast majority of seniors I hear from tell me their No. 1 concern is the need to make cheaper long-term-care insurance a reality.

Hopefully, we will reach a consensus and enact legislation to address this issue once and for all.

Mrs. BENTLEY. Mr. Speaker, I want to thank my good friend from Florida, Mr. BILIRAKIS, for organizing this special order around an issue of great concern to our senior community—the issue of long-term care. This is certainly one issue that cannot be excluded from the current debate taking place about our health care system.

As a member of the Select Committee on Aging, I am acutely aware of the fact that the elderly segment of our population continues to increase as a percentage of the total population. Today there are nearly 31 million Americans over the age of 65—and by the year 2010, there will be close to 40 million. In addition, according to a recent GAO study, "The projected number of disabled elderly in the future could range anywhere from 14 to 27 million"; it goes on to say that, "The costs of long-term care for the elderly are projected to almost triple from $42 billion in 1988 to over $120 billion by 2018." But to truly understand the enormity of these figures, we must recognize that the average cost of a year's stay in a nursing home is $33,000. That's a number that many Americans faced with caring for a loved one can easily relate to.

As my colleagues here today will remember, the "Grandaddy" of the long-term-care initiative was the 550-page Pepper Commission report that was released in 1990. In that report, a variety of separate recommendations were outlined, many of which touched on the pressing need for long-term care. This included making disabled persons eligible for social insurance for both home and community based care, including adult day care and respite care; setting up a nursing home program to provide a floor of financial protection in order to prevent impoverishment; and covering users of nursing homes for the first 3 months of care, with a modest co-pay only.

However, in laying the foundation for a comprehensive health coverage program the Pepper Commission, quite obviously, anticipated resulting deficiencies. Accordingly, they specifically noted that "private long-term care insurance will fill gaps not covered by this plan." In addition, they urged Tax Code revisions to encourage the development of private long-term-care insurance in an effort to fill these gaps. These included treating premiums paid, and benefits received, as health insurance for tax purposes. However, many people were quite critical about the way in which the report appeared to gloss over the issue of how long-term-care plans should be constructed using an employer, rather than a Federal Government model.

There were, of course, some other marginal problems with the report. The price tag of the Pepper package was a bit steep, to put it mildly, and the financing mechanisms somewhat nebulous. One of our colleagues on the Budget Committee actually described the $70 billion price tag as being "beyond the outer boundary for serious discussion." As such, the scramble for an acceptable, all-encompassing reform package that improves delivery and access, while lowering costs, continues; in concert with a spirited national debate that includes doctors, hospitals administrators, insurance companies, HMO's pharmaceutical firms, State and local government officers, and political pollsters.

The bottom line is that caring for oneself, or one's family, in their later years, has become one of the greatest worries of most Americans. And as our senior population expands, we must also ensure that opportunities for defrauding and manipulating this segment don't expand as well. While Medigap and long-term-care insurance policies are welcome in order to fill our health care financing gap, unfortunately the temptation for some to take advantage has, and will, continue to occur. Thus, it is imperative that we keep an eye fixed toward ferreting out any abuse of the elderly, and through the cooperative efforts of the insurance industry, keep potential abuses to a minimum.

Clearly, we must continue to encourage and spur on companies to develop a strong long-term-care insurance market, while at the same time providing consumers with the confidence and the education that the market will be free from abuse. Only then will families and individuals invest their hard-earned dollars for future health care needs.

Mr. JAMES. Mr. Speaker, first, I would like to thank my distinguished colleague from Florida, Congressman BILIRAKIS, for his leadership in spearheading this effort to bring attention to the long-term-care crisis in this country.

The number of senior citizens throughout the Nation is expected to more than double by the year 2050. In Florida alone, it is estimated that by the year 2000 there will be approximately 3.87 million people over the age of 60. Assuming these numbers are realized, there is no doubt there will be an increased demand on our long-term-care resources.

How are we going to meet the demand for long-term care today and the increased demand tomorrow? This is a question Congress has been struggling to answer for years.

Obviously, Mr. Speaker, there are no short, simple answers. And while I am not an expert on the myriad problems facing health care by any means, I think that one aspect of any long-term-care solution can be found in the fastest growing health care delivery system today: home health care.

Home care is a great alternative to institutionalization. Why? Ask the patients. At one home health agency in Florida's fourth congressional district, Volusia Home Care, the nurses and therapists tell my staff how much the patients' attitudes and dispositions improve when they receive care in their homes, surrounded by loved ones and belongings.

Mr. Speaker, there are other reasons that home health care is beneficial, and one springs to mind that we in Congress should pay particular attention to: cost effectiveness.

Medicare reimburses home care agencies somewhere in the neighborhood of $65 a day for a nursing visit, a little higher for therapists, and considerably less for visits of nursing assistants. In many cases, the latter group, nursing assistants, or home health aides, are all that are needed to change a patient's bandage and check vital signs.

Now think about this, Mr. President: In some areas, hospital stays can cost upward of $400 per day. Seems to me that we can analyze more carefully some of these cases and see if some patients can get quality care in the home instead of in the hospital. It would save the Government millions and millions of dollars, and patients, on the whole are eminently happier in the home setting.

As I've said, there aren't any simple answers, but I believe home health care is one way that a long-term-care campaign can truly be sustained.

So in conclusion, Mr. Speaker, I think we in Congress should take a long, hard look at some alternatives to the conventional health care wisdom. And as I've said tonight, I think home health care should be a key component of any long-term health care plan.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCCOLLUM) to revise and extend their remarks and include extraneous material:)

Mr. MCCOLLUM, for 5 minutes, today.

Mr. HASTERT, for 60 minutes each day, on March 3, 4, and 5.

(The following Members (at the request of Mr. MFUME) to revise and extend their remarks and include extraneous material:)

Mr. HUTTO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, on February 28.

Mr. STOKES, for 5 minutes each day, on March 3, 4, and 5.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCCOLLUM) and to include extraneous matter:)

Mr. HEFLEY in two instances.

Mr. CRANE.

Mr. MCDADE.

Mr. PACKARD.

Mr. SAXTON.

Mr. GRADISON.

Mr. GALLO.

Mr. ZIMMER.

Mr. MCGRATH.

Mr. DORNAN of California.

Mr. DUNCAN.

Mr. SCHIFF.

Mr. HORTON.

Mr. GUNDERSON.

Mr. GILMAN in three instances.

Mr. HASTERT.

Mr. GREEN of New York.

Mr. BURTON of Indiana.
Mrs. BENTLEY in two instances.
Mr. WALSH.
Mr. YOUNG of Florida.

(The following Members (at the request of Mr. MFUME) and to include extraneous matter:)

Mr. HOCHBRUECKNER.
Mr. MCCURDY.
Mr. LANTOS.
Mr. MAZZOLI.
Mr. TALLON.
Mr. ECKART.
Mr. APPLEGATE.
Mr. RAHALL.
Mr. TORRES.
Mr. DOWNEY.
Mr. FORD of Michigan.
Mr. KILDEE.
Mr. SLATTERY.
Mr. BILBRAY.
Mr. NEAL of Massachusetts.
Mr. EDWARDS of California.
Mr. BORSKI.
Mr. GUARINI.
Mr. VOLKMER.
Mr. MOODY.
Mr. TORRICELLI.
Mr. GEREN of Texas.
Mr. WAXMAN.
Ms. LONG.
Mr. DARDEN.
Mr. WILLIAMS.
Mr. ABERCROMBIE.
Mr. MARKEY.
Mr. ACKERMAN.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2212. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

ADJOURNMENT

Mr. RANGEL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 46 minutes p.m.), under its previous order, the House adjourned until Monday, March 2, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2906. A letter from the Assistant Secretary for Force Management and Personnel, Department of Defense, transmitting the Department's Defense Manpower Requirements Report for fiscal year 1993, pursuant to 10 U.S.C. 115(b)(3)(A); to the Committee on Armed Services.

2907. A letter from the Secretary of the Air Force, transmitting notification that four major defense acquisition programs have breached the unit cost by more than 25 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

2908. A letter from the Secretary of the Navy, transmitting notification of the proposed transfer of the obsolete aircraft carrier *Lexington* [AVT 16] to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, TX, pursuant to 10 U.S.C. 7308; to the Committee on Armed Services.

2909. A letter from the Secretary of Housing and Urban Development, transmitting the biennial President's Report on National Urban Policy, pursuant to 42 U.S.C. 4503(a); to the Committee on Banking, Finance and Urban Affairs.

2910. A letter from the Chairman, Federal Housing Finance Board, transmitting the Board's report on comparability of pay and benefits, pursuant to Public Law 101–73, section 1206 (103 Stat. 523); to the Committee on Banking, Finance and Urban Affairs.

2911. A letter from the Chairman of the Board, National Credit Union Administration, transmitting the Administration's report on comparability of pay and benefits, pursuant to Public Law 101–73, section 1206 (103 Stat. 523); to the Committee on Banking, Finance and Urban Affairs.

2912. A letter from the Executive Director, Neighborhood Reinvestment Corporation, transmitting the annual report of the Corporation for 1991, pursuant to 42 U.S.C. 8106(a); to the Committee on Banking, Finance and Urban Affairs.

2913. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–160, "D.C. Health Occupations Revision act of 1985 Temporary Licensure of Social Workers Temporary Amendment Act of 1992", and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2914. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–162, "Illegal Dumping and Operating an Open Dump Fine Increase Amendment Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2915. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–161, "Education in Partnership with Technology Corporation Establishment Act of 1986 Capitalization Amendment Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2916. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–159, "D.C. Depository Act of 1977 Amendment Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2917. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–158, "Florida Avenue Baptist Church Equitable Real Property Tax Relief Temporary Act of 1992", pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2918. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–157, "D.C. Unemployment Compensation Act Temporary Amendment Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2919. A letter from the President, Chesapeake and Potomac Telephone Co., transmitting the C&P Telephone Co. statement of receipts and expenditures for the year 1991, pursuant to the Act of April 27, 1904, ch. 1628 (33 Stat. 374, 375); to the Committee on the District of Columbia.

2920. A letter from the Cochairman, Indian Nations At Risk Task Force, Department of Education, transmitting a copy of the final report of the task force, entitled "Indian Nations At Risk: An Educational Strategy for Action"; to the Committee on Education and Labor.

2921. A letter from the Chairman, Harry S. Truman Scholarship Foundation, transmitting the Foundation's annual report for 1991, pursuant to 20 U.S.C. 2012(b); to the Committee on Education and Labor.

2922. A letter from the Chairman, National Council on Disability, transmitting a report on the reauthorization of the Rehabilitation Act; to the Committee on Education and Labor.

2923. A letter from the Secretary of Education, transmitting the final reports for four Department of Education advisory committees; the Intergovernmental Advisory Council on Education, the Special Study Panel on Education Indicators, the National Learning Center, and the National Council on Vocational Education; to the Committee on Education and Labor.

2924. A letter from the Deputy Assistant General Counsel, Department of Energy, transmitting a notice of a meeting related to the International Energy Program to be held on February 18 and 19, 1992, at the OECD, in Paris, France; to the Committee on Energy and Commerce.

2925. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to United Arab Emirates (Transmittal No. DTC–6–92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2926. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Switzerland (Transmittal No. DTC–46–91), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2927. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Turkey (Transmittal No. DTC–7–92), pursuant to 22 U.S.C. 2776(c), (d); to the Committee on Foreign Affairs.

2928. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Japan (Transmittal No. DTC–3–92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2929. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Japan (Transmittal No. DTC–4–92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2930. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on certain Chinese firms engaged in missile technology proliferation activities, pursuant to Public Law 101–510, section 1702(a) (104 Stat. 1743); to the Committee on Foreign Affairs.

2931. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal

year through fiscal year 1995 resulting from passage of H.R. 4095, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

2932. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 1989, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

2933. A letter from the Chairman, Federal Maritime Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1991, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2934. A letter from the General Counsel, Legal Services Corporation, transmitting a report on its activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2935. A letter from the Marshal of the Court, Supreme Court of the United States, transmitting the annual report on administrative costs of protecting Supreme Court officials, pursuant to 40 U.S.C. 13n(c); to the Committee on the Judiciary.

2936. A letter from the Assistant Attorney General, transmitting a draft of proposed legislation to amend the Civil Liberties Act of 1988 and for other purposes; to the Committee on the Judiciary.

2937. A letter from the Chairman, Board of Directors, Panama Canal Commission, transmitting a draft of proposed legislation to authorize expenditures for fiscal year 1993 for the operation and maintenance of the Panama Canal and for other purposes; to the Committee on Merchant Marine and Fisheries.

2938. A letter from the Postmaster General, transmitting a copy of the 1991 Comprehensive Statement on Postal Operations which discusses postal programs and policies, pursuant to 39 U.S.C. 2401(g); to the Committee on Post Office and Civil Service.

2939. A letter from the Administrator, Environmental Protection Agency, transmitting the final report on the nonpoint sources of water pollution reduction activities and programs, pursuant to Public Law 100–4, section 316 (101 Stat. 590); to the Committee on Public Works and Transportation.

2940. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and inspector general, and for other purposes; to the Committee on Science, Space, and Technology.

2941. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation entitled, "Veterans' Home Loan Improvement Act of 1992"; to the Committee on Veterans' Affairs.

2942. A letter from the Assistant Secretary of the Army (Civil Works), transmitting the Secretary's recommendations relating to the Cochiti Dam, NM, project; to the Committee on Appropriations and Public Works and Transportation.

2943. A letter from the Secretary of Energy, transmitting the second annual report by the Department on its activities relating to the Defense Nuclear Facilities Safety Board for calendar year 1991; jointly, to the Committees on Armed Services and Energy and Commerce.

2944. A letter from the Acting Administrator, Federal Aviation Administration, transmitting the study of potential use of engine condition monitoring systems on aircraft, pursuant to Public Law 101–508, section 9117(b) (104 Stat. 1388–365); jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

2945. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to authorize the imposition of recreation user fees at water resources development areas administered by the Department of the Army; jointly, to the Committees on Public Works and Transportation and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CONYERS: Committee on Government Operations. H.R. 3732. A bill to amend the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into three categories for purposes of a discretionary spending limit for fiscal year 1993, and for other purposes; with an amendment (Rept. 102–446, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

H.R. 2056. Referral to the Committee on Merchant Marine and Fisheries extended for a period ending not later than March 6, 1992.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HALL of Texas:

H.R. 4330. A bill to ensure that U.S. firms are accorded priority in the construction of the superconducting super collider; to the Committee on Science, Space, and Technology.

By Mr. CHANDLER (for himself, Mr. DICKS, Mr. SWIFT, Mrs. UNSOELD, and Mr. MORRISON):

H.R. 4331. A bill to amend the Forest Resources Conservation and Shortage Relief Act of 1990 to modify the basis for a determination by the Secretary of Commerce to increase the volume of unprocessed timber originating from State lands that will be prohibited from export, and for other purposes; jointly, to the Committees on Foreign Affairs, Agriculture, and Interior and Insular Affairs.

By Mr. DE LUGO:

H.R. 4332. A bill to make technical corrections regarding the effect of provisions relating to the eligibility of certain insular areas for assistance under the HOME Investment Partnerships Act, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GALLO:

H.R. 4333. A bill to amend title II of the Social Security Act to prohibit the buying and selling of Social Security account numbers; to the Committee on Ways and Means.

By Mr. GEREN of Texas (for himself, Mr. CLINGER, Mr. EMERSON, and Mr. PARKER):

H.R. 4334. A bill to amend title 49, United States Code, relating to deregulation of intrastate trucking; to the Committee on Public Works and Transportation.

By Mr. HASTERT:

H.R. 4335. A bill to amend title 23, United States Code, relating to motor carrier transportation, and for other purposes; jointly, to the Committees on Public Works and Transportation and the Judiciary.

By Mr. JACOBS:

H.R. 4336. A bill prohibiting the manufacture, sale, delivery, or importation of certain motor vehicles and rail cars that do not have seat belts, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. TORRES:

H.R. 4337. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KILDEE (for himself and Mr. FORD of Michigan):

H.R. 4338. A bill to suspend certain compliance and accountability measures under the National School Lunch Act; to the Committee on Education and Labor.

By Mr. MARKEY (for himself, Mr. MOAKLEY, Mr. STUDDS, Mr. ATKINS, Mr. EARLY, Mr. DONNELLY, Mr. KENNEDY, Mr. MAVROULES, and Mr. FRANK of Massachusetts):

H.R. 4339. A bill to amend the Federal Water Pollution Control Act to provide for improvement of the quality of Boston Harbor and adjacent waters; to the Committee on Public Works and Transportation.

By Mr. WILLIAMS:

H.R. 4340. A bill to provide employment opportunities to unemployed individuals in high unemployment areas in projects to repair and renovate vitally needed community facilities, and for other purposes; to the Committee on Education and Labor.

By Mr. PACKARD (for himself, Mr. RIGGS, and Mr. CUNNINGHAM):

H.R. 4341. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research and experimental credit and to reinstate the investment tax credit; to the Committee on Ways and Means.

By Mr. PENNY (for himself, Mr. SMITH of New Jersey, Mr. MONTGOMERY, and Mr. STUMP):

H.R. 4342. A bill to amend title 38, United States Code, to expand job assistance programs for Vietnam era veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MARKEY (for himself, Mr. HENRY, Mr. BONIOR, Mr. KOSTMAYER, Mr. SIKORSKI, Mr. SCHEUER, Mr. STUDDS, Mr. WAXMAN, Mr. WYDEN, Mr. UPTON, Mrs. KENNELLY, Mr. KENNEDY, Mr. FORD of Michigan, Mr. MILLER of California, Mr. BROWN, Mr. DELLUMS, Mr. STOKES, Mr. ANDREWS of Maine, Mr. ATKINS, Mr. AUCOIN, Mr. BEILENSON, Mrs. BOXER, Mr. CARR, Mr. CONYERS, Mr. DEFAZIO, Ms. DELAURO, Mr. DE LUGO, Mr. DWYER of New Jersey, Mr. FALEOMAVAEGA, Mr. FRANK of Massachusetts, Mr. GILCHREST, Mr. GOODLING, Mrs. JOHNSON of Connecticut, Mr. KILDEE, Mr. KOLTER, Mr. KOPETSKI, Mr. LEACH,

Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. MCHUGH, Mr. MAVROULES, Mr. MFUME, Mr. MINETA, Mrs. MORELLA, Mr. MRAZEK, Ms. NORTON, Mr. OLVER, Mr. OWENS of Utah, Mr. PALLONE, Ms. PELOSI, Mr. PURSELL, Mr. SANDERS, Mrs. SCHROEDER, Ms. SLAUGHTER, Mr. SOLARZ, Mr. TRAFICANT, Mr. TRAXLER, Mr. WALSH, Mr. WEISS, Mr. WOLPE, and Mr. YATES):

H.R. 4343. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, and to provide resources for State pollution prevention and recycling programs, and for other purposes; jointly, to the Committees on Energy and Commerce.

By Mr. RAHALL (for himself and Mr. MILLER of California):

H.R. 4344. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to extend the Abandoned Mine Reclamation Program, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SAWYER:

H.R. 4345. A bill to provide assistance to States to enable such States to raise the quality of instruction in mathematics and science by providing equipment and materials necessary for hands-on instruction; to the Committee on Education and Labor.

H.R. 4346. A bill to establish a national Albert Einstein Teacher Fellowship Program for outstanding secondary school science and mathematics teachers; to the Committee on Education and Labor.

By Mr. SOLOMON:

H.R. 4347. A bill to amend title 38, United States Code, to change the date for the beginning of the Vietnam era for the purpose of veterans benefits from August 5, 1964, to December 21, 1961; to the Committee on Veterans' Affairs.

By Mr. STAGGERS:

H.R. 4348. A bill to authorize appropriations for fiscal years 1993 through 1996 to carry out the Solid Waste Disposal Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STARK (for himself and Mr. RANGEL):

H.R. 4349. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on sales on syringes and intravenous systems which do not meet antineedlestick prevention standards; to the Committee on Ways and Means.

By Mr. SYNAR (for himself, Mr. DURBIN, Mr. RITTER, Mr. OWENS of Utah, Mr. ANDREWS of Texas, Mr. LEVINE of California, Mr. JACOBS, Mrs. COLLINS of Illinois, and Mr. HANSEN):

H.R. 4350. A bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the manufacture, sale, promotion, and distribution of tobacco and other products containing tar, nicotine, tobacco additives, carbon monoxide, and other potentially harmful constituents, and for other purposes; to the Committee on Energy and Commerce.

By Mr. THOMAS of California (for himself, Mrs. JOHNSON of Connecticut, Mr. MATSUI, Mr. STARK, Mr. LOWERY of California, Mr. TOWNS, Mr. LEVINE of California, Mrs. MORELLA, Mr. DOOLITTLE, Mr. CUNNINGHAM, Mr. GALLEGLY, Mr. CONDIT, Mr. POSHARD, Mr. LEHMAN of California, Mr. RIGGS, Mr. DIXON, Mr. LANTOS, Mr. FAZIO, Mr. MARTINEZ, Mr. LEWIS of California, and Mr. LAGOMARSINO):

H.R. 4351. A bill to revise the eligibility requirements applicable to emergency and extended unemployment compensation benefits; to the Committee on Ways and Means.

By Mr. TORRICELLI:

H.R. 4352. A bill to provide support for enterprises engaged in the research, development, application, and commercialization of advanced critical technologies through a private consortium of such enterprises; jointly, to the Committees on Science, Space, and Technology, Energy and Commerce, and Banking, Finance and Urban Affairs.

By Mr. WILSON (for himself and Mr. BRYANT):

H.R. 4353. A bill to prohibit exports of unprocessed timber and wood chips to any country that does not provide reciprocal access to its markets for finished wood products and paper produced in the United States; to the Committee on Foreign Affairs.

By Mr. GILMAN (for himself and Mr. MANTON, Mr. FISH, Mr. DORNAN of California, Mr. HOCHBRUECKNER, Mr. MCGRATH, Mr. MCNULTY, and Ms. MOLINARI):

H.J. Res. 427. Joint resolution to designate March 17, 1992, as "Irish Brigade Day"; to the Committee on Post Office and Civil Service.

By Mr. DINGELL:

H.J. Res. 428. Joint resolution to authorize the President to proclaim the last Friday of April 1992 as "National Arbor Day"; to the Committee on Post Office and Civil Service.

By Mr. GUARINI (for himself and Mr. FROST, Mr. FASCELL, Mr. GALLO, Mr. FUSTER, Mr. SCHUMER, Mr. MCGRATH, Mr. STOKES, Ms. LONG, Mr. FAWELL, Mr. FLAKE, Mr. LAGOMARSINO, Mr. UPTON, Mrs. MINK, Mr. INHOFE, Mr. PRICE, Mr. MORRISON, Mr. LIVINGSTON, Mr. GALLEGLY, Mr. OWENS of New York, Mr. RANGEL, Mrs. COLLINS of Illinois, Mr. BILIRAKIS, Mr. BENNETT, Mrs. PATTERSON, Mr. JEFFERSON, Mr. ROYBAL, Mr. EMERSON, Mr. WHITTEN, Mr. ANDREWS of New Jersey, Mr. FAZIO, Mr. HYDE, Mr. ENGEL, Mr. DE LUGO, Mr. TRAFICANT, Mr. DELLUMS, Mrs. BOXER, Mr. LANTOS, Mr. BEVILL, Mr. SOLOMON, Mr. FISH, Mr. TOWNS, Mr. HORTON, Mr. WOLF, Mr. MARTINEZ, Mr. MCMILLAN of North Carolina, Mr. MCMILLEN of Maryland, Mr. GREEN of New York, Mr. DE LA GARZA, Mr. PAYNE of New Jersey, Mr. HUGHES, Mr. JONES of Georgia, Mr. RAVENEL, Mr. MANTON, Mr. LENT, Mr. PAYNE of Virginia, Mr. ROE, Mr. SCHEUER, Mr. RAHALL, Mr. TORRICELLI, Mr. PICKETT, Mr. QUILLEN, Mr. YATRON, Mr. RICHARDSON, Mr. LEHMAN of Florida, Mr. NAGLE, Mr. YOUNG of Florida, Mr. WALSH, Mr. CARDIN, Mr. HAYES of Louisiana, Mr. MCNULTY, Mr. HARRIS, Mr. NEAL of Massachusetts, Mr. VANDER JAGT, Mr. MAZZOLI, Mr. TALLON, Ms. PELOSI, Mr. JACOBS, Mr. WAXMAN, Mr. BROWDER, Mr. ROSE, Mr. MILLER of Washington, and Mr. DEFAZIO):

H.J. Res. 429. Joint resolution designating May 3, 1992, through May 9, 1992, as "Be Kind to Animals and National Pet Week"; to the Committee on Post Office and Civil Service.

By Mr. MORAN (for himself, Mr. DICKS, Mr. FAZIO, Mr. HOYER, Mrs. BOXER, Mr. MCMILLEN of Maryland, Ms. NORTON, Mr. LEHMAN of California, Mrs. BYRON, Mr. MATSUI, Mr. WHEAT, Mrs. MORELLA, Mr. DWYER of New Jersey, Mr. ACKERMAN, Mr. BARNARD, Mr. BORSKI, Mr. CARDIN, Mr. CHAPMAN, Mr. DIXON, Mr. DYMALLY, Mr. ERDREICH, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. GUARINI, Mr. HAYES of Illinois, Mr. HOBSON, Mr. KOSTMAYER, Mr. LANTOS, Mr. MCCLOSKEY, Mr. MFUME, Mrs. MINK, Mr. RAY, Mr. SAXTON, and Mr. WOLF):

H.J. Res. 430. Joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week"; to the Committee on Post Office and Civil Service.

By Mr. TORRES (for himself and Mr. MCCANDLESS):

H.J. Res. 431. Joint resolution designating the week beginning April 19, 1992, as "National Credit Education Week"; to the Committee on Post Office and Civil Service.

By Mr. FEIGHAN:

H. Con. Res. 284. Concurrent resolution expressing the sense of the Congress that the President should pursue a multilateral initiative designed to bring to justice those responsible for the bombing of Pan Am Flight 103 over Lockerbie, Scotland, on December 21, 1988; to the Committee on Foreign Affairs.

By Mr. GILLMOR:

H. Con. Res. 285. Concurrent resolution expressing the sense of the Congress that the President has the authority to, and should, implement the indexation of the basis of assets for purposes of determining the amount of gain which is subject to taxation; to the Committee on Ways and Means.

By Mr. KOSTMAYER:

H. Con. Res. 286. Concurrent resolution expressing the sense of the Congress that an economic recovery program should include expenditures for certain State and local programs; to the Committee on Interior and Insular Affairs.

By Mr. GILLMOR:

H. Res. 383. Resolution to amend the Rules of the House of Representatives to prohibit the Committee on Rules from reporting rules waiving the germaneness requirement; to the Committee on Rules.

By Mr. GUNDERSON (for himself, Mr. STENHOLM, Mr. NAGLE, Mr. YATRON, Mr. RIGGS, Mr. MILLER of Ohio, Mr. JOHNSON of South Dakota, Mr. HERGER, Mr. MOODY, Mr. HORTON, Mr. HOUGHTON, Mr. BORSKI, Mr. KLUG, Mr. SENSENBRENNER, Mr. OBEY, Mr. PETERSON of Minnesota, Mr. WALSH, Mr. CONDIT, Mr. CAMPBELL of Colorado, Mr. MCDADE, Mr. PETRI, Mr. DORGAN of North Dakota, Mr. PANETTA, Mr. HOPKINS, and Mr. STAGGERS):

H. Res. 384. Resolution expressing the sense of the House of Representatives that the President should terminate certain current Generalized System of Preference petitions from Central and Eastern European Countries; to the Committee on Ways and Means.

By Mr. PACKARD (for himself, Mr. RIGGS, and Mr. CUNNINGHAM):

H. Res. 385. Resolution expressing the sense of the House of Representatives that any future reduction in defense spending should be used for deficit reduction; to the Committee on Government Operations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

329. By the SPEAKER: Memorial of the 21st Legislature of Guam, relative to an exemption to the pest control fees charged to residents of Guam by the USDA; to the Committee on Agriculture.

330. Also, memorial of the Senate of the Commonwealth of Kentucky, relative to hon-

oring Gabor Roszik; to the Committee on Foreign Affairs.

331. Also, memorial of the Legislature of the State of Hawaii, relative to Federal trust obligations; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 53: Mrs. VUCANOVICH and Mr. FOGLIETTA.

H.R. 74: Mr. DOOLEY.

H.R. 78: Mr. WELDON.

H.R. 118: Mr. EWING, Ms. HORN, Mr. GEJDENSON, and Mr. RICHARDSON.

H.R. 576: Mr. DYMALLY, Mr. POSHARD, Mr. LIGHTFOOT, Mr. EVANS, Mr. DOOLEY, and Mr. LIVINGSTON.

H.R. 617: Mr. RAY, and Mrs. LLOYD.

H.R. 640: Mr. ALLEN.

H.R. 722: Mr. HORTON, Mr. RAMSTAD, and Mr. MURPHY.

H.R. 723: Mr. HORTON, Mr. RAMSTAD, and Mr. MURPHY.

H.R. 747: Mr. MCMILLEN of Maryland and Mr. ATKINS.

H.R. 816: Mr. HANSEN and Mr. ORTON.

H.R. 945: Mr. ORTON, Mr. DIXON, Mr. CONYERS, Mr. BROWDER, Mr. BORSKI, Mr. LIGHTFOOT, and Mr. ROTH.

H.R. 1063: Mr. BROOKS and Mr. WILSON.

H.R. 1076: Mr. BATEMAN, Mr. QUILLEN, Mr. LIPINSKI, Mr. MORAN, Mr. FROST, Mr. CAMP, and Mr. ENGEL.

H.R. 1145: Mr. GALLO and Mr. MFUME.

H.R. 1188: Mr. AUCOIN and Mr. KOLTER.

H.R. 1200: Mr. PACKARD.

H.R. 1241: Mr. PAXON, Mr. FAWELL, Mr. SCHIFF, Mr. SHAYS, Mr. HOYER, and Mr. ROTH.

H.R. 1257: Mr. MILLER of Ohio and Mr. RAMSTAD.

H.R. 1300: Mr. CLEMENT.

H.R. 1303: Mr. VANDER JAGT, Mr. KLECZKA, Mr. WILSON, Mr. DONNELLY, Mr. MAZZOLI, Mr. RAHALL, Mr. STARK, and Mr. GORDON.

H.R. 1348: Mr. TANNER.

H.R. 1354: Mr. DOWNEY, Mr. ROE, Mr. CONYERS, and Mr. PRICE.

H.R. 1393: Mr. SAVAGE.

H.R. 1405: Mr. OWENS of Utah.

H.R. 1500: Mr. EVANS, Mr. DOOLEY, Ms. KAPTUR, Mr. ASPIN, Mr. MCMILLEN of Maryland, and Mr. ATKINS.

H.R. 1536: Mrs. VUCANOVICH.

H.R. 1573: Mr. PETERSON of Florida and Mr. HAYES of Louisiana.

H.R. 1598: Mr. MCDADE, Mr. LEWIS of Florida, and Mr. SYNAR.

H.R. 1633: Mr. ENGLISH and Mr. BACCHUS.

H.R. 1774: Mr. MCMILLEN of Maryland and Mrs. COLLINS of Michigan.

H.R. 1969: Ms. HORN, Mr. ATKINS, Mr. COLEMAN of Texas, Mr. CONYERS, Mr. MORAN, Mr. MRAZEK, Mr. WAXMAN, and Mr. MCCLOSKEY.

H.R. 1987: Mr. LAROCCO, Mr. ANDREWS of New Jersey, Ms. PELOSI, Mr. PERKINS, Mr. FRANK of Massachusetts, Mr. MCCLOSKEY, and Mr. STAGGERS.

H.R. 2104: Mr. BOEHNER.

H.R. 2363: Mr. DEFAZIO, Mr. DOWNEY, Ms. NORTON, Mr. OLIN, Mr. TORRES, Mr. PALLONE, Mr. RITTER, and Mr. STAGGERS.

H.R. 2419: Mr. WALSH.

H.R. 2522: Mr. ATKINS.

H.R. 2540: Mrs. MEYERS of Kansas.

H.R. 2541: Mr. BRYANT.

H.R. 2565: Mr. JONES of North Carolina and Mr. FASCELL.

H.R. 2569: Mr. PACKARD.

H.R. 2595: Mr. PACKARD.

H.R. 2598: Mr. ALLEN.

H.R. 2693: Mr. COX of California.

H.R. 2773: Mr. BARTON of Texas.

H.R. 2796: Mr. GINGRICH.

H.R. 2915: Mr. ALLEN.

H.R. 3105: Mr. ACKERMAN and Mr. CHAPMAN.

H.R. 3138: Mr. STARK, Ms. ROS-LEHTINEN, and Mr. REED.

H.R. 3146: Mr. ALLEN.

H.R. 3164: Mr. WILSON, Mr. HERTEL, Mr. ROYBAL, Mr. BILBRAY, Mr. PACKARD, and Mr. SUNDQUIST.

H.R. 3171: Mr. FEIGHAN.

H.R. 3198: Mr. WEBER.

H.R. 3281: Mr. COYNE.

H.R. 3317: Mr. BAKER and Mr. ZELIFF.

H.R. 3373: Mrs. VUCANOVICH, Mr. SHARP, and Mr. HAYES of Illinois.

H.R. 3395: Mr. KLUG.

H.R. 3420: Mr. RIGGS, Mr. ROWLAND, Mr. WEBER, Mr. KOPETSKI, Mr. COLEMAN of Missouri, Mr. TAYLOR of North Carolina, Mr. ORTON, Mr. GLICKMAN, Mr. SKELTON, and Mr. SUNDQUIST.

H.R. 3441: Mr. SANTORUM.

H.R. 3462: Mr. FROST, Mr. VENTO, Mr. DURBIN, Mr. STUDDS, Mr. LAFALCE, Mr. RANGEL, and Mr. CAMPBELL of California.

H.R. 3470: Mr. HOBSON.

H.R. 3510: Mr. ANDREWS of New Jersey.

H.R. 3516: Mr. BLAZ and Mr. RITTER.

H.R. 3534: Mr. JEFFERSON, Mr. LEHMAN of Florida, Mrs. MINK, Mr. SERRANO, Mr. TOWNS, and Ms. WATERS.

H.R. 3536: Mr. JEFFERSON, Mr. LEHMAN of Florida, Mrs. MINK, Mr. SERRANO, Mr. TOWNS, and Ms. WATERS.

H.R. 3636: Mr. STOKES.

H.R. 3654: Mr. BILBRAY, Mrs. BYRON, Mr. CLEMENT, Mr. ECKART, Mr. HALL of Texas, Mr. HARRIS, Mr. HEFNER, Mr. HUGHES, Mr. HUTTO, Mrs. KENNELLY, Mrs. LLOYD, Mr. MCCURDY, Ms. OAKAR, Mr. ORTON, Mr. PETERSON of Florida, Mr. PICKETT, Mr. RAHALL, Mr. RICHARDSON, Mr. SAWYER, Mr. SPRATT, Mr. SWIFT, and Mr. WAXMAN.

H.R. 3732: Mr. YATES, Mr. SERRANO, Mr. KOPETSKI, Mr. BRUCE, Mr. VALENTINE, Mr. MOLLOHAN, and Mr. STAGGERS.

H.R. 3736: Mr. WISE, Mr. KOPETSKI, Mr. AUCOIN, Mr. SANDERS, Mr. PERKINS, Mr. BILBRAY, Mr. ATKINS, and Mr. RIGGS.

H.R. 3741: Mr. RITTER, Mr. SCHIFF, Mr. HEFLEY, Mr. EMERSON, Mr. MACHTLEY, and Mr. FROST.

H.R. 3764: Mr. GOODLING.

H.R. 3781: Mr. MARTIN, Mr. LENT, Mr. ANDREWS of Texas, Mr. ENGLISH, Mr. RAHALL, Mr. CRANE, Mr. TOWNS, Mr. WALSH, Mr. SUNDQUIST, Mr. JACOBS, Mr. LEHMAN of California, and Mr. CAMPBELL of California.

H.R. 3785: Mr. GUARINI and Mr. HOAGLAND.

H.R. 3799: Mr. SHAYS.

H.R. 3846: Mr. COUGHLIN.

H.R. 3876: Mr. THOMAS of California.

H.R. 3938: Mr. TOWNS, Mr. OWENS of New York, and Mr. FOGLIETTA.

H.R. 3969: Mr. ALLEN.

H.R. 3975: Mr. STAGGERS, Mr. FLAKE, Mr. DOWNEY, and Mr. CLAY.

H.R. 4002: Mr. GEPHARDT, Mr. WEISS, and Mr. FROST.

H.R. 4016: Mr. FAZIO, Mr. ROYBAL, Mr. ANDERSON, and Mr. TORRES.

H.R. 4020: Mr. GOODLING.

H.R. 4032: Mr. GOSS.

H.R. 4034: Mr. ABERCROMBIE, Mr. WAXMAN, and Mr. ATKINS.

H.R. 4045: Mr. MINETA, Mr. SANDERS, and Mr. MAVROULES.

H.R. 4063: Mr. BILBRAY.

H.R. 4083: Mrs. UNSOELD, Mr. OWENS of Utah, Ms. OAKAR, Mr. KOSTMAYER, Mr. APPLEGATE, Mr. JACOBS, Mr. RINALDO, Mr. GONZALEZ, Mr. ROGERS, Mr. BILBRAY, Mr. WOLPE, Mr. COLEMAN of Texas, and Mr. SANGMEISTER.

H.R. 4099: Mr. HANCOCK, Mr. THOMAS of Wyoming, and Mr. STUMP.

H.R. 4100: Mr. LANTOS and Mr. STAGGERS.

H.R. 4111: Mr. DE LUGO, Mr. MCNULTY, Mr. OLIN, Mr. FROST, Mr. HATCHER, Mr. HUGHES, and Mr. OWENS of New York.

H.R. 4189: Mr. POSHARD.

H.R. 4190: Mr. BREWSTER, Mr. MILLER of Ohio, Mr. FROST, and Mr. MOLLOHAN.

H.R. 4206: Mr. MARKEY, Mr. WEISS, Mr. DE LA GARZA, and Mrs. SCHROEDER.

H.R. 4211: Mrs. JOHNSON of Connecticut, Mr. BENNETT, Mr. MURPHY, Mrs. SCHROEDER, Mr. DORNAN of California, Mr. JACOBS, Mr. FRANK of Massachusetts, Mr. TAYLOR of Mississippi, Mr. FIELDS, Mr. SANTORUM, Mr. ALLEN, Mr. BERMAN, Mr. ROHRABACHER, Mr. ZELIFF, Mr. HUTTO, Mr. SHAYS, Mr. COX of California, Mr. DUNCAN, Mr. ZIMMER, and Mr. TAYLOR of North Carolina.

H.R. 4220: Mrs. LLOYD, Mr. HOLLOWAY, and Ms. LONG.

H.R. 4221: Mrs. JOHNSON of Connecticut and Mr. AUCOIN.

H.R. 4230: Mr. MURPHY and Mr. FROST.

H.R. 4234: Mr. BARNARD, Mr. SLATTERY, Mr. LEHMAN of California, Mr. MORAN, Mr. RIDGE, Mr. LEWIS of Florida, and Mrs. JOHNSON of Connecticut.

H.R. 4256: Mr. EMERSON, Mr. KLUG, AND Mr. BRUCE.

H.R. 4268: Mr. DELAY, Mr. CAMPBELL of California, Mr. GINGRICH, Mr. CAMPBELL of Colorado, Mr. WEBER, Mr. CUNNINGHAM, and Mr. ZIMMER.

H.R. 4277: Mr. MARTINEZ, Mr. MURTHA, and Mr. FROST.

H.R. 4287: Mr. MCNULTY.

H.R. 4288: Mr. LIVINGSTON.

H.J. Res. 239: Mr. HAYES of Illinois and Mr. MACHTLEY.

H.J. Res. 318: Mr. KILDEE, Mr. ROSE, Mrs. JOHNSON of Connecticut, Mr. TRAXLER, Ms. PELOSI, Mr. NEAL of North Carolina, Mr. GILMAN, Mr. MORAN, Mr. MONTGOMERY, Mr. UPTON, Mr. MARTINEZ, Mr. LEWIS of California, Mr. MOORHEAD, Mr. WHEAT, Mr. STAGGERS, Mr. BONIOR, Mr. PETERSON of Florida, Mr. PRICE, Mr. MACHTLEY, Ms. OAKAR, Mr. CARR, Mr. PARKER, Mr. VALENTINE, Mr. RAY, Mr. SOLOMON, Mr. SCHUMER, and Mr. DELLUMS.

H.J. Res. 336: Mr. ESPY, Mr. HORTON, Mr. WEISS, Mr. SOLARZ, Mr. MCMILLEN of Maryland, Mr. ROE, Mr. FALEOMAVAEGA, and Mr. DE LUGO.

H.J. Res. 351: Mr. KOPETSKI.

H.J. Res. 355: Mr. SAVAGE.

H.J. Res. 358: Mr. ERDREICH, Mr. SKEEN, Mr. HATCHER, Mr. SERRANO, Mr. ESPY, Mr. GEJDENSON, Mr. MCGRATH, Mr. NAGLE, Mr. GONZALEZ, Mr. ATKINS, Mr. MURPHY, Mr. KOPETSKI, Mr. OWENS of Utah, Mr. RICHARDSON, Mr. LAROCCO, Mr. LEVINE of California, Mr. TOWNS, Mr. MCMILLEN of Maryland, Mr. LIPINSKI, and Mr. MORAN.

H.J. Res. 388: Mr. CLEMENT, Mr. MFUME, Mr. HENRY, Mr. ERDREICH, Mr. TALLON, Mr. LEVIN of Michigan, Mr. TRAXLER, Mr. FOGLIETTA, Mr. HORTON, Mr. WAXMAN, Mr. CALLAHAN, Mr. MCDADE, Mr. FASCELL, and Mr. TRAFICANT.

H.J. Res. 408: Mr. APPLEGATE, Mr. ROE, Mr. TOWNS, and Mr. GUARINI.

H.J. Res. 409: Mr. POSHARD, Mr. MCMILLEN of Maryland, Mr. FALEOMAVAEGA, Mr. GUARINI, Mr. CLEMENT, Mr. ERDREICH, Mr. JEFFERSON, Mr. BRUCE, Mr. ROE, Mr. SKEEN, Mr. BUSTAMANTE, Mr. HORTON, Mr. MARTINEZ, Mr. DEFAZIO, Ms. NORTON, Mr. MURPHY, Mr.

PALLONE, Mr. THORNTON, Mr. KOPETSKI, Mr. TORRES, Mr. MAZZOLI, Mrs. KENNELLY, Mr. CHAPMAN, Mr. ANTHONY, Mr. BREWSTER, Mr. SAWYER, Mr. BURTON of Indiana, Mr. ANNUNZIO, Mr. NATCHER, Mr. AUCOIN, Mr. SAVAGE, Mr. ROEMER, Mr. LUKEN, Mr. HUGHES, Mr. MOAKLEY, Mr. HEFLEY, Mrs. UNSOELD, Mr. DORGAN of Dakota, Mr. FEIGHAN, Mr. ROYBAL, Ms. LONG, Mr. DARDEN, Mr. HYDE, Mr. BALLENGER, Mr. DE LA GARZA, Ms. PELOSI, Mr. MCCLOSKEY, Mr. HARRIS, Mr. FASCELL, Mr. HOAGLAND, Mr. COX of California, Mr. ROBERTS, Mr. BOEHLERT, Mr. GILMAN, Mr. THOMAS of Wyoming, Mr. ROSE, Mr. WISE, Mr. MONTGOMERY, Mr. GEPHARDT, Mr. JONTZ, Mr. ALEXANDER, Mr. MCNULTY, Ms. DELAURO, Mr. APPLEGATE, Mr. LEVIN of Michigan, Mr. ZIMMER, Mr. LEWIS of California, Mr. BONIOR, Mr. HAYES of Illinois, Mr. DURBIN, Mr. JENKINS, Mr. WAXMAN, Mr. COSTELLO, Mrs. MINK, Mr. DWYER of New Jersey, Mr. FOGLIETTA, Mr. OWENS of New York, Mr. LIPINSKI, Mr. SANGMEISTER, and Mr. DELLUMS.

H.J. Res. 416: Mr. HORTON, Ms. NORTON, Mr. TOWNS, Mr. LIPINSKI, Mr. ROE, Mr. FALEOMAVAEGA, Mr. SOLOMON, Mr. POSHARD, and Mr. HAMILTON.

H.J. Res. 417: Mr. KOPETSKI, and Mr. GUARINI.

H. Con. Res. 92: Mr. BARNARD, Mr. AUCOIN, Mr. KLUG, and Mr. KOSTMAYER.

H. Con. Res. 130: Mr. CHAPMAN.

H. Con. Res. 224: Mr. MACHTLEY, Mr. COSTELLO, Mr. SOLOMON, Mr. WHEAT, and Mr. MURPHY.

H. Con. Res. 256: Mr. KILDEE, Mr. MCDERMOTT, Mr. SKAGGS, Mr. ORTON, Mr. FALEOMAVAEGA, Mr. LANTOS, Mr. TOWNS, Ms. HORN, Mr. ATKINS, Mr. RHODES, Mr. ROYBAL, and Mr. SANDERS.

H. Con. Res. 264: Mr. SOLOMON and Mr. LIPINSKI.

H. Res. 315: Mr. COBLE and Mr. GOSS.

H. Res. 332: Mr. PETRI, Mr. ARMEY, Mr. WALSH, Mr. CAMP, Mr. MCCANDLESS, Mr. GOODLING, Mr. SCHIFF, and Mr. MOORHEAD.

H. Res. 333: Mr. LIPINSKI.

H. Res. 350: Mr. KILDEE, Mr. STAGGERS, Ms. KAPTUR, Mr. KENNEDY, Mr. KOSTMAYER, and Mr. MOODY.

H. Res. 359: Mr. TORRES.

H. Res. 372: Mr. ACKERMAN, Mr. TRAXLER, Mr. SCHEUER, Mr. FRANK of Massachusetts, Mr. MACHTLEY, Mr. FASCELL, Mr. ARMEY, Mrs. MEYERS of Kansas, Mr. RHODES, Mr. SOLARZ, Ms. MOLINARI, Mr. BEILENSON, Mr. LIPINSKI, Mr. PORTER, Mr. LANTOS, Mr. KOSTMAYER, Mr. KOPETSKI, Mr. WALSH, Mr. FALEOMAVAEGA, Mr. MCNULTY, Mr. LEHMAN of Florida, and Mr. FROST.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1662: Mr. ORTON.

H. Res. 194: Mr. SKEEN.

PETITIONS, ETC.

Under clause 1 of rule XXII,

141. The SPEAKER presented a petition of the Legislature of Rockland County, NY, relative to the deportation of Haitian refugees; which was referred to the Committee on the Judiciary.