disastrous tragedies of broken homes and children languishing in foster care. This is not just a handful of stories. There are many, many, many from all across the country.

Madam Speaker, this issue did not just develop overnight. I have been trying since the beginning of this Congress to get the Committee on Resources and the native American community to help me to address this issue. If the Indian community is affronted, I am sorry. I wish they would have answered my letters and come to my meetings. But, as it is, we did the best that we could to try to develop a fair solution.

Madam Speaker, as was said before, this is a happy bill. It is a good day for this Congress. I would urge all my colleagues to cast a vote in strong support of adoption and in support of keeping loving families together. Vote ''yes'' on the rule and the bill, and vote ''no'' on any attempt to weaken this legislation.

Madam Speaker, I rise today to express my concerns regarding the modified closed rule for H.R. 3286. While I applaud the fact that this legislation would make it possible for more families to provide a loving and permanent home for adoptive children, I am concerned that this bill might not recognize that cultural sensitivity, without delaying adoption, is important to give the child the full measure of their background.

Madam Speaker, approximately one-half of the children awaiting adoption today are minorities. In my home State of Texas, the number of children under the age of 18 living in foster care in 1993 was 10,880. This represents an increase of 62.4 percent from 1990, and the number continues to climb. Similarly, the number of children living in a group home in 1990 was 13,434. Approximately one half of these 13,434 children are minorities. There are wonderful foster care parents but these numbers of children in nonpermanent homes are way too high.

The sponsors of this legislation argue that current law, which states that race cannot be used as the sole factor in making an adoption placement but can be used as one of multiple factors in the decision, has resulted in adoptions being delayed or denied because of race. This of course is the result of local agencies misinterpreting the law. Should we not penalize directly the agencies incorrectly using the law? According to the sponsors, because of the inherent bias among many social workers, the real-world outcome of current law is that race ends up becoming the sole factor when placements are made. I have worked with social workers and they consistently overall try to work in the best interest of the child.

While I do not believe that race should be the sole criteria in adoption placements, I do believe that we should be sensitive to cultural backgrounds. Had I been permitted, I would have offered an amendment to this bill which would have required that in making adoptive parent placements, the State or appropriate entity shall make every effort to ensure that a prospective adoptive parent is sensitive to the child's ethnic or racial background. It should not, however, delay drastically such adoption.

Adoptive parents and children need not be of the same race. However, it is important that adoptive parents are sensitive to the cultural backgrounds of the children they adopt. It is important that such children grow up in an environment that is respectful and appreciative of the child's heritage. Unfortunately, our society is not color blind, and therefore States and agencies must ensure that adoptive parents of a different race from the minority and Indian children are sensitive to the issues that may arise as the child gets older, including discrimination and questions the child may have about his or her cultural background.

In no way, however, should this policy result in children languishing in foster homes for extended periods of time or in adoptions being delayed or denied when loving, caring parents are ready to adopt.

I urge my colleagues to consider these issues so that we can make better adoptions for all children, including minority children, while not delaying or denying adoptions.

Ms. PRYCE. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3230, DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–570) on the resolution (H. Res. 430) providing for consideration of the bill (H.R. 3230) to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1997, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT REGARDING AMENDMENT PROCESS FOR BUDGET RESOLUTION

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

Mr. SOLOMON. Madam Speaker, the Budget Committee is expected to order the budget resolution reported later tonight. Copies of the resolution approved by that committee will be available for review in the office of the Budget Committee.

The Rules Committee is planning to meet next Wednesday, May 15, to grant a rule which may limit the kind of amendments offered to the concurrent resolution on the budget for fiscal year 1997.

Members are strongly advised to submit only amendments in the nature of a substitute which provide for a balanced budget not later than the year 2002.

Any Member who is contemplating an amendment to the budget resolution should submit 55 copies and a brief explanation by noon on Tuesday, May 14, to the Rules Committee, room H–312 in the Capitol.

Members should use the Office of Legislative Counsel and the Congressional Budget Office to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

ADOPTION PROMOTION AND STABILITY ACT OF 1996

Mr. ARCHER. Madam Speaker, pursuant to House Resolution 428, I call up the bill (H.R. 3286) to help families defray adoption costs ,and to promote the adoption of minority children, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 428, the amendment in the nature of a substitute printed in the bill is adopted.

The text of H.R. 3286, as amended, is as follows:

H.R. 3286

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 ''Adoption Promotion and Stability Act of 1996''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TITLE I—CREDIT FOR ADOPTION EXPENSES

SEC. 101. CREDIT FOR ADOPTION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. ADOPTION EXPENSES.

"(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 the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's adjusted gross income (determined without regard to sections 911, 931, and 933) exceeds $75,000, bears to

"(B) $40,000.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program. The preceding sentence shall not apply to expenses for the adoption of a child with special needs.

"(C) REIMBURSEMENT.—No credit shall be allowed under subsection (a) for any expense to the extent that such expense is reimbursed and the reimbursement is excluded from gross income under section 137.

"(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.

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

"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—

"(A) which are directly related to, and the principal purpose of which is for, the legal adoption of an eligible child by the taxpayer, and

"(B) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement.

"(2) EXPENSES FOR ADOPTION OF SPOUSE'S CHILD NOT ELIGIBLE.—The term 'qualified adoption expenses' shall not include any expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse.

"(3) ELIGIBLE CHILD.—The term 'eligible child' means any individual—

"(A) who has not attained age 18 as of the time of the adoption, or

"(B) who is physically or mentally incapable of caring for himself.

"(4) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means any child if—

"(A) a State has determined that the child cannot or should not be returned to the home of his parents, and

"(B) such State has determined that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance.

"(e) SPECIAL RULES FOR FOREIGN ADOPTIONS.—In the case of a foreign adoption—

"(1) subsection (a) shall not apply to any qualified adoption expense with respect to such adoption unless such adoption becomes final, and

"(2) any such expense which is paid or incurred before the taxable year in which such adoption becomes final shall be taken into account under this section as if such expense were paid or incurred during such year.

"(f) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.

"(g) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section and section 137, including regulations which treat unmarried individuals who pay or incur qualified adoption expenses with respect to the same child as 1 taxpayer for purposes of applying the dollar limitation in subsection (b)(1) of this section and in section 137(b)(1).".

(b) EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAMS.—Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. ADOPTION ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's adjusted gross income exceeds $75,000, bears to

"(B) $40,000.

"(3) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of paragraph (2), adjusted gross income shall be determined—

"(A) without regard to this section and sections 911, 931, and 933, and

"(B) after the application of sections 86, 135, 219, and 469.

"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

"(1) under which the employer provides employees with adoption assistance, and

"(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 23(d).

"(e) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (e) and (g) of section 23 shall apply for purposes of this section.".

(c) CONFORMING AMENDMENTS.—

(1) Sections 86(b)(2)(A) and 135(c)(4)(A) of such Code are each amended by inserting "137," before "911".

(2) Clause (i) of section 219(g)(3)(A) of such Code is amended by inserting ", 137," before "and 911".

(3) Clause (ii) of section 469(i)(3)(E) of such Code is amended to read as follows:

"(ii) the amounts excludable from gross income under sections 135 and 137,".

(4) Subsection (a) of section 1016 of such Code is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end the following new paragraph:

"(26) to the extent provided in sections 23(g) and 137(e)."

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Adoption expenses.".

(6) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs.

"Sec. 138. Cross reference to other Acts.".

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

TITLE II—INTERETHNIC ADOPTION

SEC. 201. REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION.

(a) STATE PLAN REQUIREMENTS.—Section 471(a) of the Social Security Act (42 U.S.C 671(a)) is amended—

(1) by striking "and" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting "; and"; and

(3) by adding at the end the following:

"(18) not later than January 1, 1997, provides that neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption or foster care placements may—

"(A) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved; or

"(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.".

(b) ENFORCEMENT.—Section 474 of such Act (42 U.S.C. 674) is amended by adding at the end the following:

"(d)(1) If a State's program operated under this part is found, as a result of a review conducted under section 1123, to have violated section 471(a)(18) during a quarter with respect to

any person, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123(b)(3), the Secretary shall reduce the amount otherwise payable to the State under this part, for the quarter and for each subsequent quarter before the 1st quarter for which the State program is found, as a result of such a review, not to have violated section 471(a)(18) with respect to any person, by—

''(A) 2 percent of such otherwise payable amount, in the case of the 1st such finding with respect to the State;

''(B) 5 percent of such otherwise payable amount, in the case of the 2nd such finding with respect to the State; or

''(C) 10 percent of such otherwise payable amount, in the case of the 3rd or subsequent such finding with respect to the State.

''(2) Any other entity which is in a State that receives funds under this part and which violates section 471(a)(18) during a quarter with respect to any person shall remit to the Secretary all funds that were paid by the State to the entity during the quarter from such funds.

''(3)(A) Any individual who is aggrieved by a violation of section 471(a)(18) by a State or other entity may bring an action seeking relief from the State or other entity in any United States district court.

''(B) An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

''(4) This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.''.

(c) CIVIL RIGHTS.—

(1) PROHIBITED CONDUCT.—A person or government that is involved in adoption or foster care placements may not—

(A) deny to any individual the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the individual, or of the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) ENFORCEMENT.—Noncompliance with paragraph (1) is deemed a violation of title VI of the Civil Rights Act of 1964.

(3) NO EFFECT ON THE INDIAN CHILD WELFARE ACT OF 1978.—This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.

(d) CONFORMING REPEAL.—Section 553 of the Howard M. Metzenbaum Multiethnic Placement Act of 1994 (42 U.S.C. 5115a) is repealed.

TITLE III—CHILD CUSTODY PROCEEDINGS AFFECTED BY THE INDIAN CHILD WELFARE ACT OF 1978

SEC. 301. INAPPLICABILITY OF THE INDIAN CHILD WELFARE ACT OF 1978 TO CHILD CUSTODY PROCEEDINGS INVOLVING A CHILD WHOSE PARENTS DO NOT MAINTAIN AFFILIATION WITH THEIR INDIAN TRIBE.

Title I of the Indian Child Welfare Act of 1978 (25 U.S.C. 1911 et seq.) is amended by adding at the end the following:

''SEC. 114. (a) This title does not apply to any child custody proceeding involving a child who does not reside or is not domiciled within a reservation unless—

''(1) at least one of the child's biological parents is of Indian descent; and

''(2) at least one of the child's biological parents maintains significant social, cultural, or political affiliation with the Indian tribe of which either parent is a member.

''(b) The factual determination as to whether a biological parent maintains significant social, cultural, or political affiliation with the Indian tribe of which either parent is a member shall be based on such affiliation as of the time of the child custody proceeding.

''(c) The determination that this title does not apply pursuant to subsection (a) is final, and, thereafter, this title shall not be the basis for determining jurisdiction over any child custody proceeding involving the child.''.

SEC. 302. MEMBERSHIP AND CHILD CUSTODY PROCEEDINGS.

Title I of the Indian Child Welfare Act of 1978 (25 U.S.C. 1911 et seq.), as amended by section 301 of this title, is further amended by adding at the end the following:

''SEC. 115. (a) A person who attains the age of 18 years before becoming a member of an Indian tribe may become a member of an Indian tribe only upon the person's written consent.

''(b) For the purposes of any child custody proceeding involving an Indian child, membership in an Indian tribe shall be effective from the actual date of admission to membership in the Indian tribe and shall not be given retroactive effect.''.

SEC. 303. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date of the enactment of this Act and shall apply with respect to any child custody proceeding in which a final decree has not been entered as of such date.

TITLE IV—REVENUE OFFSETS

SEC. 400. 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.

Subtitle A—Exclusion for Energy Conservation Subsidies Limited to Subsidies With Respect to Dwelling Units

SEC. 401. EXCLUSION FOR ENERGY CONSERVATION SUBSIDIES LIMITED TO SUBSIDIES WITH RESPECT TO DWELLING UNITS.

(a) IN GENERAL.—Paragraph (1) of section 136(c) (defining energy conservation measure) is amended by striking ''energy demand—'' and all that follows and inserting ''energy demand with respect to a dwelling unit.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 136 is amended to read as follows:

''(a) EXCLUSION.—Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure.''

(2) Paragraph (2) of section 136(c) is amended—

(A) by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(B) by striking ''AND SPECIAL RULES'' in the paragraph heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1996, unless received pursuant to a written binding contract in effect on September 13, 1995, and at all times thereafter.

Subtitle B—Foreign Trust Tax Compliance

SEC. 411. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

''SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

''(a) NOTICE OF CERTAIN EVENTS.—

''(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

''(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

''(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

''(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

''(3) REPORTABLE EVENT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'reportable event' means—

''(i) the creation of any foreign trust by a United States person,

''(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

''(iii) the death of a citizen or resident of the United States if—

''(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

''(II) any portion of a foreign trust was included in the gross estate of the decedent.

''(B) EXCEPTIONS.—

''(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

''(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

''(I) described in section 402(b), 404(a)(4), or 404A, or

''(II) determined by the Secretary to be described in section 501(c)(3).

''(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

''(A) the grantor in the case of the creation of an inter vivos trust,

''(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

''(C) the executor of the decedent's estate in any other case.

''(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

''(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

''(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

''(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

''(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

''(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

''(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

''(i) any request by the Secretary to examine records or produce testimony related to the

proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

''(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

''(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

''(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

''(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

''(A) the name of such trust,

''(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

''(C) such other information as the Secretary may prescribe.

''(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

''(A) IN GENERAL.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

''(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

''(d) SPECIAL RULES.—

''(1) DETERMINATION OF WHETHER UNITED STATES PERSON MAKES TRANSFER OR RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person makes a transfer to, or receives a distribution from, a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

''(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

''(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

''(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.''.

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

''SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

''(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

''(1) is not filed on or before the time provided in such section, or

''(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

''(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

''(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

''(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

''(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

''(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

''(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

''(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

''(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d) is amended by striking ''or'' at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting '', or'', and by inserting after subparagraph (T) the following new subparagraph:

''(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).''.

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

''Sec. 6048. Information with respect to certain foreign trusts.''.

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

''Sec. 6677. Failure to file information with respect to certain foreign trusts.''.

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after December 31, 1995.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 412. COMPARABLE PENALTIES FOR FAILURE TO FILE RETURN RELATING TO TRANSFERS TO FOREIGN ENTITIES.

(a) IN GENERAL.—Section 1494 is amended by adding at the end the following new subsection:

''(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a notice under section 6048(a).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

SEC. 413. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

''(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.''.

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

''(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

''(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

''(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

''(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

''(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

''(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

''(i) the trust,

''(ii) any grantor or beneficiary of the trust, and

''(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.''.

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking ''section 404(a)(4) or 404A'' and inserting ''section 6048(a)(3)(B)(ii)''.

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

''(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

''(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

''(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

''(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

''(5) OUTBOUND TRUST MIGRATIONS.—If—

''(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

''(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.''.

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

''(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.''.

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

''(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),''.

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 414. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

''(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

''(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount (if any) being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

''(2) EXCEPTIONS.—

''(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any portion of a trust if—

''(i) the power to revest absolutely in the grantor title to the trust property to which such portion is attributable is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

''(ii) the only amounts distributable from such portion (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

''(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

''(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

''(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

''(B) paragraph (1) shall not apply for purposes of applying section 1296.

''(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

''(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

''(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

''(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary or any member of such beneficiary's family (within the meaning of section 267(c)(4)) has made (directly or indirectly) transfers of property (other than in a sale for full and adequate consideration) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

''(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.''.

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting ''subsection (f) and'' before ''sections 674''.

(b) CREDIT FOR CERTAIN TAXES.—

(1) Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: ''Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.''.

(2) Paragraph (5) of section 901(b) is amended by adding at the end the following new sentence: ''Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.''.

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

''(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.''.

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 415. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

''SEC. 6039F. NOTICE OF LARGE GIFTS RECEIVED FROM FOREIGN PERSONS.

''(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

''(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)) or any distribution properly disclosed in a return under section 6048(c).

''(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

''(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

''(A) the tax consequences of the receipt of such gift shall be determined by the Secretary, and

''(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

''(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

''(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount

equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

''Sec. 6039F. Notice of large gifts received from foreign persons.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 416. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

''(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

''(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

''(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

''(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

''(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

''(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

''(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

''(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

''(i) the undistributed net income for such year, and

''(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

''(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

''(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

''(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

''(A) by using an interest rate of 6 percent, and

''(B) without compounding until January 1, 1996.''.

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

''(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.''.

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

''(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

''(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

''(A) any grantor or beneficiary of such trust who is a United States person, or

''(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

''(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

''(B) RELATED PERSON.—

''(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

''(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

''(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

''(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

''(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.''.

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting '', 643(i),'' before ''or 1274'' each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities made after September 19, 1995.

SEC. 417. RESIDENCE OF TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking ''and'' at the end of subparagraph (C) and by striking subparagraph (D) and by inserting the following new subparagraphs:

''(D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and

''(E) any trust if—

''(i) a court within the United States is able to exercise primary supervision over the administration of the trust, and

''(ii) one or more United States fiduciaries have the authority to control all substantial decisions of the trust.''.

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

''(31) FOREIGN ESTATE OR TRUST.—

''(A) FOREIGN ESTATE.—The term 'foreign estate' means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

''(B) FOREIGN TRUST.—The term 'foreign trust' means any trust other than a trust described in subparagraph (E) of paragraph (30).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

''If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.''.

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

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. ARCHER] and the gentlewoman from Connecticut [Mrs. KENNELLY] each will control 30 minutes.

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

GENERAL LEAVE

Mr. ARCHER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3286.

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

There was no objection.

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

Madam Speaker, today we are here to consider legislation that will help thousands of children who are waiting to be adopted.

In America today, there is no reason why any child should be denied a loving family. Unfortunately, there are almost 500,000 children languishing in foster care. There is little hope for many of these children when fewer than 1 in 10 will be available for adoption this year.

There are many parents who want to adopt but can't, because they either don't have the money to pay the adoption fees, or because a Federal regulation says they will not be good parents because their skin color is different from the child they want to adopt.

It's simply not right to deny a child the opportunity to grow up in a loving home because the child parents are not wealthy or of a different race.

For these reasons, I encourage my colleagues to support the Adoption Promotion and Stability Act of 1996. This legislation will help not only adopting parents economically with the $5,000 tax credit, but will also put an end to the practice of delaying adoption, often for years, until States can find racially matched parents for children waiting to be adopted.

The committee provision on interethnic adoption is an excellent complement to the tax credit in promoting adoption. Recent evidence shows that more than 40 States have laws, regulations, or practices that attempt to match adoptive children with families of the same race.

There are two obvious problems with this practice. First, it discriminates against children. During this floor debate, we will show that black children wait for adoptive placements for at least twice as long as white children. Consider the statistical situation faced by black children today: More than two-thirds of the children waiting to be adopted are black but less than one-third of the families waiting to be adopted are black but less than one-third of the families waiting to adopt are black. Given these mathematical facts, it is certain that if our society demands that children be matched by race with adoptive parents, black children will continue to languish in foster care. Many of them will never be adopted. This is truly an American tragedy.

The second problem with current practice is that it discriminates against parents whose race differs from the child they want to adopt because they may have to wait longer than other parents or may even by denied an adoption. This discrimination is especially terrible when the parent has served for a year or more as the child's foster parent. The committee has been informed of many cases, including a widely known case in my own State of Texas, in which foster parents who had formed a loving bond with a child of another race were denied the opportunity to adopt the child.

I can think of no better way to sum up the justification for our policy on interracial adoption than by quoting Jessie Jackson. When asked recently on television by someone arguing that black children should be adopted only by black parents, Mr. Jackson simply asked his debating opponent: What color is love?

Kids need love—the kind of love that can be provided only in a stable family setting. All other considerations must give way to the paramount goal of our policy—every child must live in a loving family.

Let's make adoption easier and help find loving homes for hundreds of thousands of children in need.

I can't conclude without a reminder that the $5,000 adoption tax credit is part of the Contract With America. Republicans remain committed to fulfilling the promises we made to the American people, one important step at a time, and I'm pleased we are being joined by many of our Democrat colleagues.

Madam Speaker, there are many Members who have worked hard to bring this important legislation to the floor. I would particularly like to commend Representative SUSAN MOLINARI, the leader of our Adoption Task Force, for all her good work on this bill, and Chairman JIM BUNNING, who championed this cause in the Ways and Means Committee.

With Mother's Day just around the corner, I can think of nothing better than to allow thousands of women to become mothers for the first time by adopting needy children. Children, families, and our country will benefit greatly. Let's pass this important bill and make that promise a reality.

Madam Speaker, finally, I wish to point out a typographical error that occurred in the committee report—House Report 104–542, part 2—on this legislation. I wish to clarify that on page 21, in the eighth line after the heading ''Explanation of Provision,'' the phrase ''or otherwise discriminate'' should not have appeared in the report, since this language was stricken from the text of the bill.

Madam Speaker, I reserve the balance of my time.

Mrs. KENNELLY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am delighted, as so many have said before me, to support this $5,000 tax credit for families adopting children. Adoption costs can be really a great burden to a family who wants so much to have that baby or that child, and this legislation before us tonight makes that burden lighter. As has been said, this is a very good bill, one we are all very, very happy to support.

I would like to take this opportunity, Madam Speaker, to read some excerpts from the letter from our President of the United States, Bill Clinton. The President says about this bill that we are debating tonight:

> I strongly support the adoption tax credit in this bill. It will alleviate the significant barrier to adoptions and allow middle class families for whom adoption may be prohibitively expensive to adopt children to love and nurture. It will encourage adoption for children with special needs. It will put parents seeking to build a family through adoption on a more equal footing with other families. I believe that the bill is consistent with the administration's policy and my longstanding goal to end the historical bias against interracial adoptions which too often has meant interminable waits for children to be matched with parents of the same race.

I just wanted to mention, Madam Speaker, that the President has been consistently a supporter of this legislation and made very clear how pleased he is about bringing it to the floor this evening.

I want to say though, Madam Speaker, that we have to admit that usually a healthy baby will be adopted, and this bill helps those adoptions as far as adoption expenses go. But one of the other things that this bill before us, this legislation, has done is to highlight the fact that there are also at the same time 72 percent of those children who are up for adoption, waiting for adoption in foster care, and many of these children have emotional and physical problems, or they have siblings and they all want to stay together and move to a new family together, or they are older children.

So what happens is this bill does not help them, because many of these children, if in fact adopted, the State will conduct that adoption and they will not have the opportunity for a credit as we are proposing tonight.

What I am saying, Madam Speaker, is, as the gentlewoman from Ohio [Ms. PRYCE] said this evening so often, this is a happy bill, this is a good bill, marvelous legislation, a bill that we can all come together and support. Having done that and congratulated ourselves for having brought forth this very, very good piece of legislation, I think we should also take this opportunity to commit ourselves to looking at those children who are waiting for adoption in foster homes, who are looking for families desperately to take them in and to love them, and that we all, as we bring this bill forward, commit ourselves to remembering those children, not just end tonight by passing this legislation, but to continue to work toward making it possible for these children to move to adoptive homes or in fact, as one of the speakers said tonight, make it easier and more possible for the loving foster care family to in fact adopt the children themselves.

Madam Speaker, I reserve the balance of my time.

Mr. ARCHER. Madam speaker, I yield myself such time as I may consume in order to enter into a colloquy with the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Madam Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Maryland.

Mr. CARDIN. Madam Speaker, I appreciate the chairman yielding.

Madam Speaker, I rise in support of the $5,000 adoption credit. I would also like to engage the chairman in a colloquy about the definition of qualified adoption expenses under this legislation.

The legislation provides that qualified adoption expenses are reasonable and necessary adoption fees, court costs, attorneys fees, and other expenses that are directly related to the legal adoption of an eligible child. Is it your understanding that the legislation that qualified adoption expenses includes any reasonable and necessary expenses required by the State where the expenses occur as a condition of the adoption?

Mr. ARCHER. Yes, the gentleman is correct. The credit would be available

for all reasonable and necessary expenses required by a State as a condition of the adoption. By way of example, expenses could include the cost of construction, renovations, alterations, or purchases specifically required by the State to meet the needs of a child as a condition of the adoption.

Mr. CARDIN. I thank the gentleman.

Mr. ARCHER. Madam Speaker, I ask unanimous consent that I may yield the remainder of my time to the gentleman from Kentucky [Mr. BUNNING] the chairman of the Subcommittee on Social Security, and that he be allowed to allocate that time.

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

There was no objection.

Mr. BUNNING of Kentucky. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in heartfelt support for this bill. Passing it today is the least we can do to help save some of the half million kids who are stranded in foster care.

When it comes to matters involving family, I usually hold fast to the position that Government should butt out and mind its own business. But, making adoption simpler and more affordable is one instance in which the Government can, and should, step in to make a difference.

I was pleased to see last weekend that the President endorsed our bill. Even though he twice vetoed transracial adoption reform as part of our welfare bill, and even though he previously sank the adoption tax credit when he vetoed the balanced budget bill, we welcome him to the fight.

Better late than never.

Last year when Congress was working on welfare reform, the President called me about transracial adoption and offered to help any way he could. I sincerely appreciated that, but, he could have really helped by not vetoing welfare reform.

By signing this bill, the President can still make a difference for kids who are stranded in foster care.

Better late then never.

Back in 1987 I know that Arkansas enacted a law that required race to be used in making adoptions. Section 9–9–102 of the Arkansas Code says that in placing a child of minority heritage, if the child cannot be placed with relatives, the court shall give preference to ''a family with the same racial or ethnic heritage as the child * * *.''

Now which Bill Clinton should we believe?

So I'm more than a little bit skeptical about the President's endorsement of our bill. But I have read his letter of support, and I am glad to see that he has converted.

Better late than never.

Madam Speaker, I think that many Members are aware that two of my daughters have adopted children of different races. I can personally attest to obstacles that they faced before bringing these children into our family.

These kids were lucky. They ran the gauntlet. Today they are not languishing in foster care, and our family is more blessed because of it.

For these two children, it was better late than never.

But, Madam Speaker, unless we pass this bill today, tens of thousands of kids will not escape the twilight of foster care. They will continue to suffer from discrimination, victims of race-matching.

Unless we pass this bill, their day will never come.

For them we won't even be able to say better late than never. It will always just be never.

The color of a child's skin should not be an impediment to adoption, and it's wrong that this is used to deny children the embrace of a loving home.

I urgently ask my colleagues for their vote on H.R. 3286.

Madam Speaker, I include for the RECORD chapter 9 of the Arkansas Code of 1987:

9–9–102. CONSIDERATION OF CHILD'S MINORITY RACE OR ETHNIC HERITAGE—RELIGIOUS PREFERENCE

(a) In all custodial placements by the Department of Human Services in foster care or investigations conducted pursuant to court order under §9–9–212, due consideration shall be given to the child's minority race or minority ethnic heritage.

(b) In the placement or adoption of a child of minority racial or minority ethnic heritage, in reviewing the placement, the court shall consider preference, and in determining appropriate placement, the court shall give preference, in the absence of good cause to the contrary, to:

(1) A relative or relatives of the child, or, if that would be detrimental to the child or a relative is not available;

(2) A family with the same racial or ethnic heritage as the child, or, if that is not feasible;

(3) A family of different racial or ethnic heritage from the child, which family is knowledgeable and appreciative of the child's racial or ethnic heritage.

(c) If the child's genetic parent or parents express a preference for placing the child in a foster home or an adoptive home of the same or a similar religious background to that of the genetic parent or parents, in following the preferences in subdivisions (b)(1) or (2) of this section, the court shall place the child with a family that also meets the genetic parent's religious preference. Only if no family is available as described in subdivisions (b)(1) or (2) of this section may the court give preference to a family described in subdivision (b)(3) of this section that meets the parent's religious preference.

□ 2145

Madam Speaker, I reserve the balance of my time.

Mrs. KENNELLY. Madam Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Madam Speaker, the gentlewoman from Connecticut [Mrs. KENNELLY] has been one of the real champions in reforming our foster care system and encouraging more adoptions.

Let me point out, I think people who have been watching this evening will see that there is bipartisan cooperation tonight in moving legislation that is very important to American families. This bill is supported by both the Democrats and Republicans, and I wish we could do that more on the floor of this House and get this type of working relationship where we can produce legislation that is very important to the American family.

This bill and the central part of this bill is to remove an impediment to being adopted from many children who are in foster care, and that impediment is a financial burden. It is very costly in our system to adopt children. Many parents are not able to do that because of the costs. So the central part of this bill is to remove that financial burden, to reduce it significantly on the outset, to make it possible for more children to be adopted.

Madam Speaker, I want to point out another feature of the bill, and that is special needs adoptions which are much more difficult children to place, that have disabilities, that are older, and it is more difficult to place these children in permanent adoption circumstances. This bill recognizes that and provides additional incentives for special needs adoption.

So this legislation has been, I think, worked on in the right way in our committee, in the Committee on Ways and Means, with input from many different groups. It is an important bill, the central feature of which I think will very much help to find more homes for children who are currently in foster care. I urge my colleagues to support this legislation.

Mr. BUNNING of Kentucky. Madam Speaker, I reserve the balance of my time.

Mrs. KENNELLY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I just want to set the record straight on something. I began my remarks by mentioning that the President of the United States had endorsed this bill, and it was mentioned that maybe he had come a little late to the party. That is far from true.

I would like to make it known, and I think it is obviously already part of the RECORD but I would like to say it tonight, that this administration, Mr. Clinton's administration, has worked hard to promote adoption in general and adoption of children with special needs in particular.

First of all, when the President became President, he first championed the Family and Medical Leave Act which enables parents to take time off to adopt a child without losing their job or their health insurance. We all, well, many of us strongly supported that.

The administration then supported the Multi-Ethnic Placement Act to help increase the number of adoptions by prohibiting discriminations based on ethnicity. We remain committed to that and enforcing the law that is about to become law before us tonight.

I also would like to remind Members this evening that as part of our 1993 deficit reduction package, a provision was signed into law that requires ERISA plans to provide the same health care coverage for adopted children as for biological children of plan participants.

This administration has worked for Federal support for adoption of children with special needs, and increased by 60 percent the number of children with special needs who have been adopted with Federal assistance.

So, Madam Speaker, I just really want to mention that the administration, the Clinton administration, has been here from the moment that Mr. Clinton became President of the United States.

I also want to take up one other issue, Madam Speaker, and that is my concern about one of the revenue raisers in this legislation. This bill would fully tax the subsidies provided by utility companies to businesses taking steps to conserve energy.

I am familiar with the legislation that is being eliminated by this bill because I happen to have been the author of it and worked on it for some years, and I was astonished that during a time when we are talking about the rising costs of energy, I do not think it makes sense to eliminate incentives to promote energy conservation.

The President, in this letter that I have been referring to, did mention that he was concerned about the same thing, and he suggested that he would be more than willing to work with the conferees on this bill as they eventually are appointed to see if another revenue raiser could be found instead of this one. It was really very encouraging for conservation.

Madam Speaker, I would like to end by saying that Democrats, Republicans, anyone agrees that finding loving homes for needy children is a goal that government should take every opportunity to pursue, and in this regard, this bill does this tonight. I think everyone who has been involved in this legislation is very pleased it is on the floor tonight and that many more children will find loving homes.

Madam Speaker, I reserve the balance of my time.

Mr. BUNNING of Kentucky. Madam Speaker, I yield 3 minutes to the gentleman from Alaska [Mr. YOUNG].

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Madam Speaker, H.R. 3286 is intended to promote family values, avoid prolonged unnecessary litigation in adoptions and to get away from race-based tests in child placement decisions. I support families, but title III of the bill is antiIndian family legislation and fails to accomplish all three of these goals.

When the Resources Committee considered H.R. 3286, it voted on a bipartisan basis to strike title III of the bill because it fails to put an end to prolonged litigation over Indian child adoptions, will create new impediments to protect abused and neglected Indian children, and raises constitutional issues.

The Indian Child Welfare Act [ICWA] was enacted in 1978 to address a longstanding problem unique to Indian children. At the time, at least 25 percent of all Indian children were either in foster homes, adoptive homes, or boarding schools. Private and public welfare agencies were removing Indian children from their homes at unprecedented rates. And in many cases, where removal was warranted, agencies were ignoring available homes in Native communities. Many of these Indian children have grandparents, aunts and uncles who are willing and able to provide good homes, but were denied placement because they didn't know the children were in need of placement. As a result, Indian children were being removed from their tribal communities in a process the Chairman of the Select Committee on Indian Affairs called cultural genocide.

In my own region of interior Alaska, 80 percent of all Athabascan Indian children removed from their homes were placed in nonrelative/nonNative placements. Generally, the children came from remote villages and were placed in strange urban settings. While that rate has dropped to 40 percent today, still half of the children who were being removed from their tribal communities had been placed in homes outside the familiar environment of their villages and extended families.

It is difficult for me to explain the shock these children experience when they are uprooted from their villages and families and thrust into these unfamiliar surroundings. These children already suffer the heartache of separation from their families, and the difficulties which cause that breakup. ICWA remedies this situation and my message is that ICWA works to keep families together, and that is something that is worth saving.

I hear the concerns of the bill's sponsor over prolonged litigation which ties up some adoptions. But ICWA is not the problem. Many of you have heard of the Rost case. It is a tragic case. But it was caused by an attorney who tried to cover up the natural parents' tribal membership and purposefully avoided checking with the grandparents and extended family of the children to see if the family was available to adopt these children. The attorney in this case is now being sued for malpractice by the natural parents, the adoptive parents, and the Tribe. Unfortunately he inflicted untold sorrow on the Rosts, the grandparents of the children, and, ultimately, on the children themselves, as their fate remains in the courts.

Title III will actually compound the litigation problem. The proposed amendments would exempt from ICWA protection Indian children whose parents do not have social, cultural, and political ties to their tribe. This will have two disastrous affects. First, State courts will now have to hold hearings on whether an Indian child's parents have social, cultural or political ties to their tribe. The only people to benefit from this will be attorneys as they haggle over conflicting facts, trying to apply a vague subjective test, while the children languish in limbo.

Second, the amendments don't just apply to adoptions. ICWA is not the Indian Child Adoption Act; it also applies to custody proceedings for child abuse and neglect cases. Under ICWA, tribes often intervene in these cases to protect abused and neglected Indian children.

For example, the tribes in my region of Alaska intervened in New York to seek the return of an Indian child under ICWA. His mother was a heroin addict who died of AIDS, and the child was later abused in foster care. Today, that child is living with his extended family in a Yukon River village, far from the ravages of social decay which took his mother's life. In another case, an interior Yukon River village intervened in North Carolina to rescue a young girl who was adopted out to a family who sexually abused her, drove her into a mental hospital and then tried to adopt her baby to repeat the cycle. In a third case, another interior Athabascan tribe intervened in a Nevada case involving a 7-month old baby, who was physically abused by its drug-addicted non-Native mother. The baby languished in a Nevada receiving home with 20 other infants until the father's tribe was able to return the baby to Alaska. today, the child is with tribally licensed nonNative foster parents, who are specially trained to deal with drug-affected children, and live near the extended family's village.

The rescue of these children could not occur without ICWA, and under the proposed title III could not occur again, because in each case, the parents of the children had severed their ties to the tribes. In each case, however, the only hope that these children had for rescue was their tribe.

I am sure that, if enacted, title III will ultimately make one or more Indian children available for adoption. However, far more abused and neglected Indian children will needlessly languish in foster care, or worse yet, not receive needed child protection services while State courts determine whether ICWA will apply and protect an innocent abused or neglected child. This may be unintended harm, but it is harm all the same.

Finally, title III raises constitutional problems which were addressed in the original ICWA. In 1977, the Justice Department commented that early drafts of ICWA employed race-based tests for Indian status. Courts have generally held that distinctions based solely on race are constitutionally impermissible. However, courts have also held that distinctions based on tribal membership are based on the sovereign political status of Indian tribes who

enjoy a government to government relationship with the Federal and State governments. The distinctions within ICWA are constitutionally permissible to the extent that they rely upon tribal membership or the eligibility for tribal membership. Distinctions which rely solely upon Indian descent and social and cultural ties to an Indian community are constitutionally suspect as a racially based test. Title III employs this latter category of tests, and may be constitutionally defective and are inconsistent with the other portions of the bill.

Finally, title III of H.R. 3286 is one more example of the Federal Government imposing its arbitrary will on our families without taking any input or advise from the people most directly affected by the decision. This bill is a response to lawyers and lobbyists from the adoption industry which have caused the problem. I have heard from countless tribes in the last 2 weeks, and not a single one has supported this measure. And neither does the Attorney General of the State of Nevada. We should listen to their message.

Therefore, I ask the Members of the House to support my amendment to strike title III. Title III may be well intended, but it will hurt children the rest of this bill is trying to help.

Mr. BUNNING of Kentucky. Madam Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Madam Speaker, if I could just say to the gentleman from Alaska, my good friend, and he is one of my closest friends here because he and I fight the battle of property rights time and time and time again, and I just want to tell the gentleman how much I really respect him, but I would just say to him that we do not want to disrupt the 1978 legislation that the gentleman was so instrumental in passing. It was a good piece of legislation.

The problem is that there have been problems that have arisen since then. The gentleman has just spoken of several of them. All that we want to do is try to improve the bill just a little bit to keep these terrible situations from occurring.

I just have to say this, because my friend is so good as the chairman of that committee, but the gentleman will always have a parochial interest. We ran into that in the Committee on Agriculture where those that serve on the Committee on Agriculture could never bring themselves to bring about the end of subsidies for farmers in the agricultural industry. The gentleman is in the same boat.

Madam Speaker, I understand that. But the truth of the matter is, if we do not pass this legislation today, the status quo will remain for another 2, 3, 4, 5 years, because the gentleman knows he will never be able to get the legislation out of his committee. That is understandable. If I were on the committee and had the same parochial interests, I could not vote for it either.

So it is the question of doing it now. Let us improve it a little bit. I have the deepest respect for the gentleman from Alaska. He is one tremendous fighter, and he is out here fighting for his State and for his interests.

Mr. YOUNG of Alaska. Madam Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Madam Speaker, I understand that. The gentleman should keep in mind, although I will admit there have been mistakes by ICWA, this goes far beyond, as I have talked to the gentleman and the other Members, it goes far beyond just ICWA. This goes into the concept of the constitutionality of our responsibility to the American Indian tribes, and it is our responsibility.

□ 2200

When you transfer it to the State courts to make the decisions, then I think, very frankly, you have gone too far. I suggested that to you.

I will argue that case tomorrow before the amendment because what you have done is exceed ICWA. It gets into the whole concept of sovereignty and the constitutional role of the Congress to the American Indian tribes.

If you would strike that provision out of the bill, I would be much more sympathetic to what you are trying to do.

Mr. SOLOMON. Reclaiming my time, Madam Speaker, let me say that once the child has left the reservation, once they are then out into the rest of the United States, that is the problem we are dealing with, where a child has been given up by 2 parents, whether married or not, to an adoptive family. Then they are off the reservation. Those are the problems we need to deal with. It is not fair to years later take these children away. That is what happens.

Mr. YOUNG of Alaska. Madam Speaker, if the gentleman will continue to yield, I will agree with the gentleman. But that can be rectified by taking away the authority of the State court making the decision who is an Indian, who is not an Indian. That is the objection I have most of all.

Mrs. KENNELLY. Madam Speaker, I reserve the balance of my time.

Mr. BUNNING of Kentucky. Madam Speaker, I yield 5 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Madam Speaker, the gentleman from Texas, Mr. PETE GEREN, has raised a very important issue in regard to adoption in recent weeks. While he is unable to be here tonight, he and I share great concern about current IRS procedures which result in unnecessary financial burdens on adopting families by making it difficult to claim a dependent deduction for Federal income tax purposes for a newly adopted child in a timely manner.

It is my understanding that the Internal Revenue Service has assured us, Mr. GEREN and I, that it is committed to working with the Committee on Ways and Means and with my oversight subcommittee and with Mr. GEREN to develop as soon as possible an administrative solution that minimizes these burdens on adoptive parents while balancing processing and potential compliance considerations.

During our markup on H.R. 3286 in the Committee on Ways and Means, Treasury Assistant Secretary Samuels said that both the IRS and Treasury will work with our committee to develop appropriate administrative solutions. I appreciate Mr. GEREN's leadership on this matter and the IRS's willingness to give this problem the immediate and serious attention it deserves.

I would like to include for the RECORD a letter sent to the gentleman from Texas, Mr. PETE GEREN, by the Internal Revenue Service stating their intent to solve this problem and any additional remarks he would like to make thereto.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, May 9, 1996.

Congressman PETE GEREN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GEREN: Jim Feroli of your office asked me to address the issues you raised regarding the difficulties that some adopting parents face in obtaining a Social Security Number (''SSN'') for their adoptive child and thus timely claiming the dependency exemption on their federal income tax return. I understand that this situation occurs in both foreign and domestic adoptions where the parents satisfy all of the dependency support requirements of section 152 of the Code but the adoption is not yet final.

Treasury and the IRS are currently looking into the SSN difficulties faced by such adopting parents. As you may be aware, Treasury Assistant Secretary Samuels told the House Ways and Means Committee last week at the Adoption Credit Bill mark-up that both IRS and Treasury will work with the Committee to develop any appropriate administrative solutions to minimize the burdens on adoptive parents while balancing IRS returns processing and potential compliance considerations. Nonetheless, I thought it would be helpful to explain to you our current understanding of the SSN issue.

With regard to foreign adoptions, the Social Security Administration (''SSA'') told me that they will issue an SSN to adopting parents upon receipt of the Immigration and Naturalization Service (''INS'') documentation required to legally bring a foreign child into the United States. If the adopting parents satisfy the support requirements for their adoptive child but the child does not yet qualify for an SSN (e.g., the parents do not have the appropriate INS documentation), the adopting parents will soon be able to obtain an Individual Taxpayer Identification Number (''ITIN'') to claim the dependency exemption for the foreign adoptive child. ITINs are a new taxpayer numbering system that the IRS expects to implement by July 1996 for non-resident aliens unable to obtain SSNs. Individuals eligible to receive an SSN may not receive an ITIN.

With regard to domestic adoptions, the situation is more complex because an adoptive child may have an SSN as a result of actions taken by the child's birth parents, the state or an adoption agency. We are currently trying to assess when such SSNs are available

to the adopting parents and when they are not available because of the privacy concerns of either the birth parents or the adopting parents. We also understand from the SSA that they will issue an SSN for a child to a state or an adoption agency which is acting on behalf of the adopting parents, but we have yet to confirm how often SSNs are issued in such situations. We are thus currently assessing different possibilities to resolve the potential problems adopting parents have in the domestic context, and we will certainly keep you informed of our progress.

I hope you find this information helpful. Please call me if you have any questions.

Sincerely,

JOHN M. STAPLES,
Assistant to the Commissioner.

Further, Madam Speaker, I would like to tell a small story. In the fall of 1954, Bertha and Harry Holt, Oregon farmer, attended a missionary conference in which they learned about the plight of Korea's war orphans, especially those that had been fathered by American GI's. The Holts, who already had 6 adolescent and young adult children, were so moved by what they saw and heard that they decided to start sending money to Korea to meet the needs of as many children as they could. Over the months, they felt the tug of the plight of those children and decided to adopt several biracial GI babies. In fact, they decided to adopt not two or three but eight children.

At the time immigration law only allowed Americans to adopt two children from overseas. So a special bill was needed. Though Senator Neuberger introduced it promptly, no action was taken by the wee hours of the closing night of that session.

All seemed lost, when Senate passage happened. And in the House Representative Green had been promised the bill would be called up for action as soon as it won Senate approval. But that Saturday morning, the clerks could not find the bill and its accompanying report anywhere.

Mrs. Green started digging. And with the help of Speaker Sam Rayburn, they dug through the stacks of bills and reports that were flooding in from the Senate and finally, late in the afternoon, she found the bill. And before sundown it was passed and sent to the White House.

Several years later, haunted by the memory of the children who had been left behind, the Holts established an orphanage in Korea. From that humble beginning, the great tradition of intercountry adoption was established. As important as the tax credit provided by this bill is the provision related to transracial adoption, Madam Speaker, Harry Holt would be horrified to learn that American children languish in foster care in America today because they are of a different race than waiting parents. Rev. Jesse Jackson asked the critical question about transracial adoption, the question we should ask ours today: What is the color of love? Indeed, Madam Speaker, what is the color of love?

I want to commend my colleague, the gentleman from Kentucky [Mr. BUNNING], the gentlewoman from New York [Ms. MOLINARI], and the gentlewoman from Ohio [Ms. PRYCE] for their leadership in fashioning this legislation, and I urge my colleagues to support its passage.

Mrs. KENNELLY. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I rise today in support of providing a $5,000 tax credit for families adopting children. The cost of adopting an infant can exceed $15,000 when you add up the legal fees, court costs, and charges assessed by adoption agencies. This is a heavy burden to bear for middle-income Americans who want to start a family.

However, we should be honest and say that healthy babies will be adopted with or without a tax credit. The children who are really waiting to be adopted are those with special needs, usually meaning they are older, or have emotional or physical problems, or represent a minority. Special needs children represent 72 percent of foster care children who are awaiting permanent adoption. Most of the benefits in the bill before us would not go to families adopting these children because their adoptions are conducted by the States, meaning there are few costs for which to claim a tax deduction.

I also want to express my concern about one of the revenue raisers in this legislation. The bill would fully tax the subsidies provided by utilities companies to businesses taking steps to conserve energy. During a time when we are all talking about the rising cost of energy, I don't think it makes sense to eliminate incentives to promote energy conservation. I understand the Clinton administration has offered to work with Congress to find a different revenue offset to pay for the bill, and I hope the majority will take the President up on that offer.

Madam Speaker, Democrats and Republicans agree that finding loving homes for needy children is a goal the Government should take every opportunity to pursue. In this regard, the bill before us is not perfect, but we should not allow the perfect to become the enemy of the good. I urge my colleagues to support this legislation to help promote adoption.

Madam Speaker, I include for the RECORD the following correspondence:

THE WHITE HOUSE,
Washington, May 6, 1996.

DEAR MR. SPEAKER: I am writing to express my strong support for The Adoption Promotion and Stability Act of 1996. Today, families seeking to adopt children face significant barriers, including high adoption costs, complex regulations, and outdated assumptions. I am committed to breaking down these barriers and making adoption easier. Promoting adoption is one of the most important things we can do to strengthen American families and give more children what every child in America deserves—loving parents and a healthy home. This legislation will help children in need of adoptive homes to be united with devoted parents.

This Administration worked hard to promote adoption in general, and adoption of children with special needs in particular. It championed the Family and Medical Leave Act which enables parents to take time off to adopt a child without losing their jobs or their health insurance. We strongly supported the Multi-Ethnic Placement Act to help increase the number of adoptions by prohibiting discrimination based on race or ethnicity, and we remain committed to enforcing that law vigorously. As part of our 1993 deficit reduction package, I signed into law a provision that requires ERISA plans to provide the same health coverage for adopted children as for biological children of plan participants. We have worked to preserve Federal support for adoption of children with special needs, and increased by 60 percent the number of children with special needs who have been adopted with Federal adoption assistance.

But together we can and must do more. I strongly support the adoption tax credit in this bill. It will alleviate a significant barrier to adoption and allow middle class families, for whom adoption may be prohibitively expensive, to adopt children to love and nurture. It will encourage adoption of children with special needs. It will put parents seeking to build a family through adoption on a more equal footing with other families.

I believe that the bill is consistent with the Administration's policy and my longstanding goal to end the historical bias against interracial adoptions, which too often has meant interminable waits for children to be matched with parents of the same race. The Administration also has some concerns regarding some of the provisions used to offset the cost of the bill and would like to work with the Congress on these provisions. In addition, we need to ensure that unnecessary provisions are not included in the legislation.

The Adoption Promotion and Stability Act is an important first step toward meeting the challenge of removing barriers to adoption. I look forward to working with you so that the dreams of the waiting children in this country to have permanent homes and loving families can become a reality.

Sincerely,

BILL CLINTON.

Madam Speaker, I yield back the balance of my time.

Mr. BUNNING of Kentucky. Madam Speaker, I yield myself the balance of my time, just to close, because we do not have anyone else to speak on behalf of our side.

I would like to congratulate the gentlewoman from New York, Ms. MOLINARI, the gentlewoman from Ohio, Ms. PRYCE, and all others who have participated in the Committee on Ways and Means, who participated in the transracial adoption portion of this bill and congratulate them for their very fine work in bringing this to the floor.

This is a happy day that we are doing this. This will advance bipartisan support for adoption, for adoption tax credits, for adoption of racial barriers to go down, in other words, that there be no racial barriers in adoption. I am very pleased to support this legislation.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MORELLA). Pursuant to the order of the House of today, further consideration of the bill will be postponed until tomorrow.

SPECIAL ORDERS

The SPEAKER pro tempore. (Mr. TAYLOR of North Carolina). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the Following Members will be recognized for 5 minutes each.

PLANT CLOSINGS AND AMERICAN JOBS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine [Mr. LONGLEY] is recognized for 5 minutes.

Mr. LONGLEY. Mr. Speaker, on Monday of this week, a chilling announcement was received by 500 employees of the C.F. Hathaway Co. in Waterville, ME. When the Warnaco Co., which is a national holding company, which owns the C.F. Hathaway Co., in Waterville, made the following announcement, that following a comprehensive evaluation of their Hathaway men's dress shirt business, the Warnaco Co. had decided to cease manufacturing and marketing this brand. This decision will ultimately result in the sale of the business or the cessation of operations at those facilities were Hathaway shirts are produced, including the plant in Waterville, ME.

Mr. Richard Kelso, president of the Mid-State Economic Development Corp., in central Maine, said of the news that this was going to be a devastating blow because of the large number of workers involved and that unemployment in the mid-Maine area would soar from 7 or 8 percent, currently a full point above the Maine State average, to upward of 10 percent.

This is a significant and devastating blow to the Waterville, ME economy. While the Waranco Co., has indicated that it will cease manufacturing at the facility, they have, pursuant to State law, given the 500 employees 60 days notice of their intention to either terminate operations or, hopefully, to find a buyer for their operations. The Governor of our State, Governor King, has spoken to the company and has conveyed to the company his great concern over the welfare of those 500 workers and that he, on behalf of the State and the congressional delegation, was going to extend every effort to assist the Warnaco Co., in attempting to find a buyer. He and we and other Members of the delegation have all urged the company to continue their operations, hopefully until such time as we can find a buyer for the company.

Mr. Speaker, this is a tremendous economic loss or potentially a tremendous economic loss to central Maine. The C.F. Hathaway Co. is currently the oldest domestic shirt manufacturing company in the United States. It was founded in 1837, almost 160 years ago. The 500 workers today work at wages averaging $7 to $9 an hour. We all hear a lot of talk about the productivity of the American worker, and we are all very gravely concerned about the shift towards overseas and offshore production.

It is significant that just in the last 2 years, as the workers of this company became aware of the fact that Warnaco was concerned about its production costs, that they have managed to increase weekly output from just over 2,000 dozen shirts a week to more than 3,000 dozen shirts a week, an increase of over 40 percent. Just as importantly, the labor costs have decreased from about $125 a dozen shirts to $60 a dozen shirts.

What is even more startling to the people in my State and in my district is the fact that the Warnaco Co. also at the same time reported over $30 million in operating income on revenues of $206 million or net income of about $15 million after additional expenses.

This is the contrast that we face: American workers losing good American jobs, paying local taxes, supporting State and Federal Government, and yet confronted with the loss of their jobs even as the company that owns their production facility is making millions of dollars.

I would suggest that there is an issue here that we in this Chamber should be paying attention to. I hope to be investigating it further.

We need to take a very close look at the cost of doing business in this country and specifically evaluate the fact that 500 workers could be losing their jobs at the very same time that a company could be earning millions of dollars and in fact watching the stock price of the company rise even as they are losing their jobs.

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I think this is a serious issue. I have called on the Warnaco Co. to extend every consideration to the State and to the Governor as he attempts to lead us in attempting to find a purchaser for the company, and I encourage and hope that they will extend that courtesy. The 500 workers who demonstrated a tradition of loyalty going back 160 years I hope are entitled to the same expressions of loyalty and courtesy from the company for which they worked and I think we can ask for no less.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under a previous order of the House, the gentleman from Massachusetts [Mr. MEEHAN] is recognized for 5 minutes.

[Mr. MEEHAN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

[Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

[Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. PRYCE] is recognized for 5 minutes.

[Ms. PRYCE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

HUD HOUSING IMPLEMENTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. DOYLE] is recognized for 5 minutes.

Mr. DOYLE. Mr. Speaker, since we just completed consideration of the U.S. Housing Act, I believe it is appropriate that I rise this evening to discuss a public housing issue that is now being played out in western Pennsylvania.

In the suburban communities of Pittsburgh, which I represent in Congress, the U.S. Department of Housing and Urban Development, county housing authority, county government, and lawyers representing plaintiffs from a 1988 lawsuit are in the process of implementing a plan to provide public housing for those plaintiffs. And, while I am sure that lawyers could argue the merits of this case for days on end, my dispute is with the manner in which the implementation is being conducted.

In the last year, when decisions were made to purchase single-family houses in seven municipalities within two school districts, the elected officials and residents of these municipalities were not informed and not consulted. The first word of this plan to purchase single-family houses in six communities out of 100 eligible communities in Allegheny County, was this undated form letter notifying them that houses in their communities would be purchased for section 8 housing.

I became involved when the mayors of these affected communities wondered why they had not been brought into the decisionmaking process until it was too late, and then only for appearances. They were at a loss for what could be done about HUD forcing its will on their citizens. I suggested that they form an intermunicipal working group and offer an alternative plan to the proposal by the parties of the consent decree.

There are three basic problems with the path HUD is taking in my district: The lack of community notification and participation, the concentrated loss of tax revenues to the municipalities and school districts, and the extravagant use of taxpayer funds to provide public housing.

First, HUD has shown little interest in communicating with local officials