committee chairman on ways and means to the Internal Revenue Department, IRS, the Commissioner, to determine if any of the data with regard to confidential tax matters is in this material, because if it is, that is a felony. Thorough clarification should be forthcoming from the Internal Revenue Service to comfort us that none of this information that was so willy-nilly distributed throughout the White House found its way into their hands, including material from the Internal Revenue Service.

So, as has been demonstrated here this afternoon, there are a host of legitimate questions that have deep meaning with regard to the protection of the rights of individual citizens in these United States of America.

Mr. President, with that, I conclude my remarks and yield back any time remaining that was dedicated to my control.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

(The remarks of Mr. ROBB and Mr. MOYNIHAN pertaining to the submission of Senate Resolution 276 are located in today's RECORD under ''Submissions of concurrent and Senate resolutions.'')

FAREWELL TO PATTY DEUTSCHE

Mr. BURNS. Mr. President, I rise today to say farewell to my legislative assistant, Patty Deutsche. She has been with me for over 7 years and I will certainly miss her.

She arrived in my office with almost no knowledge of Montana but quickly became one of us. It did not take long for her to figure out that 60 miles on a map did not necessarily mean a car ride of 60 minutes. And since she began as my scheduler, that was important. She ran my life for 2 years—both in the office and on the road—and made my new life in Washington, DC, that much easier.

When she moved to the legislative side, I knew she would attack the issues with just as much energy and competence. Though the issues she handled fell under committees on which I did not serve, they tended to be the hot topics. From health care to welfare, Medicare to Social Security, small business to labor unions, veterans and the aging to abortion, education and family issues—she learned the issues, knew them well, and was always my dependable source when I needed an update. She had her finger on the pulse here in the District of Columbia and her finger on the pulse in Montana and I know my constituents appreciated that and benefited from that.

Being a Californian in Montana is not easy, but she was quickly accepted by even the most ardent Montana natives. They never had an opportunity to question her loyalties. She worked for Montana and Montana's residents as if it were her own home State.

After 5 years handling these many legislative issues, she has accomplished a lot. She has been instrumental in promoting rural health care, from the fight over health care reform in 1994 to the promotion of telemedicine. She has helped me fight for small businesses—and that is crucial to my State. And she has always been a voice of reason when it comes to questions of morals, ethics, family values, and what is right. I have teased her about being to the right of Attila, but I always knew I could count on her opinion to be well thought out, strong, and conservative.

But aside from her tremendous dedication to her work, her sense of humor will be missed. She brought levity to stressful times. Her counseling chair was always available, not just to me but to other staff as well. Whether providing an open ear, objective advice or a funny story, Patty managed to find time for others as well as get her work done.

Mr. President, longevity is not the norm on the Hill and keeping staff as long as 7 years is rare. I have been lucky to have Patty on my staff almost since I first arrived in town. And though I will miss her terribly, she knows she will always have a home here and in Montana. She is moving to Louisville, KY, to be the manager of government relations for Vencor, Inc. And I hope they realize what a treasure they are getting in Patty. I have no doubt that she will embrace her new job and that Louisville will embrace her.

Patty Deutsche has served me well and she has served Montana well. I know the folks with whom she has built relationships in the Big Sky Country will feel her absence, but Patty is the type that will continue to nurture those relationships, whether she represents Montana or not. That is just the way she is.

Today is her last day working for me and she will soon leave for Kentucky. I wish her the best of luck and all the happiness in the world. God bless you, Patty.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business, Friday, July 5, 1996, the Federal debt stood at $5,153,659,808,407.00.

On a per capita basis, every man, woman, and child in America owes $19,429.74 as his or her share of that debt.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

SMALL BUSINESS JOB PROTECTION ACT OF 1996

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 3448, which the clerk will report.

The assistant legislative clerk read as follows:

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

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment; as follows:

H.R. 3448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Job Protection Act of 1996''.

(b) TABLE OF CONTENTS.—

TITLE I—SMALL BUSINESS AND OTHER TAX PROVISIONS

SEC. 1101. AMENDMENT OF 1986 CODE.

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

SEC. 1102. UNDERPAYMENTS OF ESTIMATED TAX.

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

Subtitle A—Expensing; Etc.

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

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

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

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

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

SEC. 1112. TREATMENT OF EMPLOYEE TIPS.

(a) EMPLOYEE CASH TIPS.—

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

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

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

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

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

''(2) ONLY TIPS RECEIVED FOR FOOD OR BEVERAGES TAKEN INTO ACCOUNT.—In applying paragraph (1), there shall be taken into account only tips received from customers in connection with the delivering or serving of

food or beverages for consumption if the tipping of employees delivering or serving food or beverages by customers is customary.''

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

SEC. 1113. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.

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

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

''(1) IN GENERAL.—If—

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

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

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

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

''(A) $100, multiplied by

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

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

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

SEC. 1114. CLARIFICATION OF EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN.

(a) CLARIFICATION OF EMPLOYMENT TAX STATUS.—

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

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

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

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

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

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

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

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

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

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

(2) AMENDMENT OF SOCIAL SECURITY ACT.—

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

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

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

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

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

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

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

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 1994.

SEC. 1115. MODIFICATIONS OF TAX-EXEMPT BOND RULES FOR FIRST-TIME FARMERS.

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

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

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

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

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

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

SEC. 1116. NEWSPAPER DISTRIBUTORS TREATED AS DIRECT SELLERS.

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

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

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

SEC. 1117. APPLICATION OF INVOLUNTARY CONVERSION RULES TO PRESIDENTIALLY DECLARED DISASTERS.

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

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

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

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

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

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

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

SEC. 1118. CLASS LIFE FOR GAS STATION CONVENIENCE STORES AND SIMILAR STRUCTURES.

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

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

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

''(E)(iii) . . . . . 20''.

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

SEC. 1119. TREATMENT OF ABANDONMENT OF LESSOR IMPROVEMENTS AT TERMINATION OF LEASE.

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

''(8) TREATMENT OF LEASEHOLD IMPROVEMENTS.—

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

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

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

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

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

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

SEC. 1120. DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR CERTAIN SEAFOOD PROCESSING FACILITIES.

(a) IN GENERAL.—Subparagraph (E) of section 274(n)(2) is amended by striking ''or'' at the end of clause (iii), by striking the period

at the end of clause (iv) and inserting '', or'', and by inserting after clause (iv) the following new clause:

''(v) provided at a remote seafood processing facility located in the United States north of 53 degrees north latitude.''

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

SEC. 1121. CLARIFICATION OF TAX TREATMENT OF HARD CIDER.

(a) HARD CIDER CONTAINING NOT MORE THAN 7 PERCENT ALCOHOL TAXED AS WINE.—Subsection (b) of section 5041 (relating to imposition and rate of tax) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ''; and'', and by adding at the end the following new paragraph:

''(6) On hard cider derived primarily from apples or apple concentrate and water, containing no other fruit product, and containing at least one-half of 1 percent and not more than 7 percent of alcohol by volume, 22.6 cents per wine gallon.''

(b) EXCLUSION FROM SMALL PRODUCER CREDIT.—Paragraph (1) of section 5041(c) (relating to credit for small domestic producers) is amended by striking ''subsection (b)(4)'' and inserting ''paragraphs (4) and (6) of subsection (b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

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

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

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

''(1) NOTICE REQUIREMENTS.—

''(A) WRITTEN AGREEMENT REQUIRED BETWEEN TAXPAYER AND INDIVIDUAL.—The provisions of subsection (a)(1) shall not apply with respect to a taxpayer and any individual unless such taxpayer and individual sign a statement (at such time and in such form as the Secretary may prescribe) which provides that such individual will not be treated as an employee of the taxpayer for purposes of employment taxes.

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

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

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

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

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

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

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

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

''(4) BURDEN OF PROOF.—

''(A) IN GENERAL.—If—

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

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

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

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

(b) EFFECTIVE DATES.—

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

(2) NOTICE REQUIREMENTS.—

(A) WRITTEN AGREEMENT.—In the case of individuals who first perform services for a taxpayer before January 1, 1997, the requirements of section 530(e)(1)(A) of the Revenue Act of 1978 (as added by subsection (a)) shall not apply before January 1, 1998, unless the taxpayer elects to apply such requirements before such date.

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

(3) BURDEN OF PROOF.—

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

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

Subtitle B—Extension of Certain Expiring Provisions

SEC. 1201. WORK OPPORTUNITY TAX CREDIT.

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

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

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

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

''(A) a qualified IV–A recipient,

''(B) a qualified veteran,

''(C) a qualified ex-felon,

''(D) a high-risk youth,

''(E) a vocational rehabilitation referral,

''(F) a qualified summer youth employee, or

''(G) a qualified food stamp recipient.

''(2) QUALIFIED IV–A RECIPIENT.—

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

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

''(3) QUALIFIED VETERAN.—

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

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

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

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

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

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

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

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

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

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

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

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

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

''(5) HIGH-RISK YOUTH.—

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

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

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

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

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

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

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

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

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

''(7) QUALIFIED SUMMER YOUTH EMPLOYEE.—

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

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

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

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

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

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

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

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

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

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

''(8) QUALIFIED FOOD STAMP RECIPIENT.—

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

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

''(ii) as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for the 3-month period ending on the hiring date.

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

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

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

''(11) SPECIAL RULES FOR CERTIFICATIONS.—

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

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

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

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

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

''(B) INCORRECT CERTIFICATIONS.—If—

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

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

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

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

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

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

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

''(B) has completed at least 375 hours (120 hours in the case of a qualified summer youth employee) of services performed for the employer.''

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

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

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

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

(e) REDESIGNATION OF CREDIT.—

(1) Sections 38(b)(2) and 51(a) are each amended by striking ''targeted jobs credit'' and inserting ''work opportunity credit''.

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

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

(4) The heading for paragraph (3) of section 1396(c) is amended by striking ''TARGETED JOBS CREDIT'' and inserting ''WORK OPPORTUNITY CREDIT''.

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

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

SEC. 1202. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXTENSION.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking ''December 31, 1994'' and inserting ''December 31, 1996''.

(b) EFFECTIVE DATES.—

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

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

SEC. 1203. RESEARCH CREDIT.

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

''(h) TERMINATION.—

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

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

''(B) after June 30, 1997.''

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

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

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

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

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

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

''(4) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

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

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

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

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

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

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

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

''(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting '75 percent' for '65

percent' with respect to amounts paid or incurred by the taxpayer to a qualified research consortium for qualified research on behalf of the taxpayer and 1 or more unrelated taxpayers. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related taxpayers.

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

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

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

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

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

(f) EFFECTIVE DATES.—

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

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

SEC. 1204. ORPHAN DRUG TAX CREDIT.

(a) RECATEGORIZED AS A BUSINESS CREDIT.—

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

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

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

(3) CLERICAL AMENDMENTS.—

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

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

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

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

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

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

''(B) after June 30, 1997.''

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

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

(d) ADDITIONAL CONFORMING AMENDMENTS.—

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

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

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

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

(5) Section 53(d)(1)(B) is amended—

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

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

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

(7) Section 280C(b) is amended—

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

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

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

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

SEC. 1205. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

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

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

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

''(B) after June 30, 1997.''

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

SEC. 1206. EXTENSION OF BINDING CONTRACT DATE FOR BIOMASS AND COAL FACILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 29(g)(1) (relating to extension of certain facilities) is amended by striking ''January 1, 1997'' and inserting ''January 1, 1998'' and by striking ''January 1, 1996'' and inserting ''the date which is 6 months after the date of the enactment of the Small Business Job Protection Act of 1996''.

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

SEC. 1207. MORATORIUM FOR EXCISE TAX ON DIESEL FUEL SOLD FOR USE OR USED IN DIESEL-POWERED MOTORBOATS.

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

''(i) no tax shall be imposed by subsection (a) or (d)(1) during the period after June 30, 1996, and before July 1, 1997,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1996.

Subtitle C—Provisions Relating to S Corporations

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

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

SEC. 1302. ELECTING SMALL BUSINESS TRUSTS.

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

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

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

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

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

''(e) ELECTING SMALL BUSINESS TRUST DEFINED.—

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

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

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

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

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

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

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

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

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

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

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

''(4) CROSS REFERENCE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 1306. AGREEMENT TO TERMINATE YEAR.

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

''(2) ELECTION TO TERMINATE YEAR.—

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

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

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

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

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

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

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

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

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

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

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

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

''(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

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

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

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

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

paragraph (1) shall not apply to such item.

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

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

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

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

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

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

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

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

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

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

(3) CONFORMING AMENDMENTS.—

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

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

''(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply.''.

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

SEC. 1308. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) CONFORMING AMENDMENTS.—

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

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

''(8) An S corporation.''.

SEC. 1309. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

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

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

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

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

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

''(C) NET LOSS FOR YEAR DISREGARDED.—

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

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

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

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

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

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

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

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

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

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

SEC. 1311. ELIMINATION OF CERTAIN EARNINGS AND PROFITS.

(a) IN GENERAL.—If—

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

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

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

(b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

(C) The section heading for section 1375 is amended by striking ''**subchapter c**'' and inserting ''**accumulated**''.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 1315. FINANCIAL INSTITUTIONS.

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

''(A) a financial institution which uses the reserve method of accounting for bad debts described in section 585 or 593,''.

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

(a) ELIGIBILITY TO BE SHAREHOLDERS.—

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

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

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

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

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

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

may be a shareholder in an S corporation.''

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

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

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

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

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

''(B) notwithstanding any other provision of this part, all items of income, loss, deduction or credit taken into account under section 1366(a) and any gain or loss on the disposition of the stock in the S corporation shall be taken into account in computing the unrelated business taxable income of such organization.

''(2) DISPOSITION GAIN.—For purposes of paragraph (1), gain on the sale or other disposition of C corporation stock which was an S corporation at any time the organization held such stock shall be treated as gain from the disposition of stock in an S corporation to the extent of any gain which the organization would have realized if it had sold the stock for fair market value as of the last day of the corporation's last taxable year as an S corporation.''

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

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

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

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

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

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

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

SEC. 1317. EFFECTIVE DATE.

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

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

Subtitle D—Pension Simplification

CHAPTER 1—SIMPLIFIED DISTRIBUTION RULES

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

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

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

(b) CONFORMING AMENDMENTS.—

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

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

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

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

''(II) after the employee attains age 59½,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) Section 4980A(c)(4) is amended—

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

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

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

(C) by striking the heading and inserting:

''(4) SPECIAL ONE-TIME ELECTION.—''.

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

(c) EFFECTIVE DATES.—

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

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

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

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

(b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(iii) NUMBER OF ANTICIPATED PAYMENTS.—

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

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

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

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

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

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

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

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

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

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

SEC. 1404. REQUIRED DISTRIBUTIONS.

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 2—INCREASED ACCESS TO RETIREMENT PLANS

Subchapter A—Simple Savings Plans

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

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

''(p) SIMPLE RETIREMENT ACCOUNTS.—

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

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

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

''(2) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

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

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

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

''(II) to the employee directly in cash,

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

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

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

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

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

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

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

''(i) ELIGIBLE EMPLOYER.—

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

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

''(ii) APPLICABLE PERCENTAGE.—

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

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

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

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

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

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

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

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

''(4) PARTICIPATION REQUIREMENTS.—

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

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

''(ii) are reasonably expected to receive at least $5,000 in compensation during the year, are eligible to make the election under paragraph (2)(A)(i) or receive the nonelective contribution described in paragraph (2)(B).

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

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

''(A) an employer must—

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

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

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

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

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

''(A) COMPENSATION.—

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

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

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

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

''(7) USE OF DESIGNATED FINANCIAL INSTITUTION.—A plan shall not be treated as failing to satisfy the requirements of this subsection or any other provision of this title merely because the employer makes all contributions to the individual retirement accounts or annuities of a designated trustee or issuer. The preceding sentence shall not apply unless each plan participant is notified in writing (either separately or as part of the notice under subsection (l)(2)(C)) that the participant's balance may be transferred without cost or penalty to another individual account or annuity in accordance with section 408(d)(3)(G).''

(b) TAX TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—

(1) DEDUCTIBILITY OF CONTRIBUTIONS BY EMPLOYEES.—

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

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

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

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

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

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

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

''(2) TIMING.—

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

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

(3) CONTRIBUTIONS AND DISTRIBUTIONS.—

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

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

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

''(G) SIMPLE RETIREMENT ACCOUNTS.—This paragraph shall not apply to any amount paid or distributed out of a simple retirement account (as defined in section 408(p)) unless—

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

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

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

(4) PENALTIES.—

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

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

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

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

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

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

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

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

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

(5) REPORTING REQUIREMENTS.—

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

''(2) SIMPLE RETIREMENT ACCOUNTS.—

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

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

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

''(ii) The requirements for eligibility for participation.

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

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

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

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

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

''(1) IN GENERAL.—An employer''.

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

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

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

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

(8) EMPLOYMENT TAXES.—

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

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

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

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

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

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

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

(9) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

(d) MODIFICATIONS OF ERISA.—

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

''(g) SIMPLE RETIREMENT ACCOUNTS.—

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

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

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

''(B) The requirements for eligibility for participation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(B) CONTRIBUTION REQUIREMENTS.—

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

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

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

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

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

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

''(D) DEFINITIONS AND SPECIAL RULE.—

''(i) DEFINITIONS.—For purposes of this paragraph, any term used in this paragraph which is also used in section 408(p) shall have the meaning given such term by such section.

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

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

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

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

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

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

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

Subchapter B—Other Provisions

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

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

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

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

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

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

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

SEC. 1427. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUCTION.

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

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

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

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

''(B) the sum of—

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

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

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

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

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

(b) CONFORMING AMENDMENTS.—

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

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

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

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

CHAPTER 3—NONDISCRIMINATION PROVISIONS

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

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

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

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

''(B) for the preceding year had compensation from the employer in excess of $80,000.

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

(b) REPEAL OF FAMILY AGGREGATION RULES.—

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

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

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

(c) CONFORMING AMENDMENTS.—

(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (2), (4), (5), (8), and (12) and by redesignating paragraphs (3), (7), (9), (10), and (11) as paragraphs (2) through (6), respectively.

(B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii), 408(k)(2)(C), and 416(i)(1)(D) are each amended by striking ''section 414(q)(7)'' and inserting ''section 414(q)(3)''.

(C) Section 416(i)(1)(A) is amended by striking ''section 414(q)(8)'' and inserting ''section 414(r)(9)''.

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

''(9) EXCLUDED EMPLOYEES.—For purposes of paragraph (2)(A), the following employees shall be excluded:

''(A) Employees who have not completed 6 months of service.

''(B) Employees who normally work less than 17½ hours per week.

''(C) Employees who normally work not more than 6 months during any year.

''(D) Employees who have not attained the age of 21.

''(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph.''.

(B) Subparagraph (A) of section 414(r)(2) is amended by striking ''subsection (q)(8)'' and inserting ''paragraph (9)''.

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

(d) EFFECTIVE DATE.—

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

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

SEC. 1432. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

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

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

''(i) 50 employees of the employer, or

''(ii) the greater of—

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

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

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

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

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

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

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

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

''(i) meets the contribution requirements of subparagraph (B) or (C), and

''(ii) meets the notice requirements of subparagraph (D).

''(B) MATCHING CONTRIBUTIONS.—

''(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

''(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

''(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

''(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the rate of matching contribution with respect to any elective contribution of a highly compensated employee at any rate of elective contribution is greater than that with respect to an employee who is not a highly compensated employee.

''(iii) ALTERNATIVE PLAN DESIGNS.—If the rate of any matching contribution with respect to any rate of elective contribution is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

''(I) the rate of an employer's matching contribution does not increase as an employee's rate of elective contributions increase, and

''(II) the aggregate amount of matching contributions at such rate of elective contribution is at least equal to the aggregate amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

''(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

''(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

''(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

''(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

''(E) OTHER REQUIREMENTS.—

''(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) of this paragraph unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions) taken into account in determining whether the requirements of subparagraphs (B) and (C) of this paragraph are met.

''(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

''(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.''.

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions), as amended by this section 1422(b), is amended by redesignating paragraph (11) as paragraph (12) and by adding after paragraph (10) the following new paragraph:

''(11) ALTERNATIVE METHOD OF SATISFYING TESTS.—

''(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

''(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(12),

''(ii) meets the notice requirements of subsection (k)(12)(D), and

''(iii) meets the requirements of subparagraph (B).

''(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

''(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

''(ii) the rate of an employer's matching contribution does not increase as the rate of an employee's contributions or elective deferrals increase, and

''(iii) the matching contribution with respect to any highly compensated employee at any rate of an employee contribution or rate of elective deferral is not greater than that with respect to an employee who is not a highly compensated employee.''.

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Section 401(k)(3)(A) is amended—

(A) by striking ''such year'' in clause (ii) and inserting ''the plan year'',

(B) by striking ''for such plan year'' in clause (ii) and inserting ''for the preceding plan year'', and

(C) by adding at the end the following new sentence: ''An arrangement may apply clause (ii) by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided by the Secretary.''.

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting ''for such plan year'' after ''highly compensated employees'',

(B) by inserting ''for the preceding plan year'' after ''eligible employees'' each place it appears in clause (i) and clause (ii), and

(C) by adding at the end the following flush sentence:

''This subparagraph may be applied by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided the Secretary.''.

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

''(E) For purposes of this paragraph, in the case of the first plan year of any plan (other than a successor plan), the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

''(i) 3 percent, or

''(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year.''.

(2) Paragraph (3) of section 401(m) is amended by adding at the end the following: ''Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.''.

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS AND EXCESS AGGREGATE CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking ''on the basis of the respective portions of the excess contributions attributable to each of such employees'' and inserting ''on the basis of the amount of contributions by, or on behalf of, each of such employees''.

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking ''on the basis of the respective portions of such amounts attributable to each of such employees'' and inserting ''on the basis of the amount of contributions on behalf of, or by, each such employee''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1998.

(2) EXCEPTIONS.—The amendments made by subsections (c), (d), and (e) shall apply to years beginning after December 31, 1996.

SEC. 1434. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.

(a) GENERAL RULE.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:

''(D) CERTAIN DEFERRALS INCLUDED.—The term 'participant's compensation' shall include—

''(i) any elective deferral (as defined in section 402(g)(3)), and

''(ii) any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125 or 457.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 414(q)(3), as redesignated by section 1431, is amended to read as follows:

''(4) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3).''.

(2) Section 414(s)(2) is amended by inserting ''not'' after ''elect'' in the text and heading thereof.

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

CHAPTER 4—MISCELLANEOUS PROVISIONS

SEC. 1441. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

''(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.''.

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

SEC. 1442. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) AMENDMENTS TO 1986 CODE.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking ''subparagraph (A), (B), or (C)'' and inserting ''subparagraph (A) or (B)''; and

(2) by striking subparagraph (C).

(b) AMENDMENTS TO ERISA.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) by striking ''subparagraph (A), (B), or (C)'' and inserting ''subparagraph (A) or (B)''; and

(2) by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1997, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1999.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 1443. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph (2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½. For purposes of this section, the term 'hardship distribution' means a distribution described in paragraph (2)(B)(i)(IV) (without regard to the limitation of its application to profit-sharing or stock bonus plans).''.

(b) PUBLIC UTILITY DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:

''(i) any organization which—

''(I) is engaged primarily in providing electric service on a mutual or cooperative basis, or

''(II) is engaged primarily in providing electric service to the public in its area of service and which is exempt from tax under this subtitle or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof),''.

(c) EFFECTIVE DATES.—

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

(2) PUBLIC UTILITY DISTRICTS.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1996.

SEC. 1444. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

''(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply.''.

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:

''(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

''(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

''(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

''(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

''(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

''(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

''(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

''(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

''(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits.''.

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

''(14) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.''.

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by inserting immediately thereafter the following new subparagraph:

''(E) a qualified governmental excess benefit arrangement described in section 415(m).''.

(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

''(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (C) of this paragraph and paragraph (5) shall not apply to—

''(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

''(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee.''.

(d) REVOCATION OF GRANDFATHER ELECTION.—

(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

''(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year.''.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking ''This'' and inserting:

''(i) IN GENERAL.—This''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply to years beginning after December 31, 1994. The amendments made by subsection (d) shall

apply with respect to revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE JANUARY 1, 1995.—Nothing in the amendments made by this section shall be construed to imply that a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) fails to satisfy the requirements of section 415 of such Code for any taxable year beginning before January 1, 1995.

SEC. 1445. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

''(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

''(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

''(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined).''

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

SEC. 1446. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: ''If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii).''.

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

SEC. 1447. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

''(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

''(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

''(i) such amount does not exceed $3,500, and

''(ii) such amount may be distributed only if—

''(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

''(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

''(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

''(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

''(ii) the participant may make only 1 such election.''.

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457, as amended by section 1444(b)(2) (relating to governmental plans), is amended by adding at the end the following new paragraph:

''(15) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1994, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.''.

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

SEC. 1448. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Section 457 is amended by adding at the end the following new subsection:

''(g) GOVERNMENTAL PLANS MUST MAINTAIN SET-ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.—

''(1) IN GENERAL.—A plan maintained by an eligible employer described in subsection (e)(1)(A) shall not be treated as an eligible deferred compensation plan unless all assets and income of the plan described in subsection (b)(6) are held in trust for the exclusive benefit of participants and their beneficiaries.

''(2) TAXABILITY OF TRUSTS AND PARTICIPANTS.—For purposes of this title—

''(A) a trust described in paragraph (1) shall be treated as an organization exempt from taxation under section 501(a), and

''(B) notwithstanding any other provision of this title, amounts in the trust shall be includible in the gross income of participants and beneficiaries only to the extent, and at the time, provided in this section.

''(3) CUSTODIAL ACCOUNTS AND CONTRACTS.—For purposes of this subsection, custodial accounts and contracts described in section 401(f) shall be treated as trusts under rules similar to the rules under section 401(f).''.

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 457(b) is amended by inserting ''except as provided in subsection (g),'' before ''which provides that''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to assets and income described in section 457(b)(6) of the Internal Revenue Code of 1986 held by a plan on and after the date of the enactment of this Act.

(2) TRANSITION RULE.—In the case of a plan in existence on the date of the enactment of this Act, a trust need not be established by reason of the amendments made by this section before January 1, 1999.

SEC. 1449. TRANSITION RULE FOR COMPUTING MAXIMUM BENEFITS UNDER SECTION 415 LIMITATIONS.

(a) IN GENERAL.—Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended to read as follows:

''(A) EXCEPTION.—A plan that was adopted and in effect before December 8, 1994, shall not be required to apply the amendments made by subsection (b) with respect to benefits accrued before the earlier of—

''(i) the later of the date a plan amendment applying the amendments made by subsection (b) is adopted or made effective, or

''(ii) the first day of the first limitation year beginning after December 31, 1999.

Determinations under section 415(b)(2)(E) of the Internal Revenue Code of 1986 before such earlier date shall be made with respect to such benefits on the basis of such section as in effect on December 7, 1994 (except that the modification made by section 1449(b) of the Small Business Job Protection Act of 1996 shall be taken into account), and the provisions of the plan as in effect on December 7, 1994, but only if such provisions of the plan meet the requirements of such section (as so in effect).''.

(b) MODIFICATION OF CERTAIN ASSUMPTIONS FOR ADJUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR EARLY RETIREES.—Subparagraph (E) of section 415(b)(2) (relating to limitation on certain assumptions) is amended—

(1) by striking ''Except as provided in clause (ii), for purposes of adjusting any benefit or limitation under subparagraph (B) or (C),'' in clause (i) and inserting ''For purposes of adjusting any limitation under subparagraph (C) and, except as provided in clause (ii), for purposes of adjusting any benefit under subparagraph (B),'', and

(2) by striking ''For purposes of adjusting the benefit or limitation of any form of benefit subject to section 417(e)(3),'' in clause (ii) and inserting ''For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 767 of the Uruguay Round Agreements Act.

(d) TRANSITIONAL RULE.—In the case of a plan that was adopted and in effect before December 8, 1994, if—

(1) a plan amendment was adopted or made effective on or before the date of the enactment of this Act applying the amendments made by section 767 of the Uruguay Round Agreements Act, and

(2) within 1 year after the date of the enactment of this Act, a plan amendment is adopted which repeals the amendment referred to in paragraph (1),

the amendment referred to in paragraph (1) shall not be taken into account in applying section 767(d)(3)(A) of the Uruguay Round Agreements Act, as amended by subsection (a).

SEC. 1450. MODIFICATIONS OF SECTION 403(b).

(a) MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED.—

(1) GENERAL RULE.—For purposes of section 403(b) of the Internal Revenue Code of 1986, the frequency that an employee is permitted to enter into a salary reduction agreement, the salary to which such an agreement may apply, and the ability to revoke such an agreement shall be determined under the rules applicable to cash or deferred elections under section 401(k) of such Code.

(2) CONSTRUCTIVE RECEIPT.—Section 402(e)(3) is amended by inserting ''or which is part of a salary reduction agreement under section 403(b)'' after ''section 401(k)(2))''.

(3) EFFECTIVE DATE.—This subsection shall apply to taxable years beginning after December 31, 1995.

(b) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 403(b)(1) (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by adding at the end the following new clause:

''(iii) for an employee by an employer which is an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency

or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or part by any of the foregoing,''.

(2) CONFORMING AMENDMENT.—The heading for section 403(b) is amended by striking ''OR PUBLIC SCHOOL'' and inserting '', PUBLIC SCHOOL, OR INDIAN TRIBE''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

(B) TRANSITION RULES.—

(i) IN GENERAL.—In the case of any contract purchased in a plan year beginning before January 1, 1997, section 403(b) of the Internal Revenue Code of 1986 shall be applied as if any reference to an employer described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from tax under section 501 of such Code included a reference to an employer which is an Indian tribal government (as defined by section 7701(a)(40) of such Code), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing.

(ii) ROLLOVERS.—Solely for purposes of applying section 403(b)(8) of such Code to a contract to which clause (i) applies, a qualified cash or deferred arrangement under section 401(k) of such Code shall be treated as if it were a plan or contract described in clause (ii) of section 403(b)(8)(A) of such Code.

(c) ELECTIVE DEFERRALS.—

(1) IN GENERAL.—Subparagraph (E) of section 403(b)(1) is amended to read as follows:

''(E) in the case of a contract purchased under a salary reduction agreement, the contract meets the requirements of section 401(a)(30),''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1995, except a contract shall not be required to meet any change in any requirement by reason of such amendment before the 90th day after the date of the enactment of this Act.

SEC. 1451. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.

(a) GENERAL RULE.—For purposes of section 417(a)(3)(A) of the Internal Revenue Code of 1986 (relating to plan to provide written explanations), the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to plan years beginning after December 31, 1996.

SEC. 1452. REPEAL OF LIMITATION IN CASE OF DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN FOR SAME EMPLOYEE; EXCESS DISTRIBUTIONS.

(a) IN GENERAL.—Section 415(e) is repealed.

(b) EXCESS DISTRIBUTIONS.—Section 4980A is amended by adding at the end the following new subsection:

''(g) LIMITATION ON APPLICATION.—This section shall not apply to distributions during years beginning after December 31, 1996, and before January 1, 2000, and such distributions shall be treated as made first from amounts not described in subsection (f).''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 415(a) is amended—

(A) by adding ''or'' at the end of subparagraph (A),

(B) by striking '', or'' at the end of subparagraph (B) and inserting a period, and

(C) by striking subparagraph (C).

(2) Subparagraph (B) of section 415(b)(5) is amended by striking ''and subsection (e)''.

(3) Paragraph (1) of section 415(f) is amended by striking ''subsections (b), (c), and (e)'' and inserting ''subsections (b) and (c)''.

(4) Subsection (g) of section 415 is amended by striking ''subsections (e) and (f)'' in the last sentence and inserting ''subsection (f)''.

(5) Clause (i) of section 415(k)(2)(A) is amended to read as follows:

''(i) any contribution made directly by an employee under such an arrangement shall not be treated as an annual addition for purposes of subsection (c), and''.

(6) Clause (ii) of section 415(k)(2)(A) is amended by striking ''subsections (c) and (e)'' and inserting ''subsection (c)''.

(7) Section 416 is amended by striking subsection (h).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to limitation years beginning after December 31, 1999.

(2) EXCESS DISTRIBUTIONS.—The amendment made by subsection (b) shall apply to years beginning after December 31, 1996.

SEC. 1453. TAX ON PROHIBITED TRANSACTIONS.

(a) IN GENERAL.—Section 4975(a) is amended by striking ''5 percent'' and inserting ''10 percent''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to prohibited transactions occurring after the date of the enactment of this Act.

SEC. 1454. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

''(C) such services are performed under primary direction or control by the recipient.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 1455. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) PENALTIES.—

(1) STATEMENTS.—Paragraph (1) of section 6724(d) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) any statement of the amount of payments to another person required to be made to the Secretary under—

''(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

''(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.).''.

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

''(U) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

''(V) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.''.

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting ''aggregating $10 or more in any calendar year'' after ''distributions''.

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end the following new sentence: ''No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.''.

(c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Section 6652(i) is amended—

(1) by striking ''the $10'' and inserting ''$100'', and

(2) by striking ''$5,000'' and inserting ''$50,000''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

''(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722.''.

(2) Subsection (e) of section 6652 is amended by adding at the end the following new sentence: ''This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(V).''.

(3) Subsection (a) of section 6693 is amended by adding at the end the following new sentence: ''This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(U).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1996.

SEC. 1456. RETIREMENT BENEFITS OF MINISTERS NOT SUBJECT TO TAX ON NET EARNINGS FROM SELF-EMPLOYMENT.

(a) IN GENERAL.—Section 1402(a)(8) (defining net earning from self-employment) is amended by inserting '', but shall not include in such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excludable under section 107) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e)) after the individual retires'' before the semicolon at the end.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 1457. MODEL FORMS FOR SPOUSAL CONSENT AND QUALIFIED DOMESTIC RELATIONS FORMS.

(a) DEVELOPMENT OF FORMS.—Not later than January 1, 1997, the Secretary of the Treasury shall develop—

(1) a model form for the spousal consent required under section 417(a)(2) of the Internal Revenue Code of 1986 and section 205(c)(2) of the Employee Retirement Income Security Act of 1974 which—

(A) is written in a manner calculated to be understood by the average person, and

(B) discloses in plain form—

(i) whether the waiver to which the spouse consents is irrevocable, and

(ii) whether such waiver may be revoked by a qualified domestic relations order, and

(2) a model form for a qualified domestic relations order described in section 414(p)(1)(A) of such Code and section 206(d)(3)(B)(i) of such Act which—

(A) meets the requirements contained in such sections, and

(B) the provisions of which focus attention on the need to consider the treatment of any lump sum payment, qualified joint and survivor annuity, or qualified preretirement survivor annuity.

(b) PUBLICITY.—The Secretary of the Treasury shall include publicity for the model forms developed under subsection (a) in the pension outreach efforts undertaken by the Secretary.

SEC. 1458. TREATMENT OF LENGTH OF SERVICE AWARDS TO VOLUNTEERS PERFORMING FIRE FIGHTING OR PREVENTION SERVICES, EMERGENCY MEDICAL SERVICES, OR AMBULANCE SERVICES.

(a) IN GENERAL.—Paragraph (11) of section 457(e) (relating to deferred compensation plans of State and local governments and tax-exempt organizations) is amended to read as follows:

''(11) CERTAIN PLANS EXCLUDED.—

''(A) IN GENERAL.—The following plans shall be treated as not providing for the deferral of compensation:

''(i) Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan.

''(ii) Any plan paying solely length of service awards to bona fide volunteers (or their beneficiaries) on account of qualified services performed by such volunteers.

''(B) SPECIAL RULES APPLICABLE TO LENGTH OF SERVICE AWARD PLANS.—

''(i) BONA FIDE VOLUNTEER.—An individual shall be treated as a bona fide volunteer for purposes of subparagraph (A)(ii) if the only compensation received by such individual for performing qualified services is in the form of—

''(I) reimbursement for (or a reasonable allowance for) reasonable expenses incurred in the performance of such services, or

''(II) reasonable benefits (including length of service awards), and nominal fees for such services, customarily paid by eligible employers in connection with the performance of such services by volunteers.

''(ii) LIMITATION ON ACCRUALS.—A plan shall not be treated as described in subparagraph (A)(ii) if the aggregate amount of length of service awards accruing with respect to any year of service for any bona fide volunteer exceeds $3,000.

''(C) QUALIFIED SERVICES.—For purposes of this paragraph, the term 'qualified services' means fire fighting and prevention services, emergency medical services, and ambulance services.''

(b) EXEMPTION FROM SOCIAL SECURITY TAXES.—

(1) Subsection (a)(5) of section 3121, as amended by section 1421, is amended by striking ''(or)'' at the end of subparagraph (G), by inserting ''or'' at the end of subparagraph (H), and by adding at the end the following new subparagraph:

''(I) under a plan described in section 457(e)(11)(A)(ii) and maintained by an eligible employer (as defined in section 457(e)(1)).''.

(2) Section 209(a)(4) of the Social Security Act is amended by inserting ''; or (K) under a plan described in section 457(e)(11)(A)(ii) of the Internal Revenue Code of 1986 and maintained by an eligible employer (as defined in section 457(e)(1) of such Code)'' before the semicolon at the end thereof.

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to accruals of length of service awards after December 31, 1996.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to remuneration paid after December 31, 1996.

SEC. 1459. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this subtitle requires an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1997, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan or contract is operated in accordance with the requirements of such amendment, and

(2) such amendment applies retroactively to such period.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this section shall be applied by substituting ''1999'' for ''1997''.

Subtitle E—Revenue Offsets

PART I—GENERAL PROVISIONS

SEC. 1601. MODIFICATIONS OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:

''(j) TERMINATION OF QPSII AND REDUCED CREDIT; REDUCTION IN ECONOMIC ACTIVITY CREDIT.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall not apply to any taxable year beginning after December 31, 1995.

''(2) SPECIAL RULES FOR ACTIVE BUSINESS INCOME CREDIT.—Except as provided in paragraph (3)—

''(A) ECONOMIC ACTIVITY CREDIT.—In the case of an existing credit claimant—

''(i) with respect to a possession other than Puerto Rico, and

''(ii) to which subsection (a)(4)(B) does not apply,

the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, except that in the case of taxable years beginning after December 31, 2005, subsection (a)(4)(A)(i) shall be applied by substituting '40 percent' for '60 percent'.

''(B) REDUCED CREDIT.—

''(i) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) applies, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2006.

''(ii) ELECTION IRREVOCABLE AFTER 1997.—An election under subsection (a)(4)(B)(iii) which is in effect for the taxpayer's last taxable year beginning before 1997 may not be revoked unless it is revoked for the taxpayer's first taxable year beginning in 1997 and all subsequent taxable years.

''(C) ECONOMIC ACTIVITY CREDIT FOR PUERTO RICO.—

''For economic activity credit for Puerto Rico, see section 30A.

''(3) ADDITIONAL RESTRICTION ON CREDIT.—

''(A) IN GENERAL.—In the case of an existing credit claimant, the aggregate amount of taxable income taken into account under subsection (a)(1)(A) shall not exceed the adjusted base period income of such claimant—

''(i) in the case of the credit described in paragraph (2)(A), for any taxable year beginning after December 31, 2001, and

''(ii) in the case of the credit described in paragraph (2)(B), for any taxable year beginning after December 31, 1997.

''(B) COORDINATION WITH SUBSECTION (a)(4).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4) shall be such income as reduced under this paragraph.

''(4) ADJUSTED BASE PERIOD INCOME.—For purposes of paragraph (3)—

''(A) IN GENERAL.—The term 'adjusted base period income' means the average of the inflation-adjusted possession incomes of the corporation for each base period year.

''(B) INFLATION-ADJUSTED POSSESSION INCOME.—For purposes of subparagraph (A), the inflation-adjusted possession income of any corporation for any base period year shall be an amount equal to the sum of—

''(i) the possession income of such corporation for such base period year, plus

''(ii) such possession income multiplied by the inflation adjustment percentage for such base period year.

''(C) INFLATION ADJUSTMENT PERCENTAGE.—For purposes of subparagraph (B), the inflation adjustment percentage for any base period year means the percentage (if any) by which—

''(i) the CPI for 1995, exceeds

''(ii) the CPI for the calendar year in which the base period year for which the determination is being made ends.

For purposes of the preceding sentence, the CPI for any calendar year is the CPI (as defined in section 1(f)(5)) for such year under section 1(f)(4).

''(D) INCREASE IN INFLATION ADJUSTMENT PERCENTAGE FOR GROWTH DURING BASE YEARS.—The inflation adjustment percentage (determined under subparagraph (C) without regard to this subparagraph) for each of the 5 taxable years referred to in paragraph (5)(A) shall be increased by—

''(i) 5 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1995;

''(ii) 10.25 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1994;

''(iii) 15.76 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1993;

''(iv) 21.55 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1992; and

''(v) 27.63 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1991.

''(5) BASE PERIOD YEAR.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'base period year' means each of 3 taxable years which are among the 5 most recent taxable years of the corporation ending before October 14, 1995, determined by disregarding—

''(i) one taxable year for which the corporation had the largest inflation-adjusted possession income, and

''(ii) one taxable year for which the corporation had the smallest inflation-adjusted possession income.

''(B) CORPORATIONS NOT HAVING SIGNIFICANT POSSESSION INCOME THROUGHOUT 5-YEAR PERIOD.—

''(i) IN GENERAL.—If a corporation does not have significant possession income for each of the most recent 5 taxable years ending before October 14, 1995, then, in lieu of applying subparagraph (A), the term 'base period year' means only those taxable years (of such 5 taxable years) for which the corporation has significant possession income; except that, if such corporation has significant possession income for 4 of such 5 taxable years, the rule of subparagraph (A)(ii) shall apply.

''(ii) SPECIAL RULE.—If there is no year (of such 5 taxable years) for which a corporation has significant possession income—

''(I) the term 'base period year' means the first taxable year ending on or after October 14, 1995, but

''(II) the amount of possession income for such year which is taken into account under paragraph (4) shall be the amount which would be determined if such year were a short taxable year ending on September 30, 1995.

''(iii) SIGNIFICANT POSSESSION INCOME.—For purposes of this subparagraph, the term 'significant possession income' means possession income which exceeds 2 percent of the possession income of the taxpayer for the taxable year (of the period of 6 taxable years ending with the first taxable year ending on or after October 14, 1995) having the greatest possession income.

''(C) ELECTION TO USE ONE BASE PERIOD YEAR.—

''(i) IN GENERAL.—At the election of the taxpayer, the term 'base period year' means—

''(I) only the last taxable year of the corporation ending in calendar year 1992, or

''(II) a deemed taxable year which includes the first ten months of calendar year 1995.

''(ii) BASE PERIOD INCOME FOR 1995.—In determining the adjusted base period income of the corporation for the deemed taxable year under clause (i)(II), the possession income shall be annualized and shall be determined without regard to any extraordinary item.

''(iii) ELECTION.—An election under this subparagraph by any possession corporation may be made only for the corporation's first taxable year beginning after December 31, 1995, for which it is a possession corporation. The rules of subclauses (II) and (III) of subsection (a)(4)(B)(iii) shall apply to the election under this subparagraph.

''(D) ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of subparagraphs (A) and (B) of section 41(f)(3) shall apply for purposes of this subsection.

''(6) POSSESSION INCOME.—For purposes of this subsection, the term 'possession income' means, with respect to any possession, the income referred to in subsection (a)(1)(A) determined with respect to that possession. In no event shall possession income be treated as being less than zero.

''(7) SHORT YEARS.—If the current year or a base period year is a short taxable year, the application of this subsection shall be made with such annualizations as the Secretary shall prescribe.

''(8) SPECIAL RULES FOR CERTAIN POSSESSIONS.—

''(A) IN GENERAL.—In the case of an existing credit claimant with respect to an applicable possession—

''(i) this section (other than the preceding paragraphs of this subsection) shall apply to such claimant with respect to such applicable possession for taxable years beginning after December 31, 1995, and before January 1, 2006, and

''(ii) this section (including the preceding paragraphs of this subsection) shall apply to such claimant with respect to such applicable possession for taxable years beginning after December 31, 2005.

''(B) APPLICABLE POSSESSION.—For purposes of this paragraph, the term 'applicable possession' means Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(9) EXISTING CREDIT CLAIMANT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'existing credit claimant' means a corporation—

''(i) which was actively conducting a trade or business in a possession on October 13, 1995, and

''(ii) with respect to which an election under this section is in effect for the corporation's taxable year which includes October 13, 1995.

''(B) NEW LINES OF BUSINESS PROHIBITED.—If, after October 13, 1995, a corporation which would (but for this subparagraph) be an existing credit claimant adds a substantial new line of business, such corporation shall cease to be treated as an existing credit claimant as of the close of the taxable year ending before the date of such addition.

''(C) BINDING CONTRACT EXCEPTION.—If, on October 13, 1995, and at all times thereafter, there is in effect with respect to a corporation a binding contract for the acquisition of assets to be used in, or for the sale of assets to be produced from, a trade or business, the corporation shall be treated for purposes of this paragraph as actively conducting such trade or business on October 13, 1995. The preceding sentence shall not apply if such trade or business is not actively conducted before January 1, 1996.

''(10) SEPARATE APPLICATION TO EACH POSSESSION.—For purposes of determining—

''(A) whether a taxpayer is an existing credit claimant, and

''(B) the amount of the credit allowed under this section,

this subsection (and so much of this section as relates to this subsection) shall be applied separately with respect to each possession.''.

(b) ECONOMIC ACTIVITY CREDIT FOR PUERTO RICO.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 30A. PUERTO RICAN ECONOMIC ACTIVITY CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—Except as otherwise provided in this section, if the conditions of both paragraph (1) and paragraph (2) of subsection (b) are satisfied with respect to a qualified domestic corporation, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to the taxable income, from sources without the United States, from—

''(A) the active conduct of a trade or business within Puerto Rico, or

''(B) the sale or exchange of substantially all of the assets used by the taxpayer in the active conduct of such trade or business.

In the case of any taxable year beginning after December 31, 2001, the aggregate amount of taxable income taken into account under the preceding sentence (and in applying subsection (d)) shall not exceed the adjusted base period income of such corporation, as determined in the same manner as under section 936(j).

''(2) QUALIFIED DOMESTIC CORPORATION.—For purposes of paragraph (1), the term 'qualified domestic corporation' means a domestic corporation—

''(A) which is an existing credit claimant with respect to Puerto Rico, and

''(B) with respect to which section 936(a)(4)(B) does not apply for the taxable year.

''(3) SEPARATE APPLICATION.—For purposes of determining—

''(A) whether a taxpayer is an existing credit claimant with respect to Puerto Rico, and

''(B) the amount of the credit allowed under this section,

this section (and so much of section 936 as relates to this section) shall be applied separately with respect to Puerto Rico.

''(b) CONDITIONS WHICH MUST BE SATISFIED.—The conditions referred to in subsection (a) are—

''(1) 3-YEAR PERIOD.—If 80 percent or more of the gross income of the qualified domestic corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States (determined without regard to section 904(f)).

''(2) TRADE OR BUSINESS.—If 75 percent or more of the gross income of the qualified domestic corporation for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States.

''(c) CREDIT NOT ALLOWED AGAINST CERTAIN TAXES.—The credit provided by subsection (a) shall not be allowed against the tax imposed by—

''(1) section 59A (relating to environmental tax),

''(2) section 531 (relating to the tax on accumulated earnings),

''(3) section 541 (relating to personal holding company tax), or

''(4) section 1351 (relating to recoveries of foreign expropriation losses).

''(d) LIMITATIONS ON CREDIT.—The amount of the credit determined under subsection (a) for any taxable year shall not exceed the sum of the following amounts:

''(1) 60 percent (40 percent in the case of taxable years beginning after December 31, 2005) of the sum of—

''(A) the aggregate amount of the qualified domestic corporation's qualified possession wages for such taxable year, plus

''(B) the allocable employee fringe benefit expenses of the qualified domestic corporation for such taxable year.

''(2) The sum of—

''(A) 15 percent of the depreciation allowances for the taxable year with respect to short-life qualified tangible property,

''(B) 40 percent of the depreciation allowances for the taxable year with respect to medium-life qualified tangible property, and

''(C) 65 percent of the depreciation allowances for the taxable year with respect to long-life qualified tangible property.

''(3) If the qualified domestic corporation does not have an election to use the method described in section 936(h)(5)(C)(ii) (relating to profit split) in effect for the taxable year, the amount of the qualified possession income taxes for the taxable year allocable to nonsheltered income.

''(e) ADMINISTRATIVE PROVISIONS.—For purposes of this title (other than section 27)—

''(1) the provisions of section 936 (including any applicable election thereunder) shall apply in the same manner as if the credit under this section were a credit under section 936(a)(1)(A) for a domestic corporation to which section 936(a)(4)(A) applies,

''(2) the credit under this section shall be treated in the same manner as the credit under section 936, and

''(3) a corporation to which this section applies shall be treated in the same manner as if it were a corporation electing the application of section 936.

''(f) DEFINITIONS.—For purposes of this section, any term used in this section which is also used in section 936 shall have the same meaning given such term by section 936.

''(g) APPLICATION OF SECTION.—This section shall apply to taxable years beginning after December 31, 1995.''

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 55(c) is amended by striking ''and the section 936 credit allowable under section 27(b)'' and inserting '', the section 936 credit allowable under section 27(b), and the Puerto Rican economic activity credit under section 30A''.

(B) Subclause (I) of section 56(g)(4)(C)(ii) is amended—

(i) by inserting ''30A,'' before ''936'', and

(ii) by striking ''and (i)'' and inserting '', (i), and (j)''.

(C) Clause (iii) of section 56(g)(4)(C) is amended by adding at the end the following new subclause:

''(VI) APPLICATION TO SECTION 30A CORPORATIONS.—References in this clause to section 936 shall be treated as including references to section 30A.''.

(D)(i) Subsection (b) of section 59 is amended by striking ''section 936,'' and all that follows and inserting ''section 30A or 936, alternative minimum taxable income shall not include any income with respect to which a credit is determined under section 30A or 936.''.

(ii) The heading for section 59(b) is amended by inserting ''30A OR'' before ''936''.

(E) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 30A. Puerto Rican economic activity credit.''.

(F)(i) The heading for subpart B of part IV of subchapter A of chapter 1 is amended to read as follows:

''Subpart B—Other Credits''.

(ii) The table of subparts for part IV of subchapter A of chapter 1 is amended by striking the item relating to subpart B and inserting the following new item:

''Subpart B. Other credits.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SPECIAL RULE FOR QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.—The amendments made by this section shall not apply to qualified possession source investment income received or accrued before July 1, 1996, without regard to the taxable year in which received or accrued.

SEC. 1602. REPEAL OF EXCLUSION FOR INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) IN GENERAL.—Section 133 (relating to interest on certain loans used to acquire employer securities) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 291(e)(1) is amended by striking clause (iv) and by redesignating clause (v) as clause (iv).

(2) Section 812 is amended by striking subsection (g).

(3) Paragraph (5) of section 852(b) is amended by striking subparagraph (C).

(4) Paragraph (2) of section 4978(b) is amended by striking subparagraph (A) and all that follows and inserting the following:

''(A) first from qualified securities to which section 1042 applied acquired during the 3-year period ending on the date of the disposition, beginning with the securities first so acquired, and

''(B) then from any other employer securities.

If subsection (d) applies to a disposition, the disposition shall be treated as made from employer securities in the opposite order of the preceding sentence.''.

(5)(A) Section 4978B (relating to tax on disposition of employer securities to which section 133 applied) is hereby repealed.

(B) The table of sections for chapter 43 is amended by striking the item relating to section 4978B.

(6) Subsection (e) of section 6047 is amended by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

''(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds stock with respect to which section 404(k) applies to dividends paid on such stock, or

''(2) both such employer or plan administrator,''.

(7) Subsection (f) of section 7872 is amended by striking paragraph (12).

(8) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 133.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to loans made after the date of the enactment of this Act.

(2) REFINANCINGS.—The amendments made by this section shall not apply to loans made after the date of the enactment of this Act to refinance securities acquisition loans (determined without regard to section 133(b)(1)(B) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) made on or before such date or to refinance loans described in this paragraph if—

(A) the refinancing loans meet the requirements of section 133 of such Code (as so in effect),

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

(C) the term of such refinancing loan does not extend beyond the last day of the term of the original securities acquisition loan.

For purposes of this paragraph, the term ''securities acquisition loan'' includes a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code (as so in effect).

(3) EXCEPTION.—Any loan made pursuant to a binding written contract in effect before June 10, 1996, and at all times thereafter before such loan is made, shall be treated for purposes of paragraphs (1) and (2) as a loan made on or before the date of the enactment of this Act.

SEC. 1603. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES.

(a) IN GENERAL.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended to read as follows:

''(2) the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal injuries or sickness;''.

(b) APPLICATION OF PRIOR LAW FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) APPLICATION OF PRIOR LAW IN CERTAIN CASES.—Notwithstanding subsection (a)(2), gross income shall not include punitive damages awarded in a civil action—

''(1) which is a wrongful death action, and

''(2) with respect to which applicable State law (as in effect on September 13, 1995 and without regard to any modification after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before September 13, 1995, that only punitive damages may be awarded in such an action.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2).''.

(c) CONFORMING AMENDMENT.—Section 104(a) is amended by striking the last sentence.

(d) EFFECTIVE DATE.—

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

(2) EXCEPTION.—The amendments made by this section shall not apply to any amount received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

SEC. 1604. EXTENSION AND PHASEDOWN OF LUXURY PASSENGER AUTOMOBILE TAX.

(a) EXTENSION.—Subsection (f) of section 4001 is amended by striking ''1999'' and inserting ''2002''.

(b) PHASEDOWN.—Section 4001 is amended by redesignating subsection (f) (as amended by subsection (a) of this section) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) PHASEDOWN.—For sales occurring after June 30 in calendar year 1996, and in calendar years after 1996 and before 2003, subsection (a) shall be applied by substituting for '10 percent' the percentage determined in accordance with the following table:

''If the calendar year is:	**The percentage is:**
1996	9 percent
1997	8 percent
1998	7 percent
1999	6 percent
2000	5 percent
2001	4 percent
2002	3 percent.''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1996.

SEC. 1605. TERMINATION OF FUTURE TAX-EXEMPT BOND FINANCING FOR LOCAL FURNISHERS OF ELECTRICITY AND GAS.

Section 142(f) (relating to local furnishing of electric energy or gas) is amended by adding at the end the following new paragraphs:

''(3) TERMINATION OF FUTURE FINANCING.—For purposes of this section, no bond may be issued as part of an issue described in subsection (a)(8) with respect to a facility for the local furnishing of electric energy or gas on or after the date of the enactment of this paragraph unless—

''(A) the facility will—

''(i) be used by a person who is engaged in the local furnishing of that energy source on such date, and

''(ii) be used to provide service within the area served by such person on such date, or

''(B) the facility will be used by a successor in interest to such person for the same use and within the same service area as described in subparagraph (A).

''(4) ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING BY CERTAIN FURNISHERS.—

''(A) IN GENERAL.—In the case of a facility financed with bonds issued before the date of the enactment of this paragraph which would cease to be tax-exempt by reason of the failure to meet the local furnishing requirement of subsection (a)(8) as a result of a service area expansion, such bonds shall not cease to be tax-exempt bonds (and section 150(b)(4) shall not apply) if the person engaged in such local furnishing by such facility makes an election described in subparagraph (B).

''(B) ELECTION.—An election is described in this subparagraph if it is an election made in such manner as the Secretary prescribes, and such person (or its predecessor in interest) agrees that—

''(i) such election is made with respect to all facilities for the local furnishing of electric energy or gas, or both, by such person,

''(ii) no bond exempt from tax under section 103 and described in subsection (a)(8) may be issued on or after the date of the enactment of this paragraph with respect to all such facilities of such person,

''(iii) any expansion of the service area—

''(I) is not financed with the proceeds of any exempt facility bond described in subsection (a)(8), and

''(II) is not treated as a nonqualifying use under the rules of paragraph (2), and

''(iv) all outstanding bonds used to finance the facilities for such person are redeemed not later than 6 months after the later of—

''(I) the earliest date on which such bonds may be redeemed, or

''(II) the date of the election.

''(C) RELATED PERSONS.—For purposes of this paragraph, the term 'person' includes a group of related persons (within the meaning of section 144(a)(3)) which includes such person.''

SEC. 1606. REPEAL OF FINANCIAL INSTITUTION TRANSITION RULE TO INTEREST ALLOCATION RULES.

(a) IN GENERAL.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99–514, 100 Stat. 2548) is hereby repealed.

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

SEC. 1607. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES.

(a) FUEL TAX.—

(1) Subparagraph (A) of section 4091(b)(3) is amended to read as follows:

''(A) The rate of tax specified in paragraph (1) shall be 4.3 cents per gallon—

''(i) after December 31, 1995, and before the date which is 7 days after the date of the enactment of the Small Business Job Protection Act of 1996, and

''(ii) after December 31, 1996.''

(2) Section 4081(d) is amended—

(A) by adding at the end the following new paragraph:

''(3) AVIATION GASOLINE.—After December 31, 1996, the rate of tax specified in subsection (a)(2)(A)(i) on aviation gasoline shall be 4.3 cents per gallon.'', and

(B) by inserting ''(other than the tax on aviation gasoline)'' after ''subsection (a)(2)(A)''.

(3) Section 4041(c)(5) is amended by inserting '', and during the period beginning on the date which is 7 days after the date of the enactment of the Small Business Job Protection Act of 1996 and ending on December 31, 1996'' after ''December 31, 1995''.

(b) TICKET TAXES.—Sections 4261(g) and 4271(d) are each amended by striking ''January 1, 1996'' and inserting ''January 1, 1996, and to transportation beginning on or after the date which is 7 days after the date of the enactment of the Small Business Job Protection Act of 1996 and before January 1, 1997''.

(c) TRANSFERS TO AIRPORT AND AIRWAY TRUST FUND.—

(1) Subsection (b) of section 9502 is amended by striking ''January 1, 1996'' each place it appears and inserting ''January 1, 1997''.

(2) Paragraph (3) of section 9502(f) is amended to read as follows:

''(3) TERMINATION.—Notwithstanding the preceding provisions of this subsection, the Airport and Airway Trust Fund financing rate shall be zero with respect to—

''(A) taxes imposed after December 31, 1995, and before the date which is 7 days after the date of the enactment of the Small Business Job Protection Act of 1996, and

''(B) taxes imposed after December 31, 1996.''

(3) Subsection (d) of section 9502 is amended by adding at the end the following new paragraph:

''(5) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF REFUNDS OF TAXES ON TRANSPORTATION BY AIR.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after December 31, 1995, under section 6402 (relating to authority to make credits or refunds) or section 6415 (relating to credits or refunds to persons who collected certain taxes) in respect of taxes under sections 4261 and 4271.''

(d) EXCISE TAX EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION BY AIR AMBULANCE.—Subsection (f) of section 4261 (relating to imposition of tax on transportation by air) is amended to read as follows:

''(f) EXEMPTION FOR AIR AMBULANCES PROVIDING CERTAIN EMERGENCY MEDICAL TRANSPORTATION.—No tax shall be imposed under this section or section 4271 on any air transportation for the purpose of providing emergency medical services—

''(1) by helicopter, or

''(2) by a fixed-wing aircraft equipped for and exclusively dedicated to acute care emergency medical services.''

(e) EXEMPTION FOR CERTAIN HELICOPTER USES.—Subsection (e) of section 4261 is amended by adding at the end the following new sentence: ''In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''

(f) FLOOR STOCKS TAXES ON AVIATION FUEL.—

(1) IMPOSITION OF TAX.—In the case of aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before the tax-increase date described in paragraph (3)(A)(i) and which is held on such date by any person, there is hereby imposed a floor stocks tax of 17.5 cents per gallon.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation fuel on a tax-increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) with respect to any tax-increase date shall be paid on or before the first day of the 7th month beginning after such tax-increase date.

(3) DEFINITIONS.—For purposes of this subsection—

(A) TAX INCREASE DATE.—The term ''tax-increase date'' means the date which is 7 days after the date of the enactment of this Act.

(B) AVIATION FUEL.—The term ''aviation fuel'' has the meaning given such term by section 4093 of such Code.

(C) HELD BY A PERSON.—Aviation fuel shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(D) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person on any tax-increase date exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code is allowable for aviation fuel purchased on or after such tax-increase date for such use.

(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on any tax-increase date by any person if the aggregate amount of aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term ''controlled group'' has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(6) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect 7 days after the date of the enactment of this Act, except that the amendment made by subsection (b) shall not apply to any amount paid on or before such date.

SEC. 1608. BASIS ADJUSTMENT TO PROPERTY HELD BY CORPORATION WHERE STOCK IN CORPORATION IS REPLACEMENT PROPERTY UNDER INVOLUNTARY CONVERSION RULES.

(a) IN GENERAL.—Subsection (b) of section 1033 is amended to read as follows:

''(b) BASIS OF PROPERTY ACQUIRED THROUGH INVOLUNTARY CONVERSION.—

''(1) CONVERSIONS DESCRIBED IN SUBSECTION (a)(1).—If the property was acquired as the result of a compulsory or involuntary conversion described in subsection (a)(1), the basis shall be the same as in the case of the property so converted—

''(A) decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and

''(B) increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

''(2) CONVERSIONS DESCRIBED IN SUBSECTION (a)(2).—In the case of property purchased by the taxpayer in a transaction described in subsection (a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

''(3) PROPERTY HELD BY CORPORATION THE STOCK OF WHICH IS REPLACEMENT PROPERTY.—

''(A) IN GENERAL.—If the basis of stock in a corporation is decreased under paragraph (2), an amount equal to such decrease shall also be applied to reduce the basis of property held by the corporation at the time the taxpayer acquired control (as defined in subsection (a)(2)(E)) of such corporation.

''(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that it would (but for this subparagraph) require a reduction in the aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after such basis is decreased under paragraph (2)).

''(C) ALLOCATION OF BASIS REDUCTION.—The decrease required under subparagraph (A) shall be allocated—

''(i) first to property which is similar or related in service or use to the converted property,

''(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) not described in clause (i), and

''(iii) then to other property.

''(D) SPECIAL RULES.—

''(i) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to such reduction).

''(ii) ALLOCATION OF REDUCTION AMONG PROPERTIES.—If more than 1 property is described in a clause of subparagraph (C), the reduction under this paragraph shall be allocated among such property in proportion to the adjusted bases of such property (as so determined).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after the date of the enactment of this Act.

SEC. 1609. EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS.

(a) REPEAL OF EXEMPTION FOR BINGO AND KENO.—Paragraph (5) of section 3402(q) is amended to read as follows:

''(5) EXEMPTION FOR SLOT MACHINES.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine.''.

(b) THRESHOLD AMOUNT.—Paragraph (3) of section 3402(q) is amended—

(1) by striking ''(B) and (C)'' in subparagraph (A) and inserting ''(B), (C), and (D)'', and

(2) by adding at the end the following new subparagraph:

''(D) BINGO AND KENO.—Proceeds of more than $5,000 from a wager placed in a bingo or keno game.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 30th day after the date of the enactment of this Act.

SEC. 1610. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking ''or'' at the end of subparagraph (A), by striking ''and'' at the end of subparagraph (B) and inserting ''or'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and''.

(2) Paragraph (3) of section 817(d) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account.''.

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

SEC. 1611. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (e), and

(B) by inserting after subsection (b) the following new subsections:

''(c) SPECIAL RULES FOR WATER AND SEWERAGE DISPOSAL UTILITIES.—

''(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

''(A) such amount is a contribution in aid of construction,

''(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

''(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for ratemaking purposes.

''(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

''(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

''(i) which is the property for which the contribution was made or is of the same type as such property, and

''(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

''(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

''(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

''(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

''(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

''(4) DISALLOWANCE OF DEDUCTIONS AND CREDITS; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

''(d) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

''(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

''(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

''(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

''(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2), and

''(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.''.

(2) CONFORMING AMENDMENT.—Section 118(b) is amended by inserting ''except as provided in subsection (c),'' before ''the term''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after June 12, 1996.

(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

''(F) Water utility property described in subsection (e)(5).''.

(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) is amended by inserting the following item after the item relating to 20-year property:

''Water utility property ..... 25 years''.

(3) WATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e) is amended by adding at the end the following new paragraph:

''(5) WATER UTILITY PROPERTY.—The term 'water utility property' means property—

''(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and which, without regard to this paragraph, would be 20-year property, and

''(B) any municipal sewer.''.

(B) CONFORMING AMENDMENTS.—Section 168 is amended—

(i) by striking subparagraph (F) of subsection (e)(3), and

(ii) by striking the item relating to subparagraph (F) in the table in subsection (g)(3).

(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) is amended by inserting ''or water utility property'' after ''tunnel bore''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after June 12, 1996, other than property placed in service pursuant to a binding contract in effect before June 10, 1996, and at all times thereafter before the property is placed in service.

PART II—FINANCIAL ASSET SECURITIZATION INVESTMENTS

SEC. 1621. FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS.

(a) IN GENERAL.—Subchapter M of chapter 1 is amended by adding at the end the following new part:

''PART V—FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS

''SEC. 860H. TAXATION OF A FASIT; OTHER GENERAL RULES.

''(a) TAXATION OF FASIT.—A FASIT as such shall not be subject to taxation under this subtitle (and shall not be treated as a trust, partnership, corporation, or taxable mortgage pool).

''(b) TAXATION OF HOLDER OF OWNERSHIP INTEREST.—In determining the taxable income

of the holder of the ownership interest in a FASIT—

''(1) all assets, liabilities, and items of income, gain, deduction, loss, and credit of a FASIT shall be treated as assets, liabilities, and such items (as the case may be) of such holder,

''(2) the constant yield method (including the rules of section 1272(a)(6)) shall be applied under an accrual method of accounting in determining all interest, acquisition discount, original issue discount, and market discount and all premium deductions or adjustments with respect to all debt instruments of the FASIT,

''(3) there shall not be taken into account any item of income, gain, or deduction allocable to a prohibited transaction, and

''(4) interest accrued by the FASIT which is exempt from tax imposed by this subtitle shall, when taken into account by such holder, be treated as ordinary income.

For purposes of this subtitle, securities treated as held by such holder under paragraph (1) shall be treated as held for investment.

''(c) TREATMENT OF REGULAR INTERESTS.—For purposes of this title—

''(1) a regular interest in a FASIT, if not otherwise a debt instrument, shall be treated as a debt instrument,

''(2) section 163(e)(5) shall not apply to such an interest, and

''(3) amounts includible in gross income with respect to such an interest shall be determined under an accrual method of accounting.

''SEC. 860I. GAIN RECOGNITION ON CONTRIBUTIONS TO AND DISTRIBUTIONS FROM A FASIT AND IN OTHER CASES.

''(a) TREATMENT OF PROPERTY ACQUIRED BY FASIT.—

''(1) PROPERTY ACQUIRED FROM HOLDER OF OWNERSHIP INTEREST OR RELATED PERSON.—If property is sold or contributed to a FASIT by the holder of the ownership interest in such FASIT (or by a related person) gain (if any) shall be recognized to such holder (or person) in an amount equal to the excess (if any) of such property's value under subsection (d) on the date of such sale or contribution over its adjusted basis on such date.

''(2) PROPERTY ACQUIRED OTHER THAN FROM HOLDER OF OWNERSHIP INTEREST OR RELATED PERSON.—Property which is acquired by a FASIT other than in a transaction to which paragraph (1) applies shall be treated—

''(A) as having been acquired by the holder of the ownership interest in the FASIT for an amount equal to the FASIT's adjusted basis in such property as of the date such property is acquired by the FASIT, and

''(B) as having been sold by such holder to the FASIT at its value under subsection (d) on such date.

''(b) GAIN RECOGNITION ON PROPERTY OUTSIDE FASIT WHICH SUPPORTS REGULAR INTERESTS.—If property held by the holder of the ownership interest in a FASIT (or by any person related to such holder) supports any regular interest in such FASIT—

''(1) gain shall be recognized to such holder in the same manner as if such holder had sold such property at its value under subsection (d) on the earliest date such property supports such an interest, and

''(2) such property shall be treated as held by such FASIT for purposes of this part.

''(c) DEFERRAL OF GAIN RECOGNITION.—The Secretary may prescribe regulations which—

''(1) provide that gain otherwise recognized under subsection (a) or (b) shall not be recognized before the earliest date on which such property supports any regular interest in such FASIT or any indebtedness of the holder of the ownership interest (or of any person related to such holder), and

''(2) provide such adjustments to the other provisions of this part to the extent appropriate in the context of the treatment provided under paragraph (1).

''(d) VALUATION.—For purposes of this section—

''(1) IN GENERAL.—The value of any property under this subsection shall be—

''(A) in the case of a debt instrument which is not traded on an established securities market, the sum of the present values of the reasonably expected payments under such instrument determined (in the manner provided by regulations prescribed by the Secretary)—

''(i) as of the date of the event resulting in the gain recognition under this section, and

''(ii) by using a discount rate equal to 120 percent of the applicable Federal rate (as defined in section 1274(d)), or such other discount rate specified in such regulations, compounded semiannually, and

''(B) in the case of any other property, its fair market value.

''(2) SPECIAL RULE FOR REVOLVING LOAN ACCOUNTS.—For purposes of paragraph (1)—

''(A) each extension of credit (other than the accrual of interest) on a revolving loan account shall be treated as a separate debt instrument, and

''(B) payments on such extensions of credit having substantially the same terms shall be applied to such extensions beginning with the earliest such extension.

''(e) SPECIAL RULES.—

''(1) NONRECOGNITION RULES NOT TO APPLY.—Gain required to be recognized under this section shall be recognized notwithstanding any other provision of this subtitle.

''(2) BASIS ADJUSTMENTS.—The basis of any property on which gain is recognized under this section shall be increased by the amount of gain so recognized.

''SEC. 860J. NON-FASIT LOSSES NOT TO OFFSET CERTAIN FASIT INCLUSIONS.

''(a) IN GENERAL.—The taxable income of the holder of the ownership interest or any high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests.

''(b) COORDINATION WITH SECTION 172.—Any increase in the taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year by reason of subsection (a) shall be disregarded—

''(1) in determining under section 172 the amount of any net operating loss for such taxable year, and

''(2) in determining taxable income for such taxable year for purposes of the 2nd sentence of section 172(b)(2).

''(c) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

''(1) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this section,

''(2) the alternative minimum taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests, and

''(3) any increase in taxable income under this section shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

''SEC. 860K. TREATMENT OF TRANSFERS OF HIGH-YIELD INTERESTS TO DISQUALIFIED HOLDERS.

''(a) GENERAL RULE.—In the case of any high-yield interest which is held by a disqualified holder—

''(1) the gross income of such holder shall not include any income (other than gain) attributable to such interest, and

''(2) amounts not includible in the gross income of such holder by reason of paragraph (1) shall be included (at the time otherwise includible under paragraph (1)) in the gross income of the most recent holder of such interest which is not a disqualified holder.

''(b) EXCEPTIONS.—Rules similar to the rules of paragraphs (4) and (7) of section 860E(e) shall apply to the tax imposed by reason of subsection (a).

''(c) DISQUALIFIED HOLDER.—For purposes of this section, the term 'disqualified holder' means any holder other than—

''(1) an eligible corporation (as defined in section 860L(a)(2)), or

''(2) a FASIT.

''(d) TREATMENT OF INTERESTS HELD BY SECURITIES DEALERS.—

''(1) IN GENERAL.—Subsection (a) shall not apply to any high-yield interest held by a disqualified holder if such holder is a dealer in securities who acquired such interest exclusively for sale to customers in the ordinary course of business (and not for investment).

''(2) CHANGE IN DEALER STATUS.—

''(A) IN GENERAL.—In the case of a dealer in securities which is not an eligible corporation (as defined in section 860L(a)(2)), if—

''(i) such dealer ceases to be a dealer in securities, or

''(ii) such dealer commences holding the high-yield interest for investment,

there is hereby imposed (in addition to other taxes) an excise tax equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of such dealer attributable to such interest for periods after the date of such cessation or commencement.

''(B) HOLDING FOR 31 DAYS OR LESS.—For purposes of subparagraph (A)(ii), a dealer shall not be treated as holding an interest for investment before the 32d day after the date such dealer acquired such interest unless such interest is so held as part of a plan to avoid the purposes of this paragraph.

''(C) ADMINISTRATIVE PROVISIONS.—The deficiency procedures of subtitle F shall apply to the tax imposed by this paragraph.

''(e) TREATMENT OF HIGH-YIELD INTERESTS IN PASS-THRU ENTITIES.—

''(1) IN GENERAL.—If a pass-thru entity (as defined in section 860E(e)(6)) issues a debt or equity interest—

''(A) which is supported by any regular interest in a FASIT, and

''(B) which has an original yield to maturity which is greater than each of—

''(i) the sum determined under clauses (i) and (ii) of section 163(i)(1)(B) with respect to such debt or equity interest, and

''(ii) the yield to maturity to such entity on such regular interest (determined as of the date such entity acquired such interest),

there is hereby imposed on the pass-thru entity a tax (in addition to other taxes) equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of the holder of such debt or equity interest which is properly attributable to such regular interest. For purposes of the preceding sentence, the yield to maturity of any equity interest shall be determined under regulations prescribed by the Secretary.

''(2) EXCEPTION.—The Secretary may provide that paragraph (1) shall not apply to arrangements not having as a principal purpose the avoidance of the purposes of this subsection.

''SEC. 860L. DEFINITIONS AND OTHER SPECIAL RULES.

''(a) FASIT.—

''(1) IN GENERAL.—For purposes of this title, the terms 'financial asset

securitization investment trust' and 'FASIT' mean any entity—

''(A) for which an election to be treated as a FASIT applies for the taxable year,

''(B) all of the interests in which are regular interests or the ownership interest,

''(C) which has only 1 ownership interest and such ownership interest is held directly by an eligible corporation,

''(D) as of the close of the 3rd month beginning after the day of its formation and at all times thereafter, substantially all of the assets of which (including assets treated as held by the entity under section 860I(c)(2)) consist of permitted assets, and

''(E) which is not described in section 851(a).

A rule similar to the rule of the last sentence of section 860D(a) shall apply for purposes of this paragraph.

''(2) ELIGIBLE CORPORATION.—For purposes of paragraph (1)(C), the term 'eligible corporation' means any domestic C corporation other than—

''(A) a corporation which is exempt from, or is not subject to, tax under this chapter,

''(B) an entity described in section 851(a) or 856(a),

''(C) a REMIC, and

''(D) an organization to which part I of subchapter T applies.

''(3) ELECTION.—An entity (otherwise meeting the requirements of paragraph (1)) may elect to be treated as a FASIT. Except as provided in paragraph (5), such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

''(4) TERMINATION.—If any entity ceases to be a FASIT at any time during the taxable year, such entity shall not be treated as a FASIT for such taxable year or any succeeding taxable year.

''(5) INADVERTENT TERMINATIONS, ETC.—Rules similar to the rules of section 860D(b)(2)(B) shall apply to inadvertent failures to qualify or remain qualified as a FASIT.

''(b) INTERESTS IN FASIT.—For purposes of this part—

''(1) REGULAR INTEREST.—

''(A) IN GENERAL.—The term 'regular interest' means any interest which is issued by a FASIT after the startup date with fixed terms and which is designated as a regular interest if—

''(i) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount),

''(ii) except as otherwise provided by the Secretary—

''(I) in the case of a FASIT which would be treated as a REMIC if an election under section 860D(b) had been made, interest payments (or other similar amounts), if any, with respect to such interest at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B), or

''(II) in the case of any other FASIT, interest payments (or other similar amounts), if any, with respect to such interest are determined based on a fixed rate, a current rate which is reasonably expected to measure contemporaneous variations in the cost of newly borrowed funds in the currency in which the regular interest is denominated, or any combination of such rates,

''(iii) such interest does not have a stated maturity (including options to renew) greater than 30 years (or such longer period as may be permitted by regulations),

''(iv) the issue price of such interest does not exceed 125 percent of its stated principal amount, and

''(v) the yield to maturity on such interest is less than the sum determined under section 163(i)(1)(B) with respect to such interest. An interest shall not fail to meet the requirements of clause (i) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent that payments on debt instruments held by the FASIT are made in advance of anticipated payments and on the amount of income from permitted assets.

''(B) HIGH-YIELD INTERESTS.—

''(i) IN GENERAL.—The term 'regular interest' includes any high-yield interest.

''(ii) HIGH-YIELD INTEREST.—The term 'high-yield interest' means any interest which would be described in subparagraph (A) but for failing to meet the requirements of one or more of clauses (i), (iv), or (v) thereof.

''(2) OWNERSHIP INTEREST.—The term 'ownership interest' means the interest issued by a FASIT after the startup day which is designated as an ownership interest and which is not a regular interest.

''(c) PERMITTED ASSETS.—For purposes of this part—

''(1) IN GENERAL.—The term 'permitted asset' means—

''(A) cash or cash equivalents,

''(B) any debt instrument (as defined in section 1275(a)(1)) under which interest payments (or other similar amounts), if any, at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B),

''(C) foreclosure property,

''(D) any asset—

''(i) which is an interest rate or foreign currency notional principal contract, letter of credit, insurance, guarantee against payment defaults, or other similar instrument permitted by the Secretary, and

''(ii) which is reasonably required to guarantee or hedge against the FASIT's risks associated with being the obligor on interests issued by the FASIT,

''(E) contract rights to acquire debt instruments described in subparagraph (B) or assets described in subparagraph (D), and

''(F) any regular interest in another FASIT.

''(2) DEBT ISSUED BY HOLDER OF OWNERSHIP INTEREST NOT PERMITTED ASSET.—The term 'permitted asset' shall not include any debt instrument issued by the holder of the ownership interest in the FASIT or by any person related to such holder or any direct or indirect interest in such a debt instrument. The preceding sentence shall not apply to cash equivalents and to any other investment specified in regulations prescribed by the Secretary.

''(3) FORECLOSURE PROPERTY.—The term 'foreclosure property' means property—

''(A) which would be foreclosure property under section 856(e) (determined without regard to paragraph (5) thereof) if acquired by a real estate investment trust, and

''(B) which is acquired in connection with the default or imminent default of a debt instrument held by the FASIT unless the security interest in such property was created for the principal purpose of permitting the FASIT to invest in such property.

Solely for purposes of subsection (a)(1), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4).

''(d) STARTUP DAY.—For purposes of this part—

''(1) IN GENERAL.—The term 'startup day' means the date designated in the election under subsection (a)(3) as the startup day of the FASIT. Such day shall be the beginning of the first taxable year of the FASIT.

''(2) TREATMENT OF PROPERTY HELD ON STARTUP DAY.—All property held (or treated as held under section 860I(c)(2)) by an entity as of the startup day shall be treated as contributed to such entity on such day by the holder of the ownership interest in such entity.

''(e) TAX ON PROHIBITED TRANSACTIONS.—

''(1) IN GENERAL.—There is hereby imposed for each taxable year of a FASIT a tax equal to 100 percent of the net income derived from prohibited transactions. Such tax shall be paid by the holder of the ownership interest in the FASIT.

''(2) PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' means—

''(A) the receipt of any income derived from any asset that is not a permitted asset,

''(B) except as provided in paragraph (3), the disposition of any permitted asset,

''(C) the receipt of any income derived from any loan originated by the FASIT, and

''(D) the receipt of any income representing a fee or other compensation for services (other than any fee received as compensation for a waiver, amendment, or consent under permitted assets (other than foreclosure property) held by the FASIT).

''(3) EXCEPTION FOR INCOME FROM CERTAIN DISPOSITIONS.—

''(A) IN GENERAL.—Paragraph (2)(B) shall not apply to a disposition which would not be a prohibited transaction (as defined in section 860F(a)(2)) by reason of—

''(i) clause (ii), (iii), or (iv) of section 860F(a)(2)(A), or

''(ii) section 860F(a)(5),

if the FASIT were treated as a REMIC and debt instruments described in subsection (c)(1)(B) were treated as qualified mortgages.

''(B) SUBSTITUTION OF DEBT INSTRUMENTS; REDUCTION OF OVER-COLLATERALIZATION.—Paragraph (2)(B) shall not apply to—

''(i) the substitution of a debt instrument described in subsection (c)(1)(B) for another debt instrument which is a permitted asset, or

''(ii) the distribution of a debt instrument contributed by the holder of the ownership interest to such holder in order to reduce over-collateralization of the FASIT,

but only if a principal purpose of acquiring the debt instrument which is disposed of was not the recognition of gain (or the reduction of a loss) as a result of an increase in the market value of the debt instrument after its acquisition by the FASIT.

''(C) LIQUIDATION OF CLASS OF REGULAR INTERESTS.—Paragraph (2)(B) shall not apply to the complete liquidation of any class of regular interests.

''(4) NET INCOME.—For purposes of this subsection, net income shall be determined in accordance with section 860F(a)(3).

''(f) COORDINATION WITH WASH SALES RULES.—Rules similar to the rules of section 860F(d) shall apply to the ownership interest in a FASIT.

''(g) RELATED PERSON.—For purposes of this part, a person (hereinafter in this subsection referred to as the 'related person') is related to any person if—

''(1) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

''(2) the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

''(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent the abuse of the purposes of this part through transactions which are not primarily related to securitization of debt instruments by a FASIT.''.

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by striking ''and'' at the end of subparagraph (M), by striking the period at the end of subparagraph (N) and inserting '', and'', and by adding at the end the following new subparagraph:

''(O) section 860K (relating to treatment of transfers of high-yield interests to disqualified holders).''.

(2) Paragraph (6) of section 56(g) is amended by striking ''or REMIC'' and inserting ''REMIC, or FASIT''.

(3) Clause (ii) of section 382(l)(4)(B) is amended by striking ''or a REMIC to which part IV of subchapter M applies'' and inserting ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies''.

(4) Paragraph (1) of section 582(c) is amended by inserting '', and any regular or ownership interest in a FASIT,'' after ''REMIC''.

(5) Subparagraph (E) of section 856(c)(6) is amended by adding at the end the following new sentence: ''The principles of the preceding provisions of this subparagraph shall apply to regular and ownership interests in a FASIT.''.

(6) Subparagraph (C) of section 1202(e)(4) is amended by striking ''or REMIC'' and inserting ''REMIC, or FASIT''.

(7) Clause (xi) of section 7701(a)(19)(C) is amended to read as follows:

''(xi) any regular or residual interest in a REMIC, and any regular or ownership interest in a FASIT, but only in the proportion which the assets of such REMIC or FASIT consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC or FASIT are assets described in clauses (i) through (x), the entire interest in the REMIC or FASIT shall qualify.''.

(8) Subparagraph (A) of section 7701(i)(2) is amended by inserting ''or a FASIT'' after ''a REMIC''.

(c) CLERICAL AMENDMENT.—The table of parts for subchapter M of chapter 1 is amended by adding at the end the following new item:

''Part V. Financial asset securitization investment trusts.''.

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

(e) TREATMENT OF EXISTING SECURITIZATION ENTITIES.—

(1) IN GENERAL.—In the case of the holder of the ownership interest in a pre-effective date FASIT—

(A) gain shall not be recognized under section 860L(d)(2) of the Internal Revenue Code of 1986 on property deemed contributed to the FASIT, and

(B) gain shall not be recognized under section 860I of such Code on property contributed to such FASIT,

until such property (or portion thereof) ceases to be properly allocable to a pre-FASIT interest.

(2) ALLOCATION OF PROPERTY TO PRE-FASIT INTEREST.—For purposes of paragraph (1), property shall be allocated to a pre-FASIT interest in such manner as the Secretary of the Treasury may prescribe, except that all property in a FASIT shall be treated as properly allocable to pre-FASIT interests if the fair market value of all such property does not exceed 107 percent of the aggregate principal amount of all outstanding pre-FASIT interests.

(3) DEFINITIONS.—For purposes of this subsection—

(A) PRE-EFFECTIVE DATE FASIT.—The term ''pre-effective date FASIT'' means any FASIT if the entity (with respect to which the election under section 860L(a)(3) of such Code was made) was in existence on June 10, 1996.

(B) PRE-FASIT INTEREST.—The term ''pre-FASIT interest'' means any interest in the entity referred to in subparagraph (A) which was issued before the startup day (other than any interest held by the holder of the ownership interest in the FASIT).

PART III—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 1631. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

''(3) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If an expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph) shall not apply to the expatriate, but

''(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

''(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

''(C) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(D) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property—

''(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain from such property for the taxable year of the sale, but

''(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

''(2) DEFERRED TAX AMOUNT.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

''(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

''(ii) an amount of interest on the amount described in clause (i) determined for the period—

''(I) beginning on the 91st day after the expatriation date, and

''(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

''(B) ALLOCATION OF LOSSES.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

''(3) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(4) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(5) DISPOSITIONS.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

''(A) immediately before death if such property is held at such time, and

''(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—The term 'covered expatriate' means an expatriate—

''(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

''(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

''(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be includible in the gross income of the expatriate if such interest had been sold for its fair market value on such date in a transaction in which gain is recognized in whole or in part, and

''(B) any other interest in a trust to which subsection (f) applies.

''(2) EXCEPTIONS.—This section shall not apply to the following property:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

''(B) INTEREST IN CERTAIN RETIREMENT PLANS.—

''(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

''(ii) FOREIGN PENSION PLANS.—

''(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

''(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes his citizenship, or

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

''(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—

''(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

''(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

''(ii) any taxable year prior to the taxable year referred to in clause (i).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

''(I) which is organized under, and governed by, the laws of the United States or a State, and

''(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate, and

''(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

''(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

''(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

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

''(1) to prevent double taxation by ensuring that—

''(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

''(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

''(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

''(k) CROSS REFERENCE.—

''For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).''.

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).''.

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.''.

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

''(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).''.

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence: ''For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).''.

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 1632. INFORMATION ON INDIVIDUALS EXPATRIATING.

(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. INFORMATION ON INDIVIDUALS EXPATRIATING.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

''(2) TIMING.—

''(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

''(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

''(ii) provided to the person or court referred to in section 877A(e)(3).

''(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

''(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

''(1) the taxpayer's TIN,

''(2) the mailing address of such individual's principal foreign residence,

''(3) the foreign country in which such individual is residing,

''(4) the foreign country of which such individual is a citizen,

''(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

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

''(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

''(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

''(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

''(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

''(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

''(A) a copy of any such statement, and

''(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

''(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

''(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

''(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.''.

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

''Sec. 6039F. Information on individuals expatriating.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

SEC. 1633. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

Subtitle F—Technical Corrections

SEC. 1701. COORDINATION WITH OTHER SUBTITLES.

For purposes of applying the amendments made by any subtitle of this title other than this subtitle, the provisions of this subtitle shall be treated as having been enacted immediately before the provisions of such other subtitles.

SEC. 1702. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO SUBTITLE A.—

(1) Subparagraph (B) of section 59(j)(3) is amended by striking ''section 1(i)(3)(B)'' and inserting ''section 1(g)(3)(B)''.

(2) Clause (i) of section 151(d)(3)(C) is amended by striking ''joint of a return'' and inserting ''joint return''.

(b) AMENDMENTS RELATED TO SUBTITLE B.—

(1) Paragraph (1) of section 11212(e) of the Revenue Reconciliation Act of 1990 is amended by striking ''Paragraph (1) of section 6724(d)'' and inserting ''Subparagraph (B) of section 6724(d)(1)''.

(2)(A) Subparagraph (B) of section 4093(c)(2), as in effect before the amendments made by the Revenue Reconciliation Act of 1993, is amended by inserting before the period ''unless such fuel is sold for exclusive use by a State or any political subdivision thereof''.

(B) Paragraph (4) of section 6427(l), as in effect before the amendments made by the Revenue Reconciliation Act of 1993, is amended by inserting before the period ''unless such fuel was used by a State or any political subdivision thereof''.

(3) Paragraph (1) of section 6416(b) is amended by striking ''chapter 32 or by section 4051'' and inserting ''chapter 31 or 32''.

(4) Section 7012 is amended—

(A) by striking ''production or importation of gasoline'' in paragraph (3) and inserting ''taxes on gasoline and diesel fuel'', and

(B) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(5) Subsection (c) of section 5041 is amended by striking paragraph (6) and by inserting the following new paragraphs:

''(6) CREDIT FOR TRANSFEREE IN BOND.—If—

''(A) wine produced by any person would be eligible for any credit under paragraph (1) if removed by such person during the calendar year,

''(B) wine produced by such person is removed during such calendar year by any other person (hereafter in this paragraph referred to as the 'transferee') to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

''(C) such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee's credit under this paragraph,

then, the transferee (and not the producer) shall be allowed the credit under paragraph (1) which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date.

''(7) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

''(A) to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year, and

''(B) to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year.''.

(6) Paragraph (3) of section 5061(b) is amended to read as follows:

''(3) section 5041(f),''.

(7) Section 5354 is amended by inserting ''(taking into account the appropriate amount of credit with respect to such wine under section 5041(c))'' after ''any one time''.

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) Paragraph (4) of section 56(g) is amended by redesignating subparagraphs (I) and (J) as subparagraphs (H) and (I), respectively.

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking ''or'' at the end of clause (xii), and

(B) by striking the period at the end of clause (xiii) and inserting '', or''.

(3) Subsection (g) of section 6302 is amended by inserting '', 22,'' after ''chapters 21''.

(4) The earnings and profits of any insurance company to which section 11305(c)(3) of the Revenue Reconciliation Act of 1990 applies shall be determined without regard to any deduction allowed under such section; except that, for purposes of applying sections 56 and 902, and subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986, such deduction shall be taken into account.

(5) Subparagraph (D) of section 6038A(e)(4) is amended—

(A) by striking ''any transaction to which the summons relates'' and inserting ''any affected taxable year'', and

(B) by adding at the end thereof the following new sentence: ''For purposes of this subparagraph, the term 'affected taxable year' means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates.''.

(6) Subparagraph (A) of section 6621(c)(2) is amended by adding at the end thereof the following new flush sentence:

''The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary.''.

(7) Clause (i) of section 6621(c)(2)(B) is amended by striking ''this subtitle'' and inserting ''this title''.

(d) AMENDMENTS RELATED TO SUBTITLE D.—

(1) Notwithstanding section 11402(c) of the Revenue Reconciliation Act of 1990, the amendment made by section 11402(b)(1) of such Act shall apply to taxable years ending after December 31, 1989.

(2) Clause (ii) of section 143(m)(4)(C) is amended—

(A) by striking ''any month of the 10-year period'' and inserting ''any year of the 4-year period'',

(B) by striking ''succeeding months'' and inserting ''succeeding years'', and

(C) by striking ''over the remainder of such period (or, if lesser, 5 years)'' and inserting ''to zero over the succeeding 5 years''.

(e) AMENDMENTS RELATED TO SUBTITLE E.—

(1)(A) Clause (ii) of section 56(d)(1)(B) is amended to read as follows:

''(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A).''.

(B) For purposes of applying sections 56(g)(1) and 56(g)(3) of the Internal Revenue Code of 1986 with respect to taxable years beginning in 1991 and 1992, the reference in such sections to the alternative tax net operating loss deduction shall be treated as including a reference to the deduction under section 56(h) of such Code as in effect before the amendments made by section 1915 of the Energy Policy Act of 1992.

(2) Clause (i) of section 613A(c)(3)(A) is amended by striking ''the table contained in''.

(3) Section 6501 is amended—

(A) by striking subsection (m) (relating to deficiency attributable to election under section 44B) and by redesignating subsections (n) and (o) as subsections (m) and (n), respectively, and

(B) by striking ''section 40(f) or 51(j)'' in subsection (m) (as redesignated by subparagraph (A)) and inserting ''section 40(f), 43, or 51(j)''.

(4) Subparagraph (C) of section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) is amended by inserting before the period at the end of the first sentence the following: ''and without regard to the deduction under section 56(h)''.

(5) The amendment made by section 1913(b)(2)(C)(i) of the Energy Policy Act of 1992 shall apply to taxable years beginning after December 31, 1990.

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1)(A) Section 2701(a)(3) is amended by adding at the end thereof the following new subparagraph:

''(C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC. RIGHTS.—In the case of an applicable retained interest which is described in subparagraph (B)(i) but not subparagraph (B)(ii), the value of the distribution right shall be determined without regard to this section.''.

(B) Section 2701(a)(3)(B) is amended by inserting ''CERTAIN'' before ''QUALIFIED'' in the heading thereof.

(C) Sections 2701 (d)(1) and (d)(4) are each amended by striking ''subsection (a)(3)(B)'' and inserting ''subsection (a)(3) (B) or (C)''.

(2) Clause (i) of section 2701(a)(4)(B) is amended by inserting ''(or, to the extent provided in regulations, the rights as to either income or capital)'' after ''income and capital''.

(3)(A) Section 2701(e)(3) is amended—

(i) by striking subparagraph (B), and

(ii) by striking so much of paragraph (3) as precedes ''shall be treated as holding'' and inserting:

''(3) ATTRIBUTION OF INDIRECT HOLDINGS AND TRANSFERS.—An individual''.

(B) Section 2704(c)(3) is amended by striking ''section 2701(e)(3)(A)'' and inserting ''section 2701(e)(3)''.

(4) Clause (i) of section 2701(c)(1)(B) is amended to read as follows:

''(i) a right to distributions with respect to any interest which is junior to the rights of the transferred interest,''.

(5)(A) Clause (i) of section 2701(c)(3)(C) is amended to read as follows:

''(i) IN GENERAL.—Payments under any interest held by a transferor which (without regard to this subparagraph) are qualified payments shall be treated as qualified payments unless the transferor elects not to treat such payments as qualified payments. Payments described in the preceding sentence which are held by an applicable family member shall be treated as qualified payments only if such member elects to treat such payments as qualified payments.''.

(B) The first sentence of section 2701(c)(3)(C)(ii) is amended to read as follows: ''A transferor or applicable family member holding any distribution right which (without regard to this subparagraph) is not a qualified payment may elect to treat such right as a qualified payment, to be paid in the amounts and at the times specified in such election.''.

(C) The time for making an election under the second sentence of section 2701(c)(3)(C)(i) of the Internal Revenue Code of 1986 (as amended by subparagraph (A)) shall not expire before the due date (including extensions) for filing the transferor's return of the tax imposed by section 2501 of such Code for the first calendar year ending after the date of enactment.

(6) Section 2701(d)(3)(A)(iii) is amended by striking ''the period ending on the date of''.

(7) Subclause (I) of section 2701(d)(3)(B)(ii) is amended by inserting ''or the exclusion under section 2503(b),'' after ''section 2523,''.

(8) Section 2701(e)(5) is amended—

(A) by striking ''such contribution to capital or such redemption, recapitalization, or other change'' in subparagraph (A) and inserting ''such transaction'', and

(B) by striking ''the transfer'' in subparagraph (B) and inserting ''such transaction''.

(9) Section 2701(d)(4) is amended by adding at the end thereof the following new subparagraph:

''(C) TRANSFER TO TRANSFERORS.—In the case of a taxable event described in paragraph (3)(A)(ii) involving a transfer of an applicable retained interest from an applicable family member to a transferor, this subsection shall continue to apply to the transferor during any period the transferor holds such interest.''.

(10) Section 2701(e)(6) is amended by inserting ''or to reflect the application of subsection (d)'' before the period at the end thereof.

(11)(A) Section 2702(a)(3)(A) is amended—

(i) by striking ''to the extent'' and inserting ''if'' in clause (i),

(ii) by striking ''or'' at the end of clause (i),

(iii) by striking the period at the end of clause (ii) and inserting '', or'', and

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

''(iii) to the extent that regulations provide that such transfer is not inconsistent with the purposes of this section.''.

(B)(i) Section 2702(a)(3) is amended by striking ''incomplete transfer'' each place it appears and inserting ''incomplete gift''.

(ii) The heading for section 2702(a)(3)(B) is amended by striking ''INCOMPLETE TRANSFER'' and inserting ''INCOMPLETE GIFT''.

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1)(A) Subsection (a) of section 1248 is amended—

(i) by striking '', or if a United States person receives a distribution from a foreign corporation which, under section 302 or 331, is treated as an exchange of stock'' in paragraph (1), and

(ii) by adding at the end thereof the following new sentence: ''For purposes of this section, a United States person shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such person is treated as realizing gain from the sale or exchange of such stock.''.

(B) Paragraph (1) of section 1248(e) is amended by striking '', or receives a distribution from a domestic corporation which, under section 302 or 331, is treated as an exchange of stock''.

(C) Subparagraph (B) of section 1248(f)(1) is amended by striking ''or 361(c)(1)'' and inserting ''355(c)(1), or 361(c)(1)''.

(D) Paragraph (1) of section 1248(i) is amended to read as follows:

''(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, such 10-percent corporate shareholder shall recognize gain in the same manner as if the stock of the foreign corporation received in such exchange had been—

''(A) issued to the 10-percent corporate shareholder, and

''(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption or liquidation (whichever is appropriate).

The amount of gain recognized by such 10-percent corporate shareholder under the preceding sentence shall not exceed the amount treated as a dividend under this section.''.

(2) Section 897 is amended by striking subsection (f).

(3) Paragraph (13) of section 4975(d) is amended by striking ''section 408(b)'' and inserting ''section 408(b)(12)''.

(4) Clause (iii) of section 56(g)(4)(D) is amended by inserting '', but only with respect to taxable years beginning after December 31, 1989'' before the period at the end thereof.

(5)(A) Paragraph (11) of section 11701(a) of the Revenue Reconciliation Act of 1990 (and the amendment made by such paragraph) are hereby repealed, and section 7108(r)(2) of the Revenue Reconciliation Act of 1989 shall be applied as if such paragraph (and amendment) had never been enacted.

(B) Subparagraph (A) shall not apply to any building if the owner of such building establishes to the satisfaction of the Secretary of the Treasury or his delegate that such owner reasonably relied on the amendment made by such paragraph (11).

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1)(A) Clause (vi) of section 168(e)(3)(B) is amended by striking ''or'' at the end of subclause (I), by striking the period at the end of subclause (II) and inserting '', or'', and by adding at the end thereof the following new subclause:

''(III) is described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).''.

(B) Subparagraph (B) of section 168(e)(3) (relating to 5-year property) is amended by adding at the end the following flush sentence:

''Nothing in any provision of law shall be construed to treat property as not being described in clause (vi)(I) (or the corresponding

provisions of prior law) by reason of being public utility property (within the meaning of section 48(a)(3)).''.

(C) Subparagraph (K) of section 168(g)(4) is amended by striking ''section 48(a)(3)(A)(iii)'' and inserting ''section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)''.

(2) Clause (ii) of section 172(b)(1)(E) is amended by striking ''subsection (m)'' and inserting ''subsection (h)''.

(3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II), and 832(b)(5)(D)(ii)(II) are each amended by striking ''243(b)(5)'' and inserting ''243(b)(2)''.

(4) Subparagraph (A) of section 243(b)(3) is amended by inserting ''of'' after ''In the case''.

(5) The subsection heading for subsection (a) of section 280F is amended by striking ''INVESTMENT TAX CREDIT AND''.

(6) Clause (i) of section 1504(c)(2)(B) is amended by inserting ''section'' before ''243(b)(2)''.

(7) Paragraph (3) of section 341(f) is amended by striking ''351, 361, 371(a), or 374(a)'' and inserting ''351, or 361''.

(8) Paragraph (2) of section 243(b) is amended to read as follows:

''(2) AFFILIATED GROUP.—For purposes of this subsection:

''(A) IN GENERAL.—The term 'affiliated group' has the meaning given such term by section 1504(a), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

''(B) GROUP MUST BE CONSISTENT IN FOREIGN TAX TREATMENT.—The requirements of paragraph (1)(A) shall not be treated as being met with respect to any dividend received by a corporation if, for any taxable year which includes the day on which such dividend is received—

''(i) 1 or more members of the affiliated group referred to in paragraph (1)(A) choose to any extent to take the benefits of section 901, and

''(ii) 1 or more other members of such group claim to any extent a deduction for taxes otherwise creditable under section 901.''.

(9) The amendment made by section 11813(b)(17) of the Revenue Reconciliation Act of 1990 shall be applied as if the material stricken by such amendment included the closing parenthesis after ''section 48(a)(5)''.

(10) Paragraph (1) of section 179(d) is amended by striking ''in a trade or business'' and inserting ''a trade or business''.

(11) Subparagraph (E) of section 50(a)(2) is amended by striking ''section 48(a)(5)(A)'' and inserting ''section 48(a)(5)''.

(12) The amendment made by section 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act of 1990 shall be applied as if it struck ''Section 422A(c)(2)'' and inserted ''Section 422(c)(2)''.

(13) Subparagraph (B) of section 424(c)(3) is amended by striking ''a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option'' and inserting ''an incentive stock option or an option granted under an employee stock purchase plan''.

(14) Subparagraph (E) of section 1367(a)(2) is amended by striking ''section 613A(c)(13)(B)'' and inserting ''section 613A(c)(11)(B)''.

(15) Subparagraph (B) of section 460(e)(6) is amended by striking ''section 167(k)'' and inserting ''section 168(e)(2)(A)(ii)''.

(16) Subparagraph (C) of section 172(h)(4) is amended by striking ''subsection (b)(1)(M)'' and inserting ''subsection (b)(1)(E)''.

(17) Section 6503 is amended—

(A) by redesignating the subsection relating to extension in case of certain summonses as subsection (j), and

(B) by redesignating the subsection relating to cross references as subsection (k).

(18) Paragraph (4) of section 1250(e) is hereby repealed.

(19) Paragraph (1) of section 179(d) is amended by adding at the end the following new sentence: ''Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units.''.

(i) EFFECTIVE DATE.—Except as otherwise expressly provided—

(1) the amendments made by this section shall be treated as amendments to the Internal Revenue Code of 1986 as amended by the Revenue Reconciliation Act of 1993; and

(2) any amendment made by this section shall apply to periods before the date of the enactment of this section in the same manner as if it had been included in the provision of the Revenue Reconciliation Act of 1990 to which such amendment relates.

SEC. 1703. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1993.

(a) AMENDMENT RELATED TO SECTION 13114.—Paragraph (2) of section 1044(c) is amended to read as follows:

''(2) PURCHASE.—The taxpayer shall be considered to have purchased any property if, but for subsection (d), the unadjusted basis of such property would be its cost within the meaning of section 1012.''.

(b) AMENDMENTS RELATED TO SECTION 13142.—

(1) Subparagraph (B) of section 13142(b)(6) of the Revenue Reconciliation Act of 1993 is amended to read as follows:

''(B) FULL-TIME STUDENTS, WAIVER AUTHORITY, AND PROHIBITED DISCRIMINATION.—The amendments made by paragraphs (2), (3), and (4) shall take effect on the date of the enactment of this Act.''.

(2) Subparagraph (C) of section 13142(b)(6) of such Act is amended by striking ''paragraph (2)'' and inserting ''paragraph (5)''.

(c) AMENDMENT RELATED TO SECTION 13161.—

(1) IN GENERAL.—Subsection (e) of section 4001 (relating to inflation adjustment) is amended to read as follows:

''(e) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—The $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

''(A) $30,000, multiplied by

''(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the vehicle is sold, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) AMENDMENT RELATED TO SECTION 13201.—Clause (ii) of section 135(b)(2)(B) is amended by inserting before the period at the end thereof the following: '', determined by substituting 'calendar year 1989' for 'calendar year 1992' in subparagraph (B) thereof''.

(e) AMENDMENTS RELATED TO SECTION 13203.—Subsection (a) of section 59 is amended—

(1) by striking ''the amount determined under section 55(b)(1)(A)'' in paragraph (1)(A) and (2)(A)(i) and inserting ''the pre-credit tentative minimum tax'',

(2) by striking ''specified in section 55(b)(1)(A)'' in paragraph (1)(C) and inserting ''specified in subparagraph (A)(i) or (B)(i) of section 55(b)(1) (whichever applies)'',

(3) by striking ''which would be determined under section 55(b)(1)(A)'' in paragraph (2)(A)(ii) and inserting ''which would be the pre-credit tentative minimum tax'', and

(4) by adding at the end thereof the following new paragraph:

''(3) PRE-CREDIT TENTATIVE MINIMUM TAX.—For purposes of this subsection, the term 'pre-credit tentative minimum tax' means—

''(A) in the case of a taxpayer other than a corporation, the amount determined under the first sentence of section 55(b)(1)(A)(i), or

''(B) in the case of a corporation, the amount determined under section 55(b)(1)(B)(i).''.

(f) AMENDMENT RELATED TO SECTION 13221.—Sections 1201(a) and 1561(a) are each amended by striking ''last sentence'' each place it appears and inserting ''last 2 sentences''.

(g) AMENDMENTS RELATED TO SECTION 13222.—

(1) Subparagraph (B) of section 6033(e)(1) is amended by adding at the end thereof the following new clause:

''(iii) COORDINATION WITH SECTION 527(f).—This subsection shall not apply to any amount on which tax is imposed by reason of section 527(f).''.

(2) Clause (i) of section 6033(e)(1)(B) is amended by striking ''this subtitle'' and inserting ''section 501''.

(h) AMENDMENT RELATED TO SECTION 13225.—Paragraph (3) of section 6655(g) is amended by striking all that follows '''3rd month''' in the sentence following subparagraph (C) and inserting '', subsection (e)(2)(A) shall be applied by substituting '2 months' for '3 months' in clause (i)(I), the election under clause (i) of subsection (e)(2)(C) may be made separately for each installment, and clause (ii) of subsection (e)(2)(C) shall not apply.''.

(i) AMENDMENTS RELATED TO SECTION 13231.—

(1) Subparagraph (G) of section 904(d)(3) is amended by striking ''section 951(a)(1)(B)'' and inserting ''subparagraph (B) or (C) of section 951(a)(1)''.

(2) Paragraph (1) of section 956A(b) is amended to read as follows:

''(1) the amount (not including a deficit) referred to in section 316(a)(1) to the extent such amount was accumulated in prior taxable years beginning after September 30, 1993, and''.

(3) Subsection (f) of section 956A is amended by inserting before the period at the end thereof: ''and regulations coordinating the provisions of subsections (c)(3)(A) and (d)''.

(4) Subsection (b) of section 958 is amended by striking ''956(b)(2)'' each place it appears and inserting ''956(c)(2)''.

(5)(A) Subparagraph (A) of section 1297(d)(2) is amended by striking ''The adjusted basis of any asset'' and inserting ''The amount taken into account under section 1296(a)(2) with respect to any asset''.

(B) The paragraph heading of paragraph (2) of section 1297(d) is amended to read as follows:

''(2) AMOUNT TAKEN INTO ACCOUNT.—''.

(6) Subsection (e) of section 1297 is amended by inserting ''For purposes of this part—'' after the subsection heading.

(j) AMENDMENT RELATED TO SECTION 13241.—Subparagraph (B) of section 40(e)(1) is amended to read as follows:

''(B) for any period before January 1, 2001, during which the rates of tax under section 4081(a)(2)(A) are 4.3 cents per gallon.''.

(k) AMENDMENT RELATED TO SECTION 13242.—Paragraph (4) of section 6427(f) is amended by striking ''1995'' and inserting ''1999''.

(l) AMENDMENT RELATED TO SECTION 13261.—Clause (iii) of section 13261(g)(2)(A) of the Revenue Reconciliation Act of 1993 is

amended by striking ''by the taxpayer'' and inserting ''by the taxpayer or a related person''.

(m) AMENDMENT RELATED TO SECTION 13301.—Subparagraph (B) of section 1397B(d)(5) is amended by striking ''preceding''.

(n) CLERICAL AMENDMENTS.—

(1) Subsection (d) of section 39 is amended—

(A) by striking ''45'' in the heading of paragraph (5) and inserting ''45A'', and

(B) by striking ''45'' in the heading of paragraph (6) and inserting ''45B''.

(2) Subparagraph (A) of section 108(d)(9) is amended by striking ''paragraph (3)(B)'' and inserting ''paragraph (3)(C)''.

(3) Subparagraph (C) of section 143(d)(2) is amended by striking the period at the end thereof and inserting a comma.

(4) Clause (ii) of section 163(j)(6)(E) is amended by striking ''which is a'' and inserting ''which is''.

(5) Subparagraph (A) of section 1017(b)(4) is amended by striking ''subsection (b)(2)(D)'' and inserting ''subsection (b)(2)(E)''.

(6) So much of section 1245(a)(3) as precedes subparagraph (A) thereof is amended to read as follows:

''(3) SECTION 1245 PROPERTY.—For purposes of this section, the term 'section 1245 property' means any property which is or has been property of a character subject to the allowance for depreciation provided in section 167 and is either—''.

(7) Paragraph (2) of section 1394(e) is amended—

(A) by striking ''(i)'' and inserting ''(A)'', and

(B) by striking ''(ii)'' and inserting ''(B)''.

(8) Subsection (m) of section 6501 (as redesignated by section 1602) is amended by striking ''or 51(j)'' and inserting ''45B, or 51(j)''.

(9)(A) The section 6714 added by section 13242(b)(1) of the Revenue Reconciliation Act of 1993 is hereby redesignated as section 6715.

(B) The table of sections for part I of subchapter B of chapter 68 is amended by striking ''6714'' in the item added by such section 13242(b)(2) of such Act and inserting ''6715''.

(10) Paragraph (2) of section 9502(b) is amended by inserting ''and before'' after ''1982,''.

(11) Subsection (a)(3) of section 13206 of the Revenue Reconciliation Act of 1993 is amended by striking ''this section'' and inserting ''this subsection''.

(12) Paragraph (1) of section 13215(c) of the Revenue Reconciliation Act of 1993 is amended by striking ''Public Law 92–21'' and inserting ''Public Law 98–21''.

(13) Paragraph (2) of section 13311(e) of the Revenue Reconciliation Act of 1993 is amended by striking ''section 1393(a)(3)'' and inserting ''section 1393(a)(2)''.

(14) Subparagraph (B) of section 117(d)(2) is amended by striking ''section 132(f)'' and inserting ''section 132(h)''.

(o) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1993 to which such amendment relates.

SEC. 1704. MISCELLANEOUS PROVISIONS.

(a) APPLICATION OF AMENDMENTS MADE BY TITLE XII OF OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Except as otherwise expressly provided, whenever in title XII of the Omnibus Budget Reconciliation Act of 1990 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TREATMENT OF CERTAIN AMOUNTS UNDER HEDGE BOND RULES.—

(1) Clause (iii) of section 149(g)(3)(B) is amended to read as follows:

''(iii) AMOUNTS HELD PENDING REINVESTMENT OR REDEMPTION.—Amounts held for not more than 30 days pending reinvestment or bond redemption shall be treated as invested in bonds described in clause (i).''.

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 7651 of the Omnibus Budget Reconciliation Act of 1989.

(c) TREATMENT OF CERTAIN DISTRIBUTIONS UNDER SECTION 1445.—

(1) IN GENERAL.—Paragraph (3) of section 1445(e) is amended by adding at the end thereof the following new sentence: ''Rules similar to the rules of the preceding provisions of this paragraph shall apply in the case of any distribution to which section 301 applies and which is not made out of the earnings and profits of such a domestic corporation.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: ''If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(e) TREATMENT OF DISPOSITIONS UNDER PASSIVE LOSS RULES.—

(1) IN GENERAL.—Subparagraph (A) of section 469(g)(1) is amended to read as follows:

''(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

''(i) any loss from such activity for such taxable year (determined after the application of subsection (b)), over

''(ii) any net income or gain for such taxable year from all other passive activities (determined after the application of subsection (b)),

shall be treated as a loss which is not from a passive activity.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(f) MISCELLANEOUS AMENDMENTS TO FOREIGN PROVISIONS.—

(1) COORDINATION OF UNIFIED ESTATE TAX CREDIT WITH TREATIES.—Subparagraph (A) of section 2102(c)(3) is amended by adding at the end thereof the following new sentence: ''For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.''.

(2) TREATMENT OF CERTAIN INTEREST PAID TO RELATED PERSON.—

(A) Subparagraph (B) of section 163(j)(1) is amended by inserting before the period at the end thereof the following: ''(and clause (ii) of paragraph (2)(A) shall not apply for purposes of applying this subsection to the amount so treated)''.

(B) Subsection (j) of section 163 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) COORDINATION WITH PASSIVE LOSS RULES, ETC.—This subsection shall be applied before sections 465 and 469.''.

(C) The amendments made by this paragraph shall apply as if included in the amendments made by section 7210(a) of the Revenue Reconciliation Act of 1989.

(3) TREATMENT OF INTEREST ALLOCABLE TO EFFECTIVELY CONNECTED INCOME.—

(A) IN GENERAL.—

(i) Subparagraph (B) of section 884(f)(1) is amended by striking ''to the extent'' and all that follows down through ''subparagraph (A)'' and inserting ''to the extent that the allocable interest exceeds the interest described in subparagraph (A)''.

(ii) The second sentence of section 884(f)(1) is amended by striking ''reasonably expected'' and all that follows down through the period at the end thereof and inserting ''reasonably expected to be allocable interest.''

(iii) Paragraph (2) of section 884(f) is amended to read as follows:

''(2) ALLOCABLE INTEREST.—For purposes of this subsection, the term 'allocable interest' means any interest which is allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.''.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if included in the amendments made by section 1241(a) of the Tax Reform Act of 1986.

(4) CLARIFICATION OF SOURCE RULE.—

(A) IN GENERAL.—Paragraph (2) of section 865(b) is amended by striking ''863(b)'' and inserting ''863''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 1211 of the Tax Reform Act of 1986.

(5) REPEAL OF OBSOLETE PROVISIONS.—

(A) Paragraph (1) of section 6038(a) is amended by striking '', and'' at the end of subparagraph (E) and inserting a period, and by striking subparagraph (F).

(B) Subsection (b) of section 6038A is amended by adding ''and'' at the end of paragraph (2), by striking '', and'' at the end of paragraph (3) and inserting a period, and by striking paragraph (4).

(g) TREATMENT OF ASSIGNMENT OF INTEREST IN CERTAIN BOND-FINANCED FACILITIES.—

(1) IN GENERAL.—Subparagraph (A) of section 1317(3) of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new sentence: ''A facility shall not fail to be treated as described in this subparagraph by reason of an assignment (or an agreement to an assignment) by the governmental unit on whose behalf the bonds are issued of any part of its interest in the property financed by such bonds to another governmental unit.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in such section 1317 on the date of the enactment of the Tax Reform Act of 1986.

(h) CLARIFICATION OF TREATMENT OF MEDICARE ENTITLEMENT UNDER COBRA PROVISIONS.—

(1) IN GENERAL.—

(A) Subclause (V) of section 4980B(f)(2)(B)(i) is amended to read as follows:

''(V) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in paragraph (3)(B) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this clause

before the close of the 36-month period beginning on the date the covered employee became so entitled.''.

(B) Clause (v) of section 602(2)(A) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

''(v) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 603(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled.''.

(C) Clause (iv) of section 2202(2)(A) of the Public Health Service Act is amended to read as follows:

''(iv) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 2203(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1989.

(i) TREATMENT OF CERTAIN REMIC INCLUSIONS.—

(1) IN GENERAL.—Subsection (a) of section 860E is amended by adding at the end thereof the following new paragraph:

''(6) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

''(A) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this subsection,

''(B) the alternative minimum taxable income of any holder of a residual interest in a REMIC for any taxable year shall in no event be less than the excess inclusion for such taxable year, and

''(C) any excess inclusion shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

The preceding sentence shall not apply to any organization to which section 593 applies, except to the extent provided in regulations prescribed by the Secretary under paragraph (2).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 671 of the Tax Reform Act of 1986 unless the taxpayer elects to apply such amendment only to taxable years beginning after the date of the enactment of this Act.

(j) EXEMPTION FROM HARBOR MAINTENANCE TAX FOR CERTAIN PASSENGERS.—

(1) IN GENERAL.—Subparagraph (D) of section 4462(b)(1) (relating to special rule for Alaska, Hawaii, and possessions) is amended by inserting before the period the following: '', or passengers transported on United States flag vessels operating solely within the State waters of Alaska or Hawaii and adjacent international waters''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1402(a) of the Harbor Maintenance Revenue Act of 1986.

(k) AMENDMENTS RELATED TO REVENUE PROVISIONS OF ENERGY POLICY ACT OF 1992.—

(1) Effective with respect to taxable years beginning after December 31, 1990, subclause (II) of section 53(d)(1)(B)(iv) is amended to read as follows:

''(II) the adjusted net minimum tax for any taxable year is the amount of the net minimum tax for such year increased in the manner provided in clause (iii).''.

(2) Subsection (g) of section 179A is redesignated as subsection (f).

(3) Subparagraph (E) of section 6724(d)(3) is amended by striking ''section 6109(f)'' and inserting ''section 6109(h)''.

(4)(A) Subsection (d) of section 30 is amended—

(i) by inserting ''(determined without regard to subsection (b)(3))'' before the period at the end of paragraph (1) thereof, and

(ii) by adding at the end thereof the following new paragraph:

''(4) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.''.

(B) Subsection (m) of section 6501 (as redesignated by section 1602) is amended by striking ''section 40(f)'' and inserting ''section 30(d)(4), 40(f)''.

(5) Subclause (III) of section 501(c)(21)(D)(ii) is amended by striking ''section 101(6)'' and inserting ''section 101(7)'' and by striking ''1752(6)'' and inserting ''1752(7)''.

(6) Paragraph (1) of section 1917(b) of the Energy Policy Act of 1992 shall be applied as if ''at a rate'' appeared instead of ''at the rate'' in the material proposed to be stricken.

(7) Paragraph (2) of section 1921(b) of the Energy Policy Act of 1992 shall be applied as if a comma appeared after ''(2)'' in the material proposed to be stricken.

(8) Subsection (a) of section 1937 of the Energy Policy Act of 1992 shall be applied as if ''Subpart B'' appeared instead of ''Subpart C''.

(l) TREATMENT OF QUALIFIED FOOTBALL COACHES PLAN.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, a qualified football coaches plan—

(A) shall be treated as a multiemployer collectively bargained plan, and

(B) notwithstanding section 401(k)(4)(B) of such Code, may include a qualified cash and deferred arrangement under section 401(k) of such Code.

(2) QUALIFIED FOOTBALL COACHES PLAN.—For purposes of this subsection, the term ''qualified football coaches plan'' means any defined contribution plan which is established and maintained by an organization—

(A) which is described in section 501(c) of such Code,

(B) the membership of which consists entirely of individuals who primarily coach football as full-time employees of 4-year colleges or universities described in section 170(b)(1)(A)(ii) of such Code, and

(C) which was in existence on September 18, 1986.

(3) EFFECTIVE DATE.—This subsection shall apply to years beginning after December 22, 1987.

(m) DETERMINATION OF UNRECOVERED INVESTMENT IN ANNUITY CONTRACT.—

(1) IN GENERAL.—Subparagraph (A) of section 72(b)(4) is amended by inserting ''(determined without regard to subsection (c)(2))'' after ''contract''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1122(c) of the Tax Reform Act of 1986.

(n) MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.—

(1) ELIGIBILITY FOR ELECTION.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

''(ii) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,''.

(2) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(A) by striking ''$1,000'' in clause (i) and inserting ''twice the amount described in paragraph (4)(A)(ii)(I)'', and

(B) by amending subclause (II) of clause (ii) to read as follows:

''(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and''.

(3) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking ''$1,000'' and inserting ''twice the amount in effect for the taxable year under section 63(c)(5)(A)''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1995.

(o) TREATMENT OF CERTAIN VETERANS' REEMPLOYMENT RIGHTS.—

(1) IN GENERAL.—Section 414 is amended by adding at the end the following new subsection:

''(u) SPECIAL RULES RELATING TO VETERANS' REEMPLOYMENT RIGHTS UNDER USERRA.—

''(1) TREATMENT OF CERTAIN CONTRIBUTIONS MADE PURSUANT TO VETERANS' REEMPLOYMENT RIGHTS.—If any contribution is made by an employer or an employee under an individual account plan with respect to an employee, or by an employee to a defined benefit plan that provides for employee contributions, and such contribution is required by reason of such employee's rights under chapter 43 of title 38, United States Code, resulting from qualified military service, then—

''(A) such contribution shall not be subject to any otherwise applicable limitation contained in section 402(g), 402(h), 403(b), 404(a), 404(h), 408, 415, or 457, and shall not be taken into account in applying such limitations to other contributions or benefits under such plan or any other plan, with respect to the year in which the contribution is made,

''(B) such contribution shall be subject to the limitations referred to in subparagraph (A) with respect to the year to which the contribution relates (in accordance with rules prescribed by the Secretary), and

''(C) such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 401(m), 403(b)(12), 408(k)(3), 408(k)(6), 408(p), 410(b), or 416 by reason of the making of (or the right to make) such contribution.

For purposes of the preceding sentence, any elective deferral or employee contribution made under paragraph (2) shall be treated as required by reason of the employee's rights under such chapter 43.

''(2) REEMPLOYMENT RIGHTS UNDER USERRA WITH RESPECT TO ELECTIVE DEFERRALS.—

''(A) IN GENERAL.—For purposes of this subchapter and section 457, if an employee is entitled to the benefits of chapter 43 of title 38, United States Code, with respect to any plan which provides for elective deferrals, the employer sponsoring the plan shall be treated as meeting the requirements of such chapter 43 with respect to such elective deferrals only if such employer—

''(i) permits such employee to make additional elective deferrals under such plan (in the amount determined under subparagraph (B) or such lesser amount as is elected by the employee) during the period which begins on

the date of the reemployment of such employee with such employer and has the same length as the lesser of—

''(I) the product of 3 and the period of qualified military service which resulted in such rights, and

''(II) 5 years, and

''(ii) makes a matching contribution with respect to any additional elective deferral made pursuant to clause (i) which would have been required had such deferral actually been made during the period of such qualified military service.

''(B) AMOUNT OF MAKEUP REQUIRED.—The amount determined under this subparagraph with respect to any plan is the maximum amount of the elective deferrals that the individual would have been permitted to make under the plan in accordance with the limitations referred to in paragraph (1)(A) during the period of qualified military service if the individual had continued to be employed by the employer during such period and received compensation as determined under paragraph (7). Proper adjustment shall be made to the amount determined under the preceding sentence for any elective deferrals actually made during the period of such qualified military service.

''(C) ELECTIVE DEFERRAL.—For purposes of this paragraph, the term 'elective deferral' has the meaning given such term by section 402(g)(3); except that such term shall include any deferral of compensation under an eligible deferred compensation plan (as defined in section 457(b)).

''(D) AFTER-TAX EMPLOYEE CONTRIBUTIONS.—References in subparagraphs (A) and (B) to elective deferrals shall be treated as including references to employee contributions.

''(3) CERTAIN RETROACTIVE ADJUSTMENTS NOT REQUIRED.—For purposes of this subchapter and subchapter E, no provision of chapter 43 of title 38, United States Code, shall be construed as requiring—

''(A) any crediting of earnings to an employee with respect to any contribution before such contribution is actually made, or

''(B) any allocation of any forfeiture with respect to the period of qualified military service.

''(4) LOAN REPAYMENT SUSPENSIONS PERMITTED.—If any plan suspends the obligation to repay any loan made to an employee from such plan for any part of any period during which such employee is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code), whether or not qualified military service, such suspension shall not be taken into account for purposes of section 72(p), 401(a), or 4975(d)(1).

''(5) QUALIFIED MILITARY SERVICE.—For purposes of this subsection, the term 'qualified military service' means any service in the uniformed services (as defined in chapter 43 of title 38, United States Code) by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

''(6) INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection, the term 'individual account plan' means any defined contribution plan (including any tax-sheltered annuity plan under section 403(b), any simplified employee pension under section 408(k), any qualified salary reduction arrangement under section 408(p), and any eligible deferred compensation plan (as defined in section 457(b)).

''(7) COMPENSATION.—For purposes of sections 403(b)(3), 415(c)(3), and 457(e)(5), an employee who is in qualified military service shall be treated as receiving compensation from the employer during such period of qualified military service equal to—

''(A) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for absence during the period of qualified military service, or

''(B) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the 12-month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

''(8) USERRA REQUIREMENTS FOR QUALIFIED RETIREMENT PLANS.—For purposes of this subchapter and section 457, an employer sponsoring a retirement plan shall be treated as meeting the requirements of chapter 43 of title 38, United States Code, only if each of the following requirements is met:

''(A) An individual reemployed under such chapter is treated with respect to such plan as not having incurred a break in service with the employer maintaining the plan by reason of such individual's period of qualified military service.

''(B) Each period of qualified military service served by an individual is, upon reemployment under such chapter, deemed with respect to such plan to constitute service with the employer maintaining the plan for the purpose of determining the nonforfeitability of the individual's accrued benefits under such plan and for the purpose of determining the accrual of benefits under such plan.

''(C) An individual reemployed under such chapter is entitled to accrued benefits that are contingent on the making of, or derived from, employee contributions or elective deferrals only to the extent the individual makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the individual would have been permitted or required to contribute had the individual remained continuously employed by the employer throughout the period of qualified military service. Any payment to such plan shall be made during the period beginning with the date of reemployment and whose duration is 3 times the period of the qualified military service (but not greater than 5 years).

''(9) PLANS NOT SUBJECT TO TITLE 38.—This subsection shall not apply to any retirement plan to which chapter 43 of title 38, United States Code, does not apply.

''(10) REFERENCES.—For purposes of this section, any reference to chapter 43 of title 38, United States Code, shall be treated as a reference to such chapter as in effect on December 12, 1994 (without regard to any subsequent amendment).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective as of December 12, 1994.

(p) REPORTING OF REAL ESTATE TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (3) of section 6045(e) (relating to prohibition of separate charge for filing return) is amended by adding at the end the following new sentence: ''Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 1015(e)(2)(A) of the Technical and Miscellaneous Revenue Act of 1988.

(q) CLARIFICATION OF DENIAL OF DEDUCTION FOR STOCK REDEMPTION EXPENSES.

(1) IN GENERAL.—Paragraph (1) of section 162(k) is amended by striking ''the redemption of its stock'' and inserting ''the reacquisition of its stock or of the stock of any related person (as defined in section 465(b)(3)(C))''.

(2) CERTAIN DEDUCTIONS PERMITTED.—Subparagraph (A) of section 162(k)(2) is amended by striking ''or'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

''(ii) deduction for amounts which are properly allocable to indebtedness and amortized over the term of such indebtedness, or''.

(3) CLERICAL AMENDMENT.—The subsection heading for subsection (k) of section 162 is amended by striking ''REDEMPTION'' and inserting ''REACQUISITION''.

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to amounts paid or incurred after September 13, 1995, in taxable years ending after such date.

(B) PARAGRAPH (2).—The amendment made by paragraph (2) shall take effect as if included in the amendment made by section 613 of the Tax Reform Act of 1986.

(r) CLERICAL AMENDMENT TO SECTION 404.—

(1) IN GENERAL.—Paragraph (1) of section 404(j) is amended by striking ''(10)'' and inserting ''(9)''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 713(d)(4)(A) of the Deficit Reduction Act of 1984.

(s) PASSIVE INCOME NOT TO INCLUDE FSC INCOME, ETC.—

(1) IN GENERAL.—Paragraph (2) of section 1296(b) is amended by striking ''or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', or'', and by inserting after subparagraph (C) the following new subparagraph:

''(D) which is foreign trade income of a FSC or export trade income of an export trade corporation (as defined in section 971).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1235 of the Tax Reform Act of 1986.

(t) MISCELLANEOUS CLERICAL AMENDMENTS.—

(1) Subclause (II) of section 56(g)(4)(C)(ii) is amended by striking ''of the subclause'' and inserting ''of subclause''.

(2) Paragraph (2) of section 72(m) is amended by inserting ''and'' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(3) Paragraph (2) of section 86(b) is amended by striking ''adusted'' and inserting ''adjusted''.

(4)(A) The heading for section 112 is amended by striking ''combat pay'' and inserting ''combat zone compensation''.

(B) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 is amended by striking ''combat pay'' and inserting ''combat zone compensation''.

(C) Paragraph (1) of section 3401(a) is amended by striking ''combat pay'' and inserting ''combat zone compensation''.

(5) Clause (i) of section 172(h)(3)(B) is amended by striking the comma at the end thereof and inserting a period.

(6) Clause (ii) of section 543(a)(2)(B) is amended by striking ''section 563(c)'' and inserting ''section 563(d)''.

(7) Paragraph (1) of section 958(a) is amended by striking ''sections 955(b)(1) (A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)'' and inserting ''section 960(a)(1)''.

(8) Subsection (g) of section 642 is amended by striking ''under 2621(a)(2)'' and inserting ''under section 2621(a)(2)''.

(9) Section 1463 is amended by striking ''this subsection'' and inserting ''this section''.

(10) Subsection (k) of section 3306 is amended by inserting a period at the end thereof.

(11) The item relating to section 4472 in the table of sections for subchapter B of chapter 36 is amended by striking ''and special rules''.

(12) Paragraph (3) of section 5134(c) is amended by striking ''section 6662(a)'' and inserting ''section 6665(a)''.

(13) Paragraph (2) of section 5206(f) is amended by striking ''section 5(e)'' and inserting ''section 105(e)''.

(14) Paragraph (1) of section 6050B(c) is amended by striking ''section 85(c)'' and inserting ''section 85(b)''.

(15) Subsection (k) of section 6166 is amended by striking paragraph (6).

(16) Subsection (e) of section 6214 is amended to read as follows:

''(e) CROSS REFERENCE.—

''For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2).''.

(17) The section heading for section 6043 is amended by striking the semicolon and inserting a comma.

(18) The item relating to section 6043 in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the semicolon and inserting a comma.

(19) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6662.

(20)(A) Section 7232 is amended—

(i) by striking ''lubricating oil,'' in the heading, and

(ii) by striking ''lubricating oil,'' in the text.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking ''lubricating oil,'' in the item relating to section 7232.

(21) Paragraph (1) of section 6701(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking ''subclause (IV)'' and inserting ''subclause (V)''.

(22) Clause (ii) of section 7304(a)(2)(D) of such Act is amended by striking ''subsection (c)(2)'' and inserting ''subsection (c)''.

(23) Paragraph (1) of section 7646(b) of such Act is amended by striking ''section 6050H(b)(1)'' and inserting ''section 6050H(b)(2)''.

(24) Paragraph (10) of section 7721(c) of such Act is amended by striking ''section 6662(b)(2)(C)(ii)'' and inserting ''section 6661(b)(2)(C)(ii)''.

(25) Subparagraph (A) of section 7811(i)(3) of such Act is amended by inserting ''the first place it appears'' before ''in clause (i)''.

(26) Paragraph (10) of section 7841(d) of such Act is amended by striking ''section 381(a)'' and inserting ''section 381(c)''.

(27) Paragraph (2) of section 7861(c) of such Act is amended by inserting ''the second place it appears'' before ''and inserting''.

(28) Paragraph (1) of section 460(b) is amended by striking ''the look-back method of paragraph (3)'' and inserting ''the look-back method of paragraph (2)''.

(29) Subparagraph (C) of section 50(a)(2) is amended by striking ''subsection (c)(4)'' and inserting ''subsection (d)(5)''.

(30) Subparagraph (B) of section 172(h)(4) is amended by striking the material following the heading and preceding clause (i) and inserting ''For purposes of subsection (b)(2)—''.

(31) Subparagraph (A) of section 355(d)(7) is amended by inserting ''section'' before ''267(b)''.

(32) Subparagraph (C) of section 420(e)(1) is amended by striking ''mean'' and inserting ''means''.

(33) Paragraph (4) of section 537(b) is amended by striking ''section 172(i)'' and inserting ''section 172(f)''.

(34) Subparagraph (B) of section 613(e)(1) is amended by striking the comma at the end thereof and inserting a period.

(35) Paragraph (4) of section 856(a) is amended by striking ''section 582(c)(5)'' and inserting ''section 582(c)(2)''.

(36) Sections 904(f)(2)(B)(i) and 907(c)(4)(B)(iii) are each amended by inserting ''(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)'' after ''section 172(h)''.

(37) Subsection (b) of section 936 is amended by striking ''subparagraphs (D)(ii)(I)'' and inserting ''subparagraphs (D)(ii)''.

(38) Subsection (c) of section 2104 is amended by striking ''subparagraph (A), (C), or (D) of section 861(a)(1)'' and inserting ''section 861(a)(1)(A)''.

(39) Subparagraph (A) of section 280A(c)(1) is amended to read as follows:

''(A) as the principal place of business for any trade or business of the taxpayer,''.

(40) Section 6038 is amended by redesignating the subsection relating to cross references as subsection (f).

(41) Clause (iv) of section 6103(e)(1)(A) is amended by striking all that follows ''provisions of'' and inserting ''section 1(g) or 59(j);''.

(42) The subsection (f) of section 6109 of the Internal Revenue Code of 1986 which was added by section 2201(d) of Public Law 101–624 is redesignated as subsection (g).

(43) Subsection (b) of section 7454 is amended by striking ''section 4955(e)(2)'' and inserting ''section 4955(f)(2)''.

(44) Subsection (d) of section 11231 of the Revenue Reconciliation Act of 1990 shall be applied as if ''comma'' appeared instead of ''period'' and as if the paragraph (9) proposed to be added ended with a comma.

(45) Paragraph (1) of section 11303(b) of the Revenue Reconciliation Act of 1990 shall be applied as if ''paragraph'' appeared instead of ''subparagraph'' in the material proposed to be stricken.

(46) Subsection (f) of section 11701 of the Revenue Reconciliation Act of 1990 is amended by inserting ''(relating to definitions)'' after ''section 6038(e)''.

(47) Subsection (i) of section 11701 of the Revenue Reconciliation Act of 1990 shall be applied as if ''subsection'' appeared instead of ''section'' in the material proposed to be stricken.

(48) Subparagraph (B) of section 11801(c)(2) of the Revenue Reconciliation Act of 1990 shall be applied as if ''section 56(g)'' appeared instead of ''section 59(g)''.

(49) Subparagraph (C) of section 11801(c)(8) of the Revenue Reconciliation Act of 1990 shall be applied as if ''reorganizations'' appeared instead of ''reorganization'' in the material proposed to be stricken.

(50) Subparagraph (H) of section 11801(c)(9) of the Revenue Reconciliation Act of 1990 shall be applied as if ''section 1042(c)(1)(B)'' appeared instead of ''section 1042(c)(2)(B)''.

(51) Subparagraph (F) of section 11801(c)(12) of the Revenue Reconciliation Act of 1990 shall be applied as if ''and (3)'' appeared instead of ''and (E)''.

(52) Subparagraph (A) of section 11801(c)(22) of the Revenue Reconciliation Act of 1990 shall be applied as if ''chapters 21'' appeared instead of ''chapter 21'' in the material proposed to be stricken.

(53) Paragraph (3) of section 11812(b) of the Revenue Reconciliation Act of 1990 shall be applied by not executing the amendment therein to the heading of section 42(d)(5)(B).

(54) Clause (i) of section 11813(b)(9)(A) of the Revenue Reconciliation Act of 1990 shall be applied as if a comma appeared after ''(3)(A)(ix)'' in the material proposed to be stricken.

(55) Subparagraph (F) of section 11813(b)(13) of the Revenue Reconciliation Act of 1990 shall be applied as if ''tax'' appeared after ''investment'' in the material proposed to be stricken.

(56) Paragraph (19) of section 11813(b) of the Revenue Reconciliation Act of 1990 shall be applied as if ''Paragraph (20) of section 1016(a), as redesignated by section 11801,'' appeared instead of ''Paragraph (21) of section 1016(a)''.

(57) Paragraph (5) section 8002(a) of the Surface Transportation Revenue Act of 1991 shall be applied as if ''4481(e)'' appeared instead of ''4481(c)''.

(58) Section 7872 is amended—

(A) by striking ''foregone'' each place it appears in subsections (a) and (e)(2) and inserting ''forgone'', and

(B) by striking ''FOREGONE'' in the heading for subsection (e) and the heading for paragraph (2) of subsection (e) and inserting ''FORGONE''.

(59) Paragraph (7) of section 7611(h) is amended by striking ''approporiate'' and inserting ''appropriate''.

(60) The heading of paragraph (3) of section 419A(c) is amended by striking ''SEVERENCE'' and inserting ''SEVERANCE''.

(61) Clause (ii) of section 807(d)(3)(B) is amended by striking ''Commissoners' '' and inserting ''Commissioners' ''.

(62) Subparagraph (B) of section 1274A(c)(1) is amended by striking ''instument'' and inserting ''instrument''.

(63) Subparagraph (B) of section 724(d)(3) by striking ''Subparagaph'' and inserting ''Subparagraph''.

(64) The last sentence of paragraph (2) of section 42(c) is amended by striking ''of 1988''.

(65) Paragraph (1) of section 9707(d) is amended by striking ''diligence,'' and inserting ''diligence''.

(66) Subsection (c) of section 4977 is amended by striking ''section 132(i)(2)'' and inserting ''section 132(h)''.

(67) The last sentence of section 401(a)(20) is amended by striking ''section 211'' and inserting ''section 521''.

(68) Subparagraph (A) of section 402(g)(3) is amended by striking ''subsection (a)(8)'' and inserting ''subsection (e)(3)''.

(69) The last sentence of section 403(b)(10) is amended by striking ''an direct'' and inserting ''a direct''.

(70) Subparagraph (A) of section 4973(b)(1) is amended by striking ''sections 402(c)'' and inserting ''section 402(c)''.

(71) Paragraph (12) of section 3405(e) is amended by striking ''(b)(3)'' and inserting ''(b)(2)''.

(72) Paragraph (41) of section 521(b) of the Unemployment Compensation Amendments of 1992 shall be applied as if ''section'' appeared instead of ''sections'' in the material proposed to be stricken.

(73) Paragraph (27) of section 521(b) of the Unemployment Compensation Amendments of 1992 shall be applied as if ''Section 691(c)(5)'' appeared instead of ''Section 691(c)''.

(74) Paragraph (5) of section 860F(a) is amended by striking ''paragraph (1)'' and inserting ''paragraph (2)''.

(75) Paragraph (1) of section 415(k) is amended by adding ''or'' at the end of subparagraph (C), by striking subparagraphs (D) and (E), and by redesignating subparagraph (F) as subparagraph (D).

(76) Paragraph (2) of section 404(a) is amended by striking ''(18),''.

(77) Clause (ii) of section 72(p)(4)(A) is amended to read as follows:

''(ii) SPECIAL RULE.—The term 'qualified employer plan' shall include any plan which was (or was determined to be) a qualified employer plan or a government plan.''.

(78) Sections 461(i)(3)(C) and 1274(b)(3)(B)(i) are each amended by striking ''section 6662(d)(2)(C)(ii)'' and inserting ''section 6662(d)(2)(C)(iii)''.

(79) Subsection (a) of section 164 is amended by striking the paragraphs relating to the generation-skipping tax and the environmental tax imposed by section 59A and by inserting after paragraph (3) the following new paragraphs:

''(4) The GST tax imposed on income distributions.

''(5) The environmental tax imposed by section 59A.''.

(80) Subclause (I) of section 936(a)(4)(A)(ii) is amended by striking ''deprecation'' and inserting ''depreciation''.

Subtitle G—Other Provisions

SEC. 1801. EXEMPTION FROM DIESEL FUEL DYEING REQUIREMENTS WITH RESPECT TO CERTAIN STATES.

(a) IN GENERAL.—Section 4082 (relating to exemptions for diesel fuel) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

''(c) EXCEPTION TO DYEING REQUIREMENTS.—Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel—

''(1) removed, entered, or sold in a State for ultimate sale or use in an area of such State during the period such area is exempted from the fuel dyeing requirements under subsection (i) of section 211 of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator of the Environmental Protection Agency under paragraph (4) of such subsection (i) (as so in effect), and

''(2) the use of which is certified pursuant to regulations issued by the Secretary.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fuel removed, entered, or sold on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 1802. TREATMENT OF CERTAIN UNIVERSITY ACCOUNTS.

(a) IN GENERAL.—For purposes of subsection (s) of section 3121 of the Internal Revenue Code of 1986 (relating to concurrent employment by 2 or more employers)—

(1) the following entities shall be deemed to be related corporations that concurrently employ the same individual:

(A) a State university which employs health professionals as faculty members at a medical school, and

(B) an agency account of a State university which is described in subparagraph (A) and from which there is distributed to such faculty members payments forming a part of the compensation that the State, or such State university, as the case may be, agrees to pay to such faculty members, but only if—

(i) such agency account is authorized by State law and receives the funds for such payments from a faculty practice plan described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code,

(ii) such payments are distributed by such agency account to such faculty members who render patient care at such medical school, and

(iii) such faculty members comprise at least 30 percent of the membership of such faculty practice plan, and

(2) remuneration which is disbursed by such agency account to any such faculty member of the medical school described in paragraph (1)(A) shall be deemed to have been actually disbursed by the State, or such State university, as the case may be, as a common paymaster and not to have been actually disbursed by such agency account.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to remuneration paid after December 31, 1996.

SEC. 1803. MODIFICATIONS TO EXCISE TAX ON OZONE-DEPLETING CHEMICALS.

(a) RECYCLED HALON.—

(1) IN GENERAL.—Section 4682(d)(1) (relating to recycling) is amended by inserting '', or on any recycled halon imported from any country which is a signatory to the Montreal Protocol on Substances that Deplete the Ozone Layer'' before the period at the end.

(2) CERTIFICATION SYSTEM.—The Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall develop a certification system to ensure compliance with the recycling requirement for imported halon under section 4682(d)(1) of the Internal Revenue Code of 1986, as amended by paragraph (1).

(b) CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS TAX-EXEMPT.—Paragraph (4) of section 4682(g) (relating to phase-in of tax on certain substances) is amended to read as follows:

''(4) CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS.—

''(A) TAX-EXEMPT.—

''(i) IN GENERAL.—No tax shall be imposed by section 4681 on—

''(I) any use of any substance as a propellant in metered-dose inhalers, or

''(II) any qualified sale by the manufacturer, producer, or importer of any substance.

''(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

''(I) for use by the purchaser as a propellant in metered-dose inhalers, or

''(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

''(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used by any person as a propellant in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

''(i) the tax paid under this subchapter on such substance, over

''(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacturer, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph.''

(c) EFFECTIVE DATES.—

(1) RECYCLED HALON.—The amendment made by subsection (a)(1) shall take effect on January 1, 1997.

(2) METERED-DOSE INHALERS.—The amendment made by subsection (b) shall take effect on the 7th day after the date of the enactment of this Act.

SEC. 1804. TAX-EXEMPT BONDS FOR SALE OF ALASKA POWER ADMINISTRATION FACILITY.

Sections 142(f)(3) (as added by section 1605) and 147(d) of the Internal Revenue Code of 1986 shall not apply in determining whether any private activity bond issued after the date of the enactment of this Act and used to finance the acquisition of the Snettisham hydroelectric project from the Alaska Power Administration is a qualified bond for purposes of such Code.

SEC. 1805. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

''(1) IN GENERAL.—If—

''(A) a common trust fund transfers substantially all of its assets to one or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are so transferred, and

''(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

''(2) BASIS RULES.—

''(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

''(B) PARTICIPANTS.—The basis of the stock which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged. If stock in more than one regulated investment company is received in such exchange, the basis determined under the preceding sentence shall be allocated among the stock in each such company on the basis of respective fair market values.

''(3) TREATMENT OF ASSUMPTIONS OF LIABILITY.—

''(A) IN GENERAL.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in one or more regulated investment companies, the assumption by any such company of a liability of the common trust fund, and the fact that any property transferred by the common trust fund is subject to a liability, shall be disregarded.

''(B) SPECIAL RULE WHERE ASSUMED LIABILITIES EXCEED BASIS.—

''(i) IN GENERAL.—If, in any transfer referred to in paragraph (1)(A), the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company or companies—

''(I) notwithstanding paragraph (1), gain shall be recognized to the common trust fund on such transfer in an amount equal to such excess,

''(II) the basis of the assets received by the regulated investment company or companies in such transfer shall be increased by the amount so recognized, and

''(III) any adjustment to the basis of a participant's interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

If the transfer referred to in paragraph (1)(A) is to two or more regulated investment companies, the basis increase under subclause (II) shall be allocated among such companies on the basis of the respective fair market

values of the assets received by each of such companies.

''(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—

''(I) any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

''(II) any liability to which property so transferred is subject.

''(4) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent test and such securities shall not be excluded for purposes of determining total assets under clause (iv) of section 368(a)(2)(F).''.

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

SEC. 1806. QUALIFIED STATE TUITION PROGRAMS.

(a) IN GENERAL.—Subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end the following new part:

''PART VIII—QUALIFIED STATE TUITION PROGRAMS

''Sec. 529. Qualified State tuition programs.

''SEC. 529. QUALIFIED STATE TUITION PROGRAMS.

''(a) GENERAL RULE.—A qualified State tuition program shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such program shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

''(b) QUALIFIED STATE TUITION PROGRAM.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified State tuition program' means a program established and maintained by a State or agency or instrumentality thereof—

''(A) under which a person—

''(i) may purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of qualified higher education expenses of the beneficiary, or

''(ii) may make contributions to an account which is established for the sole purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, and

''(B) which meets the other requirements of this subsection.

''(2) CASH CONTRIBUTIONS.—A program shall not be treated as a qualified State tuition program unless it provides that purchases or contributions may only be made in cash.

''(3) REFUNDS.—A program shall not be treated as a qualified State tuition program unless it imposes a more than de minimis penalty on any refund of earnings from the account which are not—

''(A) used for qualified higher education expenses of the designated beneficiary,

''(B) made on account of the death or disability of the designated beneficiary, or

''(C) made on account of a scholarship received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship used for qualified higher education expenses.

''(4) SEPARATE ACCOUNTING.—A program shall not be treated as a qualified State tuition program unless it provides separate accounting for each designated beneficiary.

''(5) NO INVESTMENT DIRECTION.—A program shall not be treated as a qualified State tuition program unless it provides that any contributor to, or designated beneficiary under, such program may not direct the investment of any contributions to the program (or any earnings thereon).

''(6) NO PLEDGING OF INTEREST AS SECURITY.—A program shall not be treated as a qualified State tuition program if it allows any interest in the program or any portion thereof to be used as security for a loan.

''(c) TAX TREATMENT OF DESIGNATED BENEFICIARIES AND CONTRIBUTORS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, no amount shall be includible in gross income of—

''(A) a designated beneficiary under a qualified State tuition program, or

''(B) a contributor to such program on behalf of a designated beneficiary,

with respect to any contribution to, or earnings under, such program.

''(2) DISTRIBUTIONS.—

''(A) IN GENERAL.—Any distribution under a qualified State tuition program shall be includible in the gross income of the distributee in the same manner as provided under section 72 to the extent not excluded from gross income under any other provision of this chapter.

''(B) IN-KIND DISTRIBUTIONS.—The furnishing of education to a designated beneficiary under a qualified State tuition program shall be treated as a distribution to the beneficiary.

''(C) CHANGE IN BENEFICIARIES.—

''(i) ROLLOVERS.—Subparagraph (A) shall not apply to that portion of any distribution which, within 60 days of such distribution, is transferred to the credit of another designated beneficiary under a qualified State tuition program who is a member of the same family as the designated beneficiary with respect to which the distribution was made.

''(ii) CHANGE IN DESIGNATED BENEFICIARIES.—Any change in the designated beneficiary of an interest in a qualified State tuition program shall not be treated as a distribution for purposes of subparagraph (A) if the new beneficiary is a member of the same family as the old beneficiary.

''(D) OPERATING RULES.—For purposes of applying section 72—

''(i) all qualified State tuition programs of which an individual is a designated beneficiary shall be treated as one program,

''(ii) all distributions during a taxable year shall be treated as one distribution, and

''(iii) the value of the contract, income on the contract, and investment in the contract shall be computed as of the close of the calendar year in which the taxable year begins.

''(3) GIFT TAX TREATMENT.—Any contribution on behalf of a designated beneficiary to a qualified State tuition program shall be treated as a qualified transfer for purposes of section 2503(e).

''(d) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—If—

''(A) a designated beneficiary is furnished education under a qualified State tuition program during any calendar year, or

''(B) there is a distribution to any individual with respect to an interest in such program during any calendar year,

each officer or employee having control of the qualified State tuition program or their designee shall make such reports as the Secretary may require regarding such education or distribution to the Secretary and to the designated beneficiary or the individual to whom the distribution was made. Any such report shall include such information as the Secretary may prescribe.

''(2) TIMING OF REPORTS.—Any report required by this subsection—

''(A) shall be filed at such time and in such matter as the Secretary prescribes, and

''(B) shall be furnished to individuals not later than January 31 of the calendar year following the calendar year to which such report relates.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) DESIGNATED BENEFICIARY.—The term 'designated beneficiary' means—

''(A) the individual designated at the commencement of participation in the qualified State tuition program as the beneficiary of amounts paid (or to be paid) to the program,

''(B) in the case of a change in beneficiaries described in subsection (c)(2)(C)(ii), the individual who is the new beneficiary, and

''(C) in the case of an interest in a qualified State tuition program purchased by a State or local government or an organization described in section 501(c)(3) and exempt from taxation under section 501(a) as part of a scholarship program operated by such government or organization, the individual receiving such interest as a scholarship.

''(2) MEMBER OF FAMILY.—The term 'member of family' has the same meaning given such term as section 2032A(e)(2).

''(3) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible education institution (as defined in section 135(c)(3)).

''(4) APPLICATION OF SECTION 514.—An interest in a qualified State tuition program shall not be treated as debt for purposes of section 514.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) TRANSITION RULE.—If—

(A) a State or agency or instrumentality thereof maintains, on the date of the enactment of this Act, a program under which persons may purchase tuition credits or certificates on behalf of, or make contributions for education expenses of, a designated beneficiary, and

(B) such program meets the requirements of a qualified State tuition program before the later of—

(i) the date which is 1 year after such date of enactment, or

(ii) the first day of the first calendar quarter after the close of the first regular session of the State legislature that begins after such date of enactment,

the amendments made by this section shall apply to contributions (and earnings allocable thereto) made before the later of such dates without regard to whether any requirements of such amendments are met with respect to such contributions and earnings. For purposes of subparagraph (B)(ii), if a State has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE II—PAYMENT OF WAGES

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Employee Commuting Flexibility Act of 1996''.

SEC. 2. PROPER COMPENSATION FOR USE OF EMPLOYER VEHICLES.

Section 4(a) of the Portal-to-Portal Act of 1947 (29 U.S.C. 254(a)) is amended by adding at the end the following: ''For purposes of this subsection, the use of an employer's vehicle for travel by an employee and activities performed by an employee which are incidental to the use of such vehicle for commuting shall not be considered part of the employee's principal activities if the use of such vehicle for travel is within the normal

commuting area for the employer's business or establishment and the use of the employer's vehicle is subject to an agreement on the part of the employer and the employee or representative of such employee.''.

SEC. 3. EFFECTIVE DATE.

The amendment made by section 1 shall take effect on the date of the enactment of this Act and shall apply in determining the application of section 4 of the Portal-to-Portal Act of 1947 to an employee in any civil action brought before such date of enactment but pending on such date.

SEC. 4. MINIMUM WAGE INCREASE.

(a) SHORT TITLE.—This section may be cited as the ''Minimum Wage Increase Act of 1996''.

(b) AMENDMENT.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending on June 30, 1996, not less than $4.75 an hour during the year beginning on July 1, 1996, and not less than $5.15 an hour after the expiration of such year;''.

SEC. 5. FAIR LABOR STANDARDS ACT AMENDMENTS.

(a) COMPUTER PROFESSIONALS.—Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended by striking the period at the end of paragraph (16) and inserting ''; or'' and by adding after that paragraph the following:

''(17) any employee who is a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker, whose primary duty is—

''(A) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;

''(B) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

''(C) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or

''(D) a combination of duties described in subparagraphs (A), (B), and (C) the performance of which requires the same level of skills, and

who, in the case of an employee who is compensated on an hourly basis, is compensated at a rate of not less than $27.63 an hour.''.

(b) TIP CREDIT.—The next to last sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended to read as follows: ''In determining the wage an employer is required to pay a tipped employee, the amount paid such employee by the employee's employer shall be an amount equal to—

''(1) the cash wage paid such employee which for purposes of such determination shall be not less than the cash wage required to be paid such an employee on the date of the enactment of this paragraph; and

''(2) an additional amount on account of the tips received by such employee which amount is equal to the difference between the wage specified in paragraph (1) and the cash wage in effect under section 6(a)(1).

The additional amount on account of tips may not exceed the value of the tips actually received by an employee.''.

(c) OPPORTUNITY WAGE.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end the following:

''(g)(1) In lieu of the rate prescribed by subsection (a)(1), any employer may pay any employee of such employer, during the first 90 consecutive calendar days after such employee is initially employed by such employer, a wage which is not less than $4.25 an hour.

''(2) No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in paragraph (1).

''(3) Any employer who violates this subsection shall be considered to have violated section 15(a)(3).

''(4) This subsection shall only apply to an employee who has not attained the age of 20 years.''.

Mr. MOYNIHAN. Mr. President, I yield to the Senator from Massachusetts such time as he may require.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from New York.

AMENDMENT NO. 4435

(Purpose: To amend the Fair Labor Standards Act of 1938 to provide for an increase in the minimum wage rate and to exempt computer professionals from the minimum wage and maximum hour requirements, and to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer-owned vehicles)

Mr. KENNEDY. Mr. President, I understand there is a consent agreement which has been announced by the majority leader. I believe it is appropriate at this time to ask for the consideration of my amendment that is currently held at the desk, and I believe the process in terms of the consideration of that amendment has been worked out by the majority and minority leaders.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 4435.

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

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

The amendment is as follows:

Strike Title II and replace with the following:

Title II—Labor Provisions

SECTION 1. INCREASE IN THE MINIMUM WAGE RATE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 4, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;''.

(b) EMPLOYEES WHO ARE YOUTHS.—Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended—

(1) in paragraph (4), by striking ''; or'' and inserting a semicolon;

(2) in paragraph (5), by striking the period at the end thereof and inserting ''; or''; and

(3) by adding at the end thereof the following new paragraph:

''(6) if the employee—

''(A) is not a migrant agricultural worker or a seasonal agricultural worker (as defined in paragraphs (8) and (10) of section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802 (8) and (10)) without regard to subparagraph (B) of such paragraphs and is not a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)); and

''(B) has not attained the age of 20 years, not less than $4.25 an hour during the first 30 days in which the employee is employed by the employer, and, thereafter, not less than the applicable wage rate described in paragraph (1).''.

(c) EMPLOYEES IN PUERTO RICO.—Section 6(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(c)) is amended to read as follows:

''(c) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico except an employee described in subsection (a)(2).''.

SEC. 2. EXEMPTION OF COMPUTER PROFESSIONALS FROM CERTAIN WAGE REQUIREMENTS.

Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended—

(1) by striking the period at the end of paragraph (16) and inserting ''; or''; and

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

''(17) any employee who is a computer systems analyst, computer programer, software engineer, or other similarly skilled worker, whose primary duty is—

''(A) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;

''(B) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

''(C) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or

''(D) a combination of duties described in subparagraph (A), (B), and (C) the performance of which requires the same level of skills, and

who, in the case of an employee who is compensated on an hourly basis, is compensated at a rate of not less than $27.63 an hour.''.

SEC. 3. USE OF AN EMPLOYER-OWNED VEHICLE.

(a) IN GENERAL.—Section 4 of the Portal-to-Portal Act of 1947 (29 U.S.C. 254) is amended by inserting at the end of the following:

''(e) For purposes of subsection (a), the use by an employee of an employer-owned vehicle to initially travel to the actual place of performance of the principal activity which such employee is employed to perform at the start of the workday and to ultimately travel to the home of the employee from the actual place of performance of the principal activity which such employee is employed to perform at the end of the workday shall not be considered an activity for which the employer is required to pay the minimum wage or overtime compensation if—

''(1) such employee has chosen to drive such vehicle pursuant to a knowing and voluntary agreement between such employer and such employee or the representative of such employee and such agreement is not a condition of employment;

''(2) such employee incurs no costs for driving, parking, or otherwise maintaining the vehicle of such employer;

''(3) the worksites to which such employee is commuting to or from are within the normal commuting area of the establishment of such employer; and

''(4) such vehicle is of a type that does not impose substantially greater difficulties to drive than the type of vehicle that is normally used by individuals for commuting.''.

''(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply in determining the application of section 4 of the Portal-to-Portal Act of 1947 (29 U.S.C. 254) to an employee in any civil action brought before such date of enactment but pending on such date.

Mr. KENNEDY. Mr. President, at the appropriate place in the RECORD, I will introduce the statement that does a line-by-line analysis of that so that the Members will have that information before them.

Mr. President, I want to just take a moment of the Senate's time to respond to a letter that was written by my friend, the majority leader, Senator LOTT, to President Clinton differing with the President on his position with regard to the minimum wage. This letter was made available this afternoon and distributed to the members of the press and to the interested Members. I want to take just a moment of time to make some rather brief comments about the letter because I am somewhat amazed at the letter and its conclusion.

I will include the whole letter in the RECORD.

Mr. President, in paragraph 1 Senator LOTT points out:

It is, of course, dismaying that you regard a measure to protect small businesses from the job killing consequences of the minimum wage as a poison pill.

What we have tried to do in the course of the earlier debate is to point out what the impact would be of the increase in the minimum wage which the President, Senator DASCHLE, myself, and others support.

In the earlier part of the day we put in the RECORD the Salomon Bros. estimate. I just quote their first paragraph.

We believe that many retailers, especially discounters, would benefit from an increase in the minimum wage due to the enhanced purchasing power you create for many low-income consumers.

Their basic point is that it would enhance the economy.

The article I included in there from Business Week, the minimum wage argument you have not heard before:

As long as it's not overdone, lifting the minimum wage may create overall economic gains that outweigh any short-term job losses.

That is an excellent article in Business Week.

I also included the excellent Wharton School analysis that was done earlier in this year with regard to job loss. Their estimate is that the total job loss may be as little as 20,000 jobs nationwide—effectively de minimis when we see the growth of 10 million jobs over the period of the last 4 years. They have also pointed out that under the current proposal the inflation rise would be one-tenth of 1 percent. While in 1996 and 1997 over the longer term the impact would be nil, virtually no inflation. One-tenth of 1 percent would mean that what you pay $1,000 for you pay $1,001 for. So that is the economic impact on this.

I also referred to the Center on Budget and Policy Priorities, their whole statement which I have included in the RECORD, three Nobel laureates, some of the most distinguished economists in the country. Specifically, the proposed income in the minimum wage over a 2-year period falls within the range of alternatives from the overall effects in the labor market, and the effect on workers and the economy would be positive.

So I just hope those who are opposed to the position of Senator DASCHLE, myself, and others who support the minimum wage, would come out here and justify their position as being the job killing consequences.

Then they talk about election-year politics and the administration policies. All we say is we have been trying to get this up for over a year and a half. It was not the Democrats who have made this a measure that is up in July prior to the November election. We have been trying to get this up for over a year and a half.

The second paragraph goes on to talk about ''Your chief counsel for advocacy on Small Business Administration supports the exemption applying to small businesses grossing under $500,000 a year, precisely what Senator BOND's amendment would provide.''

That is a completely inaccurate statement. Our program continues the existing exemption on those under $500,000 with the exception of those that are involved in interstate commerce. That is what the President's position is. We want to keep that provision. So Senator BOND's amendment would dramatically change that. That is not a fair reflection of what the Small Business Administration Administrator has suggested, or Secretary Reich has suggested.

Then the next paragraph: ''Similarly, you claim such exemption would include two-thirds of all firms in the U.S. as if they employ two-thirds of all workers.''

Of course, there is no such claim in the President's letter. So I do not know what they are referring to.

Senator BOND advises me that the labor statistics data show that only 3 percent of all workers are paid the minimum wage, and that only 8 percent of our Nation's work force are employed by businesses grossing less than $500,000. That is exactly what we said. If you take 8 percent of $126 million, you come out with $8.6 million.

The Bureau of Labor Statistics has talked between 9.7 and 10, which would include not only the hourly but the salaried workers. There is some spillover, some relationship. But if they want to settle for 8.6 million on that, I am glad to accept those figures at 9 million, referring to that particular provision of the program. That represents about 2 million children that will be affected, whose parent is the principal supplier for resources of that family.

As we mentioned earlier in the debate, this is an issue about children. It is an issue about women. It is an issue about fairness. It is an issue about the economy certainly. But when we talk about hundreds of thousands of children, I find it unpersuasive to state that number to be a relatively small share of the economy. Those 8, 10, or 12 million American children whose lives are going to be affected, the 300,000 who will come out of poverty, the children from over 100,000 families. I think it means something to those families. I would take issue with this attitude.

Finally, it continues:

What Senator Bond has done is to propose a way to keep the current floor of the minimum wage for everybody.

Of course, that is not what it has done. It has what they call a 180-day opportunity wage. As I mentioned earlier in this discussion, this will be about 40 percent of all minimum wage workers who move or get another minimum wage job over the course of the year. And this, of course, will be an invitation to those employers to get rid of their workers after 6 months so they can get somebody else in there for the next 6 months. They will only have to pay them $4.25 and not the livable wage of $5.15.

So if you take the carveout on the opportunity wage, you take the carveout in the Bond amendment for small business, and you also take the carveout on the restaurant workers, It does not keep the current floor for everyone. The tip-credit provision will prevent the minimum wage increase for tip-employees at restaurants so they are only required to pay $2.13 an hour—that is a special provision for the restaurants even though the profits of that business have gone up over the period of the last 3 or 4 years.

So it finally ends up:

To veto the legislation over a measure so modest will be difficult to explain to the American people and the millions of small businessmen and women. I urge you to reconsider.

My only point, Mr. President, is that we hope our Republican friends would have the similar attitude of Dwight Eisenhower, Richard Nixon, and George Bush, all who supported an increase in the minimum wage and the overwhelming majority of Republicans, including Bob Dole in 1989 and Speaker Gingrich, that supported the increase in the minimum wage when our economy was not nearly as robust and secure.

This again comes down to an issue of equity and fairness. It comes down to whether we are going to honor work. Are we going to say to men and women who work hard, play by the rules, work 40 hours a week, 52 weeks of the year, they deserve a livable wage. Republicans and Democrats over the length and the history of this program have supported that position.

I find it extraordinary once again that the same forces, the same voices,

the same old, tired arguments that were used against Social Security, used against the Medicare Program, have been used against the minimum wage. We are hearing those same tired, old arguments again.

I hope that tomorrow, when the Senate has an opportunity to act on it, we will say to American working families that we honor work. We must say that this is one of the best ways to get welfare reform. We must say to those working families who are trying to provide for themselves and for their children that we believe in them and that the members of the Senate will support a livable minimum wage increase.

I again thank my colleague and friend from New York for the opportunity to make these observations.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Could I just say that the present reports on the unemployment rate at 5.3 percent and the increasing reports of labor shortages around the country mean if ever there was a moment in which to make this appropriate adjustment, maintaining the value of the minimum wage, this is the moment. And the Senator from Massachusetts could not be more congratulated, in my view, for the energy with which he has pressed it. Let us hope tomorrow we pass it.

Mr. KENNEDY. I thank the Senator.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, if I may just respond to the minimum wage debate without addressing any of the particular amendments. I certainly hope the argument I make will not be viewed as just another tired, old argument, because I believe it is not a question of whether we raise the minimum wage—I think most in this Chamber would believe the minimum wage should be increased—but how it is done.

I have felt for some time that we need to be very sensitive to the changes that are taking place in the labor markets, including the need for higher skills. These are things that we hopefully have addressed with the job training initiatives that we have considered in the Senate, and have now been in conference for some months. Those initiatives are the things that will help workers get good-paying jobs.

We have also talked about welfare reform, and the senior Senator from New York knows this issue better than anyone. We need—I believe, if we are going to do welfare reform in a meaningful way—to have job opportunities where workers can enter at entry level positions and be able to have the training and the skills to rise in the labor market.

I would not want to make the argument that a family can live on $4.25 per hour, which is the current minimum wage, or at $5.15 per hour, which it would be after the next 2 years. But, that is not really the point. The point is, we need to see that young people and those reentering the labor market are able to have the opportunity to develop the discipline and the skills that they need in a changing workplace with the demands of a high technology environment.

So we need to think carefully as we debate about this increase, which in some ways may not seem large. Many States, including, I believe, New York State, have a State minimum wage higher than the $5.15 we are talking about as the Federal minimum wage. New York may need a higher wage to attract workers into the workplace than, say, Kansas. We have very different needs in our urban areas versus our rural areas.

That is why I would argue we really should not increase the Federal minimum wage but allow for this diversity among the States to take place. The Federal minimum wage should, perhaps, be a target, allowing States to set the wage level that they believe is important to attract a work force that will benefit their State and their businesses as well as those entering the work force.

I want to be clear. I have not supported this increase in the minimum wage. I oppose it because I think it is the wrong time for us to potentially shut off job opportunities for those we are suggesting move off welfare rolls. If we pass Federal legislation—and many States have already passed significant welfare reform—individuals will need entry level jobs in which they can begin to progress back up the ladder in the work force.

I think increasing the minimum wage will raise the lowest rung on the economic ladder and thus potentially leave behind those just trying to gain a foothold either for their first job or going back in and retraining for another type of job. Although well-intended, this increase—I believe—will cause a loss of entry level jobs and will limit job opportunities for low-skilled workers. This, I would suggest, will not help raise living standards for the poor, and that is really what we wish to see happen.

That is why I feel so strongly about the need to have some really very innovative, thought-through, carefully designed job training initiatives. We also have to give a greater emphasis in our educational system, which is really the foundation, to being able to enter a work force with a good-paying job that can support a family as we move into a new age of technology that we are facing—a revolution really of technology today and into the next century.

Let me just give you an example. Last December, the Senate labor committee held a hearing on the minimum wage. We heard from a small restaurant chain owner named Kenneth James who took his first job in high school in the restaurant business and now runs a restaurant chain that employees 160 people. He testified that he will have fewer workers in his restaurants if we increase the minimum wage.

Due to competition, he and other restaurant employers cannot raise prices and pass the costs along to consumers. The big loser, as I said earlier, will be those low-skilled workers who are never hired for their first job. They are the ones I think we need to be concerned about.

Mr. James estimated that each of his restaurants would have three fewer workers if we raise the minimum wage as proposed. That argument can be refuted. How do we really know? But I think we have already seen many changes that have occurred. For example, when one pumps her own gas or when one takes care of his own tray at fast food restaurants. All of these things have entered into ways we see businesses changing.

I do not know what the answer is, but I am concerned we are doing this now at a time when we are putting more and more people, because of welfare reform initiatives, out into the marketplace without the necessary skills. Skills that will allow them to have the good-paying jobs that should be had without the training for work that they have not had. They will need entry-level wages. They will need those, whether they are first-time jobseekers or whether they have not been working for a number of years and need to get back into the work force.

If we want to develop the highly skilled work force and employ more young men and women and move people off the welfare rolls, we need to open more doors so individuals can get the basic skills that will enable them to climb the job ladder. Raising the minimum wage will only, I think, shut the door on those trying to get started.

The Congressional Budget Office reviewed this proposed increase and reached a similar conclusion. CBO estimates that raising the minimum wage will result in the loss of potentially 100,000 to 500,000 jobs. According to CBO:

> Another consequence might be that employers respond to the mandate by reducing employment opportunities for the least skilled job seekers and the ones who could most benefit from the work experience. To the extent that low-skilled workers are shut out of employment opportunities, their total incomes might fall, even though their hourly wage rates while working increased.

CBO concludes that this minimum wage increase will be an unfunded mandate on State and local governments, as well as the private sector. It estimates the cost to the private sector will be more than $12 billion over the next 5 years.

Someone has to pay this cost, and I fear that the most vulnerable will pay the price in lost jobs. That, I suggest, is something we should consider carefully as we debate the question, not of whether the minimum wage should be increased, but how.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, there are 2 hours reserved for debate on the minimum wage aspect of this bill, is that not the case?

The PRESIDING OFFICER. The Chair advises the Senator from New York that there is 1 hour on the Kennedy amendment, equally divided, and 1 hour on the bill, equally divided.

Mr. MOYNIHAN. May I ask the Chair, we have only 2 hours of debate on this entire matter?

The PRESIDING OFFICER. That would be correct.

Mr. MOYNIHAN. That is divided on each side.

The PRESIDING OFFICER. Equally to each side.

Mr. MOYNIHAN. I ask the distinguished Senator from Maryland how much time he might wish to speak.

Mr. SARBANES. I see the Senator from North Dakota on the floor as well. Ten minutes?

Mr. MOYNIHAN. I will be happy to yield 10 minutes to the Senator from Maryland. I see the distinguished chair of the committee has risen.

Mrs. KASSEBAUM. Mr. President, I want to suggest the time I took should come out of the time allotted to our side in opposition, of course.

Mr. MOYNIHAN. How generous and characteristic. Opposition to the amendment.

Mrs. KASSEBAUM. I assume that will be the case.

Mr. MOYNIHAN. The Senator will support the bill itself that Senator ROTH and I are bringing forward for this purpose.

Mrs. KASSEBAUM. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in support of the Kennedy amendment and, of course, in very strong support of the effort to raise the minimum wage. Historically, Congress has acted to guarantee minimum standards of decency for working Americans. The object of a Federal minimum wage is to make work pay well enough to keep families out of poverty and off of Government assistance. It is really an effort to ensure that any individual who works hard and plays by the rules should be assured of a standard of living for his or her family that is above the poverty line.

It is very important to understand that this effort to provide a floor has marked our national policy now for almost six decades. I know many people think it is an imposition upon employers, but we had some interesting testimony this morning at a news conference from some small business people who came and testified in favor of the minimum wage. As one of the ladies who was there pointed out, they are caught by what their competitors do. Many of them would like to raise the wages of their workers of their own accord, but they have difficulty in doing this if their competitors do not do likewise. So they welcome a raise in the minimum wage because it, in effect, levels the playing field and ensures that the employer who is not concerned about providing a living wage for his employee will not dictate the standard of the industry.

The minimum wage does not lift people very far, but it does lift them far enough so that there is the hope they will be able to work themselves out of poverty and stay off of dependency. It has been a national commitment now, as I said, for almost six decades.

I think it is long past time to raise the minimum wage again. The minimum wage was last raised in 1989, if I am not mistaken. The minimum wage increase being proposed now is equivalent to what people got in 1989. In other words, the 1989 increase has, in effect, been used up by the rise in prices over the intervening 7 years. So you, in effect, are no better off at the minimum wage today than you were in 1989, when it was raised.

In fact, the current level for the minimum wage in real terms—in other words, in purchasing power—is the lowest it has been in 40 years. Of course, this is at the very time, we are reading newspapers, magazines, and story after story about the incredible compensation the chief executives are receiving. Yet here we are, now, arguing about basic fairness and equity for the lowest paid workers, those at the very bottom of the pay scale.

No one asserts that raising the minimum wage will correct everything, but it certainly will make an important difference to those who are on the low end of the income scale. It is argued, of course, that raising the minimum wage is going to cost jobs. Actually, there are studies that go both ways on this. Recently, there have been some very reputable studies that have found no evidence that the increase in wages results in reduced employment opportunities. One study in particular analyzed wage increases that were made in New Jersey and reached that conclusion.

Others have found that during the late 1980's, moderate legislative increases did not reduce employment and were, if anything, associated with higher unemployment in some locales.

Robert Solo, a distinguished Nobel laureate, distinguished professor of economics at MIT, was quoted in the New York Times as saying:

> The main thing about minimum wage research is that the evidence of job loss is weak and the fact that evidence is weak suggests that the impact on jobs is small.

So I want to try to lay to one side this constant assertion that if you raise the minimum wage, you are going to cost a lot of people jobs.

The counter to that, in addition to not costing them a lot of jobs, is that you will significantly improve the living standards of people receiving the minimum wage. Of course, as I have indicated, this is a two-step increase that is proposed in the KENNEDY amendment, a 45-cent increase from $4.25 to $4.70 now and another 45-cent increase from $4.70 to $5.15 in the middle of next year. So you would have a two-step process to take the minimum wage from $4.25 an hour to $5.15 an hour.

Mr. President, I do not think we need a long argument about the equity and fairness of doing this. The statistics are very clear on that point. We know that people have been, in effect, slipping backward as a consequence of not raising the minimum wage now for 7 years, going on 8 years, this is the situation we are now confronting.

But the real difficulty occurs in the amendment that is going to be offered by my colleagues on the other side, the Republican amendment, which they portray as their having a commitment to raising the minimum wage, but they just want to make some fine-tuning of it. Let us take a look at the fine-tuning, because it really is a shell game and the consequences of it would be very detrimental.

First of all, they propose an exemption for employees who are on the job in the first 6 months. In other words, the first 180 days, you would get a subminimum wage. That is for workers of all ages.

Previously, we have had a lesser wage for a very limited period of time for young workers; very limited, both in time and to the age group to which it applies, a so-called training wage. Unfortunately, a lot of training never took place, but, in any event, that was the theory of it.

Now we are confronted with an exemption that would deny a minimum wage increase to all workers—all workers—regardless of age or experience for the first 6 months of their employment with any employer. In effect, you could begin to create a permanent class of subminimum wage workers. In fact, at the lower wages, workers are often changing jobs. They would be recirculated during this 180-day exemption. They would be kept at $4.25. This is a very bad concept, and it opens up an incredible loophole that could be exploited in the law to violate the very spirit of raising the minimum wage.

The other proposal, as I understand it, in the Republican amendment which will be offered by my colleagues on the other side of the aisle, is to deny a minimum wage increase to employees in any company with less than $500,000 in annual revenues. So anyone who works in a company that has less than $500,000 in annual revenues—that is $10,000 a week in annual revenues, and we are talking now about a number of small businesses, well over 10 million employees—would be excluded altogether. They would just be exempted. Now, that means that many employees now covered by the minimum wage provisions—in other words, who receive the benefit of current law that requires they be paid the minimum wage—would

then be placed outside of the parameters with respect to any increases in the minimum wage.

So, in effect, while asserting that they are extending the minimum wage on the one hand, they are taking it away on the other with respect to employees now covered in businesses that have revenues of less than $500,000 a year, and there are a significant number of such employees—in the millions, in the millions.

So, for the first time since the minimum wage was instituted in the 1930's, we are actually reducing coverage in a significant and substantial manner. That is why so many of us are asserting that what we really ought to do is have a clean minimum wage bill, and that is what the President has indicated he very much wants. We have done that in the past in Republican and Democratic administrations.

The PRESIDING OFFICER. The Chair advises the Senator from Maryland that he has utilized his 10 minutes.

Mr. MOYNIHAN. I will be happy to yield another 5 minutes.

Mr. SARBANES. I appreciate it.

So in the past, in both Democratic and Republican administrations, we have increased the minimum wage. We usually have argued about how much to increase it and when to make it effective, and that usually has been the limit of the debate.

Now we are confronted with a situation in which there is an effort to increase it, which, by every survey, commands overwhelming support amongst the American people, and then we are confronted with, as it were, the subterfuges which will erode the meaning of the extension in the minimum wage.

The provision that I made reference to of a 180-day period at the old wage for everyone, regardless of age, and for the exclusion from coverage of this increase in the minimum wage of any business with revenues of under $500,000 a year, many of the workers of such businesses are today covered under the minimum wage law. But by the provisions of the amendment to be offered by my Republican colleagues, they would then be excluded.

It ought not to be necessary to go through the really heart-rending stories of people trying to make it on a minimum wage in order to see the decency of enacting this modest increase.

Forty percent of those at minimum wage salaries are single parents trying to support their children. At a minimum wage today they have a year-round income of $8,500. This places them well below the poverty level. This effort here, of course, to raise the minimum wage and bring additional income to these families would help them to meet their bills and in effect to begin to see some light at the end of the tunnel.

I know this measure is opposed by some of the small business associations, although I am interested to note that a number of small businesses are in support of this proposition. As I indicated, at a press conference earlier today, there was testimony by a number of owners of small businesses in support of this measure.

The decrease in the value of the minimum wage has served to widen the gulf between the wealthiest and the poorest in our society. In fact, as I indicated earlier, the real value of the minimum wage has deteriorated markedly. It will be at its lowest real value in the last 40 years if Congress fails to take action.

In the late 1950's, in fact, the real value of the minimum wage was more than $5 an hour by today's standards. In the mid-1960's it peaked at $6.28. If you were making the minimum wage in the mid-1960's, to have that purchasing power today, you would have to have a minimum wage of $6.28 an hour.

So it is not as though we are asking for some extraordinary thing here. It is not as though the increases that are being sought are out of some long-term trend. If anything, they are exceedingly modest. In the late 1950's, the minimum wage available then in purchasing power was better than $5 an hour at today's purchasing power levels. By the mid-1960's it was $6.28 an hour.

Congress has failed to respond to the erosion of the value of the minimum wage over time. We now confront the situation where $4.25 an hour in purchasing power is the least it has been in 40 years.

More than 70 percent of all minimum wage earners are 20 or above. The vast majority, about 60 percent, are women, many of them single heads of households. The time has come and gone for an increase in this minimum wage. It was last modestly raised in the Bush administration. I think obviously we need to raise it again.

We need especially not to support this effort by my Republican colleagues in their amendment to carve out exemptions that, in effect, will render much of this meaningless. I mentioned two things: the exclusion of employees of businesses earning below $500,000 a year, which takes any increases in minimum wage protection away from workers now covered; a substantial number of workers. I also mentioned, of course, the fact that there is a subminimum wage for 180 days, for 6 months. Then, if that worker moves, because often those jobs come and go, they move into another low-wage job and get another 180 days at a subminimum wage.

The third thing, which was not mentioned earlier in my references, is the effective date for the application of the minimum wage. The proposal of my Republican colleagues is to delay it until the beginning of next year, delay it for 6 months, in effect. This would obviously cost a minimum wage employee about $875 in the course of that period of time, just deny that increase. I defy anyone to make the case that someone should be able to support a family on $8,500 a year, which is what the current minimum wage works out to, $8,500 a year.

So, Mr. President, I very much hope when the Senate comes to the vote, that the Republican amendment will be rejected, that we will support the proposition put forward by the Senator from Massachusetts and the Senate will finally approve an increase in the minimum wage, which is so important for literally millions of workers and their families across our country. I thank the distinguished ranking member for yielding to me.

Mr. MOYNIHAN. I thank my friend from Maryland.

Mr. President, the distinguished Senator from North Dakota would like to speak at this point. Could I ask how much time he might require?

Mr. DORGAN. Mr. President, 7 minutes, 8 minutes.

Mr. MOYNIHAN. Fine. Could I ask it be charged against the amendment of the Senator from Massachusetts as we are running out of time?

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. I very much appreciate the courtesy of the Senator from New York.

Mr. President, I thought I would read a couple of paragraphs from a letter to demonstrate that this debate is not about theory, although we debate a lot of theory here on the floor of the Senate. This debate is about the financial circumstances of a lot of families in our country. This letter comes from a woman in North Dakota who describes the debate pretty well.

She said,

> Today it takes every dime we make to make ends meet, and that is only if we stretch it to the breaking point. We don't have any credit cards. We drive 10- to 15-year-old vehicles, so my husband has recycled. We shop only in thrift stores and at garage sales, and we do a lot of praying. We're better off, I know than a lot of other people who, for instance, have to live on the street. But how far are we from that? We are in the forgotten group of people called the working poor, the people that fall through the cracks of government. I beg you shamelessly, for the sake of my children, to please help us find a glimmer of hope to help us dig our way out of this hopelessly grim situation.

This from a mother of three children, struggling at the bottom rung of the economic ladder, who is trying to make ends meet and finding it very, very difficult.

Recently there was a story in the Washington Post with a headline that said that CEO's salaries were up 23 percent last year. The chief executive officers of the major corporations in America received a 23-percent increase in their compensation in 1 year.

This woman, and others like her, who are struggling to raise a family at the minimum wage and trying to make ends meet, who are working and not on welfare, did not receive a 23-percent increase last year. They did not receive a 1-percent raise last year, not a 1-percent raise the year before. It has been

7 years since an adjustment in the minimum wage was made. In late 1989, Congress adjusted the minimum wage. That's one adjustment in 17 years.

Again, this debate is not about theory for a family who is trying to raise children. This person whose letter I read got pregnant in high school, made some mistakes, never got employment skills. Her husband never got job skills. So they entered the job market relatively unskilled, and have always been somewhere at the bottom of the economic ladder.

It is almost as if we have two economies in our country; one doing very, very well, with 23 percent raises and the stock market at a record high. Then we see others at the bottom rung of the economic ladder just struggling day after day after day to try to keep up and to make ends meet.

The Senator from New York, Senator MOYNIHAN, has spent a good deal of his life talking about the issue of reforming our welfare system. There is no one whose opinion I respect more than the Senator from New York on these subjects. He would know, especially of all the Members of the Senate, that the vote that we will take in the Senate is a vote that evaluates the question, Do we value work over welfare?

The Senator from New York has made a career of trying to figure at how we can fix this welfare system and make it work, so you move people from welfare rolls to payrolls. Most people on welfare I know do not want to be on welfare. They much prefer to have the skills needed to get a good job and take care of their families.

We must talk about the question of welfare reform and enact legislation that does the right things to try to address the welfare problem in this country, and does it, as the Senator from New York says, without abandoning our children. Two-thirds of the welfare expenditures in this country are for kids under 16 years of age. Would we have people tell us those folks ought to go out and get a job—10- and 12-year-old kids? Most people would say, ''Let's help those children.''

Others on welfare are stuck in the cycle. To the extent we want them to move from a welfare roll to a payroll, we want them to get a job, then we have to value work over welfare. One way we can do that in this Congress is to decide that we will not keep people stuck at the bottom rung of the economic ladder without even a 1-percent increase in the minimum wage in 7 years. We will finally make some appropriate and modest adjustments.

This is truly a vote, it seems to me, that does determine, do we value work over welfare? You cannot talk about this and then try to undercut the earned income tax credit and try to ignore the issue of the minimum wage and the problems people have at the bottom of the economic ladder.

I was in a pizza parlor in North Dakota. A fellow that ran the pizza parlor said to me that he supported an increase in the minimum wage. I thought to myself, this is very unusual, this is a very small pizza parlor. He said, ''The fact is, the folks that come in and buy pizza, I want them to do well, and I have a lot of folks who do not make a lot of money. I figure if we have an increase or an adjustment in the minimum wage in an appropriate way, I figure it will help me, as well.''

I went to a small dressshop while I was touring Main Street of one of our towns in North Dakota, stopping and visiting with some people. The manager of the dressshop and I were chatting about the minimum wage and she said, ''I don't own the shop, I manage the shop, but our owner has three shops like this, and our owner says he thinks it is probably a pretty decent thing because the kind of people who shop in our stores will probably do a little more shopping in our stores if they get an adjustment in minimum wage. Our owner says it is probably something that is overdue.''

I thought to myself, this is kind of interesting. You find businesses as disparate as a pizza parlor and a small dressshop in a small town where they say that a minimum wage adjustment makes sense. I suppose that this is reflected in the polls that show that 80 to 85 percent of the American people think it makes sense to have an adjustment in the minimum wage.

I am not unmindful of the burdens that small business owners face in our country. To the extent that we can, we always ought to be concerned about the small business owners who risk their money and their assets in order to try to make a living. Many of them work long hours without great compensation. Many of them are very levelheaded people. Most of them are thoughtful, good people, who also understand there is a reason we have a minimum wage in our country.

If you believe there ought to be a minimum wage, the only question before us is, How often should we adjust it? Once every 7 years, or once every 70 years? That is the question.

There are some Members of the Senate, I assume, who believe there ought not be a minimum wage. There is a Member of the other body, a prominent Member, who believes the minimum wage is an awful thing and there ought not be any minimum wage at all. There are some people who think there ought not be any prohibition on hiring kids to work at 12 cents an hour. There are some with that kind of radical notion. But most of this country has moved well beyond that, and we have child labor laws that are thoughtful, and we have minimum wage provisions that are thoughtful and modest.

The discussion now between those of us who believe a minimum wage is appropriate is, at what level should the minimum wage be set? Should we adjust it after 7 years, after the 1989 adjustment, after virtually all of the gain from that adjustment has been wiped out? Should we make another adjustment—a thoughtful, moderate adjustment?

I think most people come down on the side of saying, yes, this makes a lot of sense. This is not radical. It is not politics. It is about people's financial circumstances, as they sit around and eat supper and talk about their lot in life. For many of them, it is talking about what their salary is, what their opportunities are.

So, to conclude, a few of us had a press conference this morning, and we had some small business people who made the case, I thought eloquently, that they supported a moderate adjustment in the minimum wage. I found that walking up and down Main Streets and talking to people, that people who think this through believe what is fair is fair.

We are not asking for the moon here. We are responding to this woman—and millions of others, undoubtedly—who says, ''I beg you, for the sake of my children, please help us find a glimmer of hope to help us dig our way out of this hopelessly grim situation.'' She is just asking that maybe she and her husband, who do not have it so good—they lost their trailer house in a fire, are having trouble buying clothes for her kids, are having trouble paying the rent and buying food—that maybe we will not let them see a little more opportunity.

The adjustment in the minimum wage is a small price to pay, in this body, to begin to honor work above welfare. This family and so many millions of others are working. They are not on the welfare rolls. And this amendment, this adjustment will say to them, ''We give great merit to work, sufficiently so that we believe those of you at the bottom rung of the economic ladder, after 7 years, deserve a modest increase.''

We stand for work, not welfare. That is what this vote will be.

I appreciate the generosity of the Senator from New York. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, I wanted for say how emphatically I support each of the statements we have just heard. It is embarrassing at this point in the 20th century that we have to go to this effort just to maintain the value of an economic guarantee that has been with us for 60 years. It is as if the 20th century did not happen on the other side of the aisle, or should not have.

I hope the woman, the lady who wrote the Senator, will not have done so in vain. A beautiful letter and beautifully described.

Mr. SARBANES. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the Senator.

Mr. SARBANES. Mr. President, I want to add an additional point. That is, I think many employers are supportive of an increase in the minimum wage.

In fact, the employers who spoke at this press conference this morning indicated they were in favor of raising the minimum wage. One of the press people said, ''If you are in favor of it, why do you not just go ahead and do it, and voluntarily raise it in your business?''

This lady had an immediate comeback, right on point. She said, ''If all my competitors will raise their wages, their payrolls, then I am quite prepared to do it. Otherwise, I am placed at a competitive disadvantage.''

In effect, under the current system, the only employer who is not responsive to the needs of his employee, in effect, dictates the standard, and it is all brought down to the lowest common denominator. For many employers, this enables them to do what they think ought to be done in any event—that is, give their employees a better wage. It will be done with a level playing field in terms of competition, so that employer—and I think there are not all that many—if they refuse to go up, they can be at a competitive advantage against those people who are more responsive to the needs of their employee and who understand the pressures that are upon them in today's age.

This, in many respects, for many employers, means they have an opportunity to do what they think ought to be done, in any event. I want to make it clear, I think there are a great many employers across the country who take that position. They are not opposed to raising the minimum wage. They recognize that by raising the minimum wage, you keep the competition on a level playing field, and therefore they support the measure that is before the Senate.

I very much hope, as the Senator from New York said, when we meet tomorrow we will be able to act in a positive manner on this very important matter.

Mr. MOYNIHAN. If I may say to my friend from Maryland, for a century it has been a well-understood principle that with respect to labor legislation, its primary purpose is not to put at a disadvantage employers who will provide better wages and conditions. We have done this not only internally, but through the International Labor Organization. We had labor treaties to do just that. We had to deal with child labor in those terms so that the employer would not put 12-year-olds in coal mines, which we had, would not be at a disadvantage more than one who would.

Mr. SARBANES. If the Senator will yield, is that not exactly what this legislation does?

Mr. MOYNIHAN. Exactly. What I cannot understand—and I do not think the Senator from Maryland can help me—is that I thought this was all understood 50 years ago. Evidently not. We will find out tomorrow.

Mr. SARBANES. Actually, the proposal, I think, coming from our colleagues on the Republican side is really a radical proposal.

Mr. MOYNIHAN. This has been a consensus on both sides of the aisle for 60 years, including President Eisenhower, President Nixon and President Bush. We will see.

Mr. President, I ask unanimous consent to speak, with the time to be allocated against the underlying bill, H.R. 3448, the Small Business Job Protection Act of 1996.

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

Mr. MOYNIHAN. Mr. President, this bill, H.R. 3448, the Small Business Protection Job Act of 1996, has two titles. Title I is Small Business and Other Tax Provisions. This was considered on June 12 by the Committee on Finance, which reported the bill unanimously with a committee amendment. Title II, Payment of Wages, contains the increase in the minimum wage we have been discussing.

I want to address some of the more important provisions in the small business portion of the bill, and then make a more general point about the provision increasing the minimum wage.

Section 1202 of this bill extends employer-provided educational assistance until December 31, 1996. That is for the remainder of this year. It also applies the provision to graduate education, which the House bill did not. At this point, about one-quarter of the employees sent to teaching institutions, institutions of higher learning, are, in fact, in graduate school, and the value of this program is particularly evident in the case of persons sent to do postgraduate work in highly technical areas. Employers recognize the abilities of the individuals, see the opportunities for bringing them to higher levels of productivity, and pay them more in the process.

This measure, which is one of the least known but exceptionally rewarding features of our Tax Code was first enacted in 1978. We have never made it a permanent provision. We ought to do that. It ought to be one of the first businesses of the next Congress, because, absent the additional extension I will describe in a moment, it will have expired once again by the time the next Congress convenes. Employer-provided educational assistance is in this measure made retroactive, permitting employees to exclude from their income up to $5,250 in tuition paid for by their employers. In other words, it allows employers to send employees to college or graduate school tax free.

I venture to say that the employer-provided educational assistance program is one of the most successful efforts ever undertaken by the Federal Government in this area. Some 800,000 employees benefit from this provision every year. And they benefit in the most auspicious of circumstances. An employer says, ''Will you go to graduate school and get an advanced degree in chemistry so we can put you in a higher position than you are now in? Then you will be in the higher position and earn more money and, in time, the Federal Government gets it back.''

So many of our job training programs have depended on hoping that in the aftermath of the training there will be a job. Here you have a situation where the employer already has the worker and the employee sees the opportunity to enlarge his or her situation, and to do so in a way that is optimal for all concerned. Now, 95 percent of the persons involved are pursuing a degree or certificate; 35 percent are enrolled in business and business-related fields, such as accounting, finance, marketing, and business administration; 12 percent are enrolled in health care-related curricula; another 18 percent are in engineering and other technical fields.

I say, once again, this is a program that works. It administers itself. It has the least possible overlay of bureaucracy; it has none. There is no bureau of employer-provided education benefits in the Department of Education. There is nothing except individual contracts, employee and employer, with a great value added. I say again that it pays for itself.

I am happy to say that the managers' amendment, which we expect will be adopted tomorrow, will provide for an extension through the end of 1997. So it would be a good thing if we would look to the next Congress to make this a permanent arrangement. Right now, almost a million employees do not know whether or not they owe income tax on the benefits—the educational tuition paid for them in the course of this previous year. We now do it retroactively. But this is something that can be made a permanent part of the Tax Code. I think the distinguished Presiding Officer would know that universities find this an exceptionally rewarding arrangement and, particularly, in the technical fields where serious job skill training takes place.

I also mention that the Senate version of the expatriation tax proposal has been included in this bill. Earlier in this Congress, there was some question about whether the Finance Committee was going to address this matter, and we had rather a lively exchange on this floor to that effect. I said at the time that we would, and we have done it. This is a variation of a bill I first introduced in 1995 to address the problem presented when wealthy citizens renounce their U.S. citizenship and move abroad in order to escape taxation. Although expatriation to avoid taxes occurs infrequently, and it is not a seemly act, it does occur, and it is a genuine abuse.

I would like to say for the RECORD that this is important, Mr. President. When the issue first arose in 1995, we had meant to move directly at that time. Then-chairman of the Finance Committee, Senator Bob Packwood of Oregon, and I said this is something to be dealt with directly. At that time, a number of legal scholars in the field of

international law raised questions concerning the propriety under international law of restricting the rights of persons to leave the country of which they are a citizen. We took this seriously, as we were required to, and put off the legislation until we could satisfy ourselves—and the critics who had offered good faith comments—that we were doing something that would pass muster as not restricting the right of emigration. This bill does that, in our judgment, and does it very well indeed.

One might think this is a small measure, and perhaps some have suggested it was. But this provision, the expatriation provision in the Senate bill, raises $1.57 billion over 10 years. The modified provision in managers' amendment that will be offered tomorrow increases that to a total of $1.71 billion, which suggests that what may have been a relatively rare event up until recently is gathering momentum, and we will now stop it. And stop it we ought. The idea of millionaires, multimillionaires, renouncing their citizenship and moving to the Bahamas is—well, it is not seemly. I need say no more.

A final observation about the small business title of the bill. To pay for the small business tax relief provisions, which will cost approximately $17 billion, we are providing for a tax cut of $17 billion. We are phasing out section 936 of the Internal Revenue Code over 10 years.

This measure, which dates from the 1920's, was originally intended to encourage American business to locate in the Philippines. For a generation now, it has been almost entirely a matter of Puerto Rican business activity, and has been very important to the economy of Puerto Rico.

On the other hand, there comes a time when a measure of this sort has been in place long enough and it is recognized—not precipitously but with good notice—that the time has come to phase it out. The division of opinion on this question in Puerto Rico is probably associated with proponents of statehood and proponents of maintaining the commonwealth relationship. We have done our best to accommodate the people of Puerto Rico and their elected officials. They are not represented on the Senate floor. We have a profound responsibility to that possession which we obtained just short of 100 years ago in the aftermath of the Spanish-American War.

I might add again, Mr. President, that this bill was reported from the Committee of Finance unanimously. It was bipartisan. It was the judgment of persons we found most persuasive that we should follow the shift we made in 1993 by encouraging the tax credit for actual job creation as against the depreciation of patents and other arrangements which had been possible under the earlier regime.

I have been on the Senate floor for 20 years talking about this matter. I have tried to make it clear that the United States had an obligation not simply to the people of Puerto Rico but to the international community. Every President since Harry S. Truman has said that the people of Puerto Rico are free to remain a commonwealth—if they choose—to become a State, or to choose independence. And that option exists to this moment.

But the time for this particular tax subsidy in this form seems now to have reached a point where we would say, ''All right, let us have done with it in the early 21st century.'' And this legislation does so. It is bipartisan. We hope it works. We have concerned ourselves solely, or I would like to think primarily, with what seems to be the best interests of Puerto Rico. And we have consulted with their elected representatives in this regard.

I would particularly like to express my appreciation to Chairman ROTH, who has been wholly cooperative in this matter and in particular in making the wage-based credit permanent for existing companies.

I hope that at a later time we can work together to do more to provide incentives for new investment for Puerto Rico, not just for existing companies but for new companies as well, but that, too, is for the next Congress. I look forward to working with our committee and the Senate itself in this regard.

I say once again that we must remain conscious of a very solemn responsibility to the people of Puerto Rico, who are not represented in this Chamber but who are American citizens, who have the right to be respected, whose rights are to be respected, and whose interests are to be advanced.

This brings me to the minimum wage title of the bill, which after all is the reason we have taken the trouble to write a package of small business tax relief provisions. Many members of the majority, particularly in the other body, believe that an increase in the minimum wage would harm small businesses. Therefore they demanded offsetting tax relief for those businesses.

Senators on our side did not feel any sweetener should be required in order to pass a long overdue increase in the minimum wage, but even so we tried to be accommodating. We worked on a bipartisan basis to craft a small business tax relief bill all Senators could support.

Yet now we are told this is not enough. The price for passage of the minimum wage increase keeps going up. Tomorrow the Senate will vote on an amendment to exempt from the minimum wage businesses with less than $500,000 per year in sales; permit a subminimum wage of $4.25 per hour for newly hired workers; and delay the increase in the minimum wage for 6 months.

I hope Senators will keep this minimum wage increase in perspective. Yes, an increase in the minimum wage will reduce demand for labor somewhat. But if you are looking for a painless time to do it, now is the time. The current economic expansion is in its 65th month. Unemployment is down to 5.3 percent. Two weeks ago, the Washington Post reported that serious labor shortages are developing around the United States, so much so that some fast-food franchises are paying substantial signing bonuses to new employees. So now is the time to phase in a higher minimum wage. Our expanding economy will easily adjust to it.

When the Finance Committee took up this legislation 3 weeks ago, we understood that the small business provisions were necessary to get the minimum wage increase enacted. And we reported the bill unanimously. I hope the Senate will defeat the amendment of the Senator from Missouri tomorrow, and that we will then approve H.R. 3448 overwhelmingly and without further delay.

Mr. President, I believe my time may have expired.

The PRESIDING OFFICER. The Chair advises the Senator from New York that there are 6 minutes remaining on the Kennedy amendment.

Mr. MOYNIHAN. Mr. President, I will now suggest the absence of a quorum as I see no Senator wishing to be heard. I ask that the time be equally divided.

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

Mr. MOYNIHAN. Mr. President, I think we are going to find ourselves in a situation where we will want to add to the time available for debate tomorrow. But I do not see anyone on the floor at this point. I suggest the absence of a quorum, and I will return momentarily with some thought.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4272

(Purpose: To modify the payment of wages provisions.)

Mr. BOND. Mr. President, earlier today the majority leader submitted my amendment to this bill, amendment No. 4272. I believe it is held at the desk. I would like to call up that amendment now, please.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 4272.

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

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

The amendment is as follows:

Strike title II and insert the following:

TITLE II—PAYMENT OF WAGES

SEC. 2101. PROPER COMPENSATION FOR USE OF EMPLOYER VEHICLES.

(a) SHORT TITLE.—This section may be cited as the ''Employee Commuting Flexibility Act of 1996''.

(b) USE OF EMPLOYER VEHICLES.—Section 4(a) of the Portal-to-Portal Act of 1947 (29 U.S.C. 254(a)) is amended by adding at the end the following: ''For purposes of this subsection, the use of an employer's vehicle for travel by an employee and activities performed by an employee which are incidental to the use of such vehicle for commuting shall not be considered part of the employee's principal activities if the use of such vehicle for travel is within the normal commuting area for the employer's business or establishment and the use of the employer's vehicle is subject to an agreement on the part of the employer and the employee or representative of such employee.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act and shall apply in determining the application of section 4 of the Portal-to-Portal Act of 1947 to an employee in any civil action brought before such date of enactment but pending on such date.

SEC. 2102. MINIMUM WAGE INCREASE.

(a) SHORT TITLE.—This section may be cited as the ''Minimum Wage Increase Act of 1996''.

(b) AMENDMENT TO MINIMUM WAGE.—Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended by striking ''(a) Every'' and all that follows through ''$4.25 an hour after March 31, 1991;'' and inserting the following: ''(a) An employer shall pay to an employee of the employer the following wage rate in accordance with the requirements of this subsection:

''(1)(A) in the case of an employee who in any workweek is employed in an enterprise engaged in commerce or in the production of goods for commerce, not less than $4.25 an hour during the period ending on December 31, 1996, not less than $4.75 an hour during the year beginning on January 1, 1997, and not less than $5.15 an hour after December 31, 1997;

''(B) in the case of an employee who in any workweek is engaged in commerce or in the production of goods for commerce, but is not employed in an enterprise engaged in commerce or in the production of goods for commerce, not less than $4.25 an hour;''.

(c) CONSTRUCTION.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end thereof the following new subsection:

''(h) Nothing in this section shall be construed as affecting any exemption provided under section 13.''.

SEC. 2103. FAIR LABOR STANDARDS ACT AMENDMENTS.

(a) COMPUTER PROFESSIONALS.—Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended—

(1) by striking the period at the end of paragraph (16) and inserting ''; or''; and

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

''(17) any employee—

''(A) who is a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker;

''(B) whose primary duty is—

''(i) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;

''(ii) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

''(iii) the design, documentation, testing, creation, or modification or computer programs related to machine operating systems; or

''(iv) a combination of duties described in clauses (i), (ii), and (iv) the performance of which requires the same level of skills; and

''(C) who is compensated on an hourly basis and is compensated at a rate of not less than $27.63 an hour.''.

(b) TIP CREDIT.—Section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended—

(1) by striking ''(m) 'Wage' paid'' and inserting ''(m)(1) 'Wage' paid''; and

(2) by striking ''In determining the wage'' and all that follows through ''who customarily and regularly receive tips.'' and inserting the following:

''(2)(A) In determining the wage an employer is required to pay a tipped employee, the amount paid such employee by the employee's employer shall be an amount equal to—

''(i) the cash wage paid such employee which for purposes of such determination shall be not less than the cash wage required to be paid such an employee on the day preceding the date of enactment of this paragraph; and

''(ii) an additional amount on account of the tips received by such employee which amount is equal to the difference between the wage specified in subclause (i) and the cash wage in effect under section 6(a)(1).

''(B) Subparagraph (A) shall not apply with respect to any tipped employee unless—

''(i) such employee has been informed by the employer of the provisions of this subsection; and

''(ii) all tips received by such employee have been retained by the employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.''

(c) OPPORTUNITY WAGE.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by inserting after subsection (f) the following new subsection:

''(g)(1) In lieu of the rate prescribed by subsection (a)(1), any employer may pay any employee of such employer, during the first 180 consecutive calendar days after such employee is initially employed by such employer, a wage which is not less than $4.25 an hour.

''(2) No employer may take any action to displace employees (including partial displacements such as a reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in paragraph (1).

''(3) Any employer who violates this subsection shall be deemed to have violated section 15(a)(3).''.

Mr. BOND. Mr. President, this is an amendment that merely carries out the intent that Congress has shown on many occasions to exclude the smallest of the small employers from the burdens of a minimum wage. Basically, it says that for firms grossing less than $500,000, the small mom and pop businesses, the folks in your neighborhood, the people who are just getting by and providing a few jobs in their community, will not be subjected to the increase in the minimum wage. This does not say that their workers will not be protected by the current minimum wage or by Federal overtime provisions. It just says that we are not going to put another burden on the backs of those very small employers by ordering them to add 20 percent to their payroll costs for those who are employed at minimum wage.

As the Clinton administration's own Administrator of the Small Business Administration, Phil Lader, said, this kind of exemption, this two-tiered system makes sense. It protects minimum wage jobs in the smallest business and it protects small business.

Those of us who have talked with and, more importantly, listened to small business people throughout this country know that the burdens of Government regulation, Government mandates fall very heavily on small business. This amendment just says we are not going to put another mandate, another heavy financial burden, on the very smallest of the small employers on Main Street in your community and my community.

Earlier today, the Senators from Massachusetts and South Dakota stated the reasons they opposed my amendment. I am here to set the record straight about what my amendment does and does not do.

First, contrary to their assertions, this amendment is not a killer amendment. It simply means that the smallest of the small businesses will not have to lay off some of their workers in order to comply with the law.

Who says that is a killer amendment? What forces are telling the President that he cannot protect the smallest of the small businesses and give all of the rest of minimum wage workers a minimum wage increase? What kind of logic would say that you cannot have it for anybody if you protect just the employees and the smallest businesses grossing under $500,000?

The Senators from Massachusetts and South Dakota would have you believe that the debate is only about whether or not people should be paid more. Would I like to see working Americans earn more money? Absolutely. I believe that everybody who has joined me as a cosponsor of this amendment and who will vote for this amendment would agree. But the way to get increases in wages is through increases in productivity, getting the training, getting the experience that often minimum wage workers are getting in their very first job. We expand the opportunity for a training wage so people can get off welfare and into work or start on the work ladder. That experience is vital to getting them better paying jobs in the future. If you increase the minimum wage for the smallest of the employers, there are real tradeoffs. The smallest of the small employers, American businesses grossing under $500,000 per year, will, in my view, be forced to lay off workers. That is the bottom line. An increase in wages with no increase in productivity and revenues means lost jobs.

Here is how it works. Say your neighbors own a small grocery store. They have a payroll budget of $85,000 available for wages. How do we know what is available for wages? Well, that is about how much they can pay after they figure out how much they are taking in, the costs of goods that they sell, what their operating costs are, and what they need to live on. At the current minimum wage, they could afford

to hire about 10 workers. It comes out to a minimum wage, 40 hours per week, 50 weeks per year, of about $8,500. If the minimum wage were to be increased by mandate on them by 90 cents, there is added $1,800 per employee to the grocer's cost. But raising that wage does not sell more groceries or anything else in the store.

So how many people will they be able to afford to hire? Only eight. A 20-percent increase in the minimum wage means they will have to lay off 20 percent of their minimum wage workers, or two people. A small business employing only five would have too lay off one. To suggest that a minimum wage increase has no effect on employment in the smallest of small businesses is just plain wrong. A mandatory minimum wage increase for the smallest employers means job loss.

The Senator from Massachusetts would also have you believe that we have locked out millions from increases in the minimum wage, ''employees of fully two-thirds of all firms in the United States.''

Come now, Mr. President, the truth is this amendment only applies to those firms that take in revenues of $500,000 per year or less. These firms employ only about 8 percent of the American work force. The percentage of those earning the minimum wage at those firms is even smaller.

The Advocacy Council at the Small Business Administration says only about 10 percent of the small business employees are at minimum wage. So we are talking, probably—we do not have exact figures from the Bureau of Labor Statistics—less than a million people.

I also find it somewhat odd that my Democratic colleagues are complaining about the amendment as a poison pill. Many of them happily voted for similar poison last time we passed a minimum wage increase in 1989. And many of them supported a bill authored by Senator BUMPERS, my distinguished ranking member on the Small Business Committee, in 1991. That amendment clarified the need for a small business exemption. If it was not poison then, why is it poison now?

I think it is very unfortunate that this administration is ignoring the advice of its own top small business spokesman, Philip Lader, the administrator of the Small Business Administration, who says:

> An exemption for the smallest of small businesses makes sense. Exempting small businesses from a mandatory wage increase for minimum wage workers means that firms at the margin will not be forced to cut jobs or not grow.

So there you have it. The view of the need for a small business exemption from the Clinton administration's own spokesman on small business.

We, on our side of the aisle, believe the minimum wage is a floor. Apparently some on the other side view it as a ceiling. There are some Democrats who would have you believe that Americans are locked into minimum wage jobs, in some cases for life. Those just are not the facts. Most Americans do not earn the minimum wage. Many of them start there and they move up the scale. They have to get a start somewhere. That is why the minimum wage and the training wage is so important. Those who obtain minimum wage jobs learn the skills and, as they become productive, go on to better jobs at better pay.

Who is it that is saying this is a poison pill? Common sense sure does not. I cannot believe the President would deny the minimum wage increase he so robustly seeks for the very large percentage of minimum wage workers who are not employed by the smallest of the small.

Mr. President, we will, I understand, have an opportunity to discuss this matter further tomorrow. At this point, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I am taking the floor today to speak in favor of the Bond amendment. I certainly am speaking for the small business people of this country when I support the exemption that is provided in this amendment.

I think it is very important that we look at the big picture when we are making law that is going to affect the economy of our country and most certainly the workplace of our country.

We have passed free trade agreements, so we are now going to be in competition with businesses throughout the world. Many of these businesses have lower standards than we do. They have lower wage scales. I think America should keep our high standards, but I also think if we are going to keep jobs in America through export markets rather than shipping the jobs overseas—rather, export our products instead of our jobs—if we are going to do that, we have to look at the big picture and look at what we have done in this country over the last 3 or 4 years.

In fact, what we are doing is increasing the cost of doing business in America. So if we pass the minimum wage increase, we are going to add one more increase to the cost of doing business that will make us less competitive in the global marketplace.

I was a candy manufacturer. I did export into Canada, for instance, but I also competed, Mr. President, with candy that was made in South America and Mexico, and it was very difficult to compete with candy that was made at much lower cost because I had to be price competitive. So I am very hopeful that we will look at this competition that we have created as we are taking up an increase the size of a minimum wage that we are talking about today.

So if we increase the minimum wage at the same time that we have increased taxes—that has already been done—we have more regulatory costs, and that has been proven, as well, pretty soon we are going to see our jobs exported rather than our products exported from America—products made with American labor.

I think we have to be very careful. I appreciate the fact that Senator BOND and Senator LOTT are working on an amendment that would give our small businesses a break. By having the $500,000 exemption, we are taking the businesses that are most vulnerable to the margins of profit and we are going to give them a break. I think that is very important.

I have seen that small businesses have a harder time competing for export markets anyway because they do not have the size that makes for more efficiencies. So if we can give them this bit of help—$500,000 is a very small company, especially if that is your gross receipts, that is a small company—I think if we can give our small businesses the advantage of an exemption, then maybe we will be able to get the best of both worlds with this overall minimum wage increase.

I also like the provision in the amendment that says we will have a training wage for 180 days. A training wage is an entry wage. You do not find experienced people making the minimum wage; you find people who have no experience whatsoever making the minimum wage, and they quickly move on if they learn fast and show that they are able to take on more responsibility.

So I think the training wage is very important for our entry level people, our young people who are trying to get their first experience or our older employees who might be coming back into the marketplace. Getting that first bit of training and allowing the leeway to get that training, I think, is going to be a very important mitigating factor for the companies to be able to say, yes, I can take a chance and hire someone at the $4.25 level because I know that if they prove that they are worth something, I will then be able to pay more. But that gives me time to get the product on the market and productivity up and find out if I am going to be able to afford this and then hopefully be able to make the increase at the end of the 180 days.

I also think, Mr. President, that this folds into the welfare reform that we have been talking about. If we are going to put limits on the amount of time that a person can be on welfare, if we are going to encourage people who are able-bodied to go into the job market rather than staying in a cycle of welfare, we have to have the jobs available for these people to enter the workplace.

They are the very people that need that entry-level wage. People who

would be making a transition from welfare into the job market ought to be able to get that training wage, get that experience. Their employers hopefully would be able to take a chance at this lower level of the wage, and give them that opportunity to pull themselves up by their bootstraps to become citizens of this country who are taking a responsibility and providing their fair share of the workload for this country.

So I urge my colleagues to support this very important amendment, and help us make sure that we keep the strength of our economy as we are moving into this higher minimum wage level. Let us have time for people to prepare. I think increasing the minimum wage immediately could put a very big hardship on some of our small businesses that they would not be able to immediately cover.

But if we give time for these businesses to plan for the increase, and see how they are going to be able to increase their prices in order to make up for the higher costs, that we will be doing something that will not hurt the small businesses of this country nearly as much, and it will not hurt so badly our businesses that might be competitive in the international marketplace either.

Many people are concerned that if we raise the minimum wage, it will increase the cost of employing even people who are not making the minimum wage. We are going to start a ratchet effect so that every level of wage is going to go up. Well, that is good, but it is also something that we have to look at very carefully to make sure that our businesses can absorb these higher costs. We need to give them the ability to raise the price of their product in time so that they will not be in a loss situation and have to actually lay people off and eliminate jobs. That is certainly not what we want the outcome of the minimum wage increase to be.

So I think the delay, giving business a chance to prepare for the minimum wage increase, keeping the training wage are very important. I think the $500,000 and below exemption is very important for helping our small businesses to be able to keep their small businesses going and increase employment rather than have to lay people off. More than seventy percent of the new jobs in this country are created by small business. So the last thing we want to do is hurt that economic machine, that job-creating machine that is the small business of this country. So we want our small businesses to be able to plan for this increase, to have the ability to absorb the increase in costs that will happen. I think this is the responsible way to do it.

Mr. President, before I end, I would like to say that I am also very, very pleased about another part of this bill. It does not really relate to the minimum wage, but in the business tax part of the bill that will be introduced tomorrow. I just want to commend Senator ROTH, the chairman of the Finance Committee, for including the Hutchison-Mikulski homemaker IRA bill.

I have been fighting for 3 years to give the homemakers of this country the ability to retire in security the same as if they had worked outside the home, because there is no question in my mind that the work done inside the home is as much a part of the American family, if not more important to the American family, than the work done outside the home. But ever since IRA's have been allowed in this country that would allow people to set aside $2,000 a year, tax free, for their retirement security, ever since we have authorized those, we have not allowed the homemaker, who works inside the home, to be able to contribute that same $2,000 a year.

We are trying to correct that inequity. Senator MIKULSKI, Senator FEINSTEIN, Senator KASSEBAUM, Senator SNOWE, and Senator GRAMM have all signed on to be cosponsors of that bill. Senator ROTH especially has been very helpful, not only in putting that in the original tax cut bill that was vetoed by President Clinton last year, but he has also included it in this bill. If this bill can be signed by the President then we will have our homemaker IRA's.

So I am hopeful that this is a bill that will include the Lott-Bond amendment so they will help the small businesses be able to prepare for this minimum wage increase and give the exemptions for small business to be able to continue to pay the lower minimum wage, and then if we can have the homemaker IRA that will really make a difference in the savings in this country and in the security of our one-income-earner families and not only that, but when you take everything into consideration, it is just a matter of equity.

It is just flat equity that every person who is working in our country, whether it is inside the home or outside the home, should have the same opportunities for saving for retirement, tax free. And that is exactly what we will be doing if we are able to pass this bill with that very fine amendment that will be sponsored by Senator ROTH tomorrow.

So I am very pleased to be supportive of this measured minimum wage increase because I believe that it can be good for our country if we do it in just the right way. So I thank the sponsors of the amendment, and I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I inquire how much time remains on both sides?

The PRESIDING OFFICER. There are 9 minutes 7 seconds for the majority side and 30 minutes for the minority.

Mr. NICKLES. Mr. President, thank you.

I wish to compliment my colleague from Texas for an outstanding statement and also for her leadership on this issue and for the fact that she has some business experience to rely on. I think that certainly is needed. I hope that her advice, as far as voting on these amendments, will be taken to heart by our colleagues.

Mr. President, I rise in opposition to a 21-percent increase in the minimum wage. That does not mean that I do not want individuals that make the minimum wage to make more money. I hope that they do. I hope they make a lot more. I hope we are not satisfied with them making $5.15. I would like for them to make a lot more.

But what I would hate to do is to pass a Federal law that says it is illegal for them to work for $5. In other words, if the economic situation in some area will only allow a job to pay $5 or $4.50, I do not think we should pass a Federal law to say it is illegal for them to take the job.

That is exactly what we are doing. I have heard some of our colleagues say, ''Well, this is supported by an overwhelming majority of people. Eighty percent of the people support the minimum wage.'' I want people who make minimal amounts of money to make more money as well. But suppose the pollster phrased it like this: Should the Federal Government make it illegal for an individual to work for $4.80 an hour in rural Montana if that is the best that that employer can pay and the best that that employee can make? Most people would say, no, you should not make it illegal.

I just say that I believe the reason why we are here is not really to raise minimum wages. I believe it is political. I believe our colleagues on the Democrat side, including the President, are playing politics. They are trying to score political points. Maybe they have been successful. I do not know.

Interesting coincidence of timing. The Democrats controlled the Senate, both Houses of Congress, in 1993 and 1994. They could have raised this issue at any time during then. The majority leader could have called it up. The Speaker in the House could have called it up at any point. They controlled both Houses of Congress. President Clinton and the Democrats said they were in favor of it. They could have moved at that time. They could have pulled it up, and both Houses would have considered it, would have voted on it, or at least it would have been up for consideration. They did not do it in 1993. They did not do it in 1994. They did it, I believe, for political purposes, about the same time after organized labor came into town and said they would commit $35 million to try to retake both the House and the Senate. Interesting timing.

All of a sudden, here come the amendments, and we will have this

amendment on everything, we will make it illegal for anybody in America to work for $5 an hour because somebody in this Chamber has determined you should not have a job if it is only $5 an hour. I disagree with that philosophy. I disagree with it very strongly.

Now, if the Senator from Massachusetts or the Senator from any other State, if their State wants to raise minimum wage to $5.25, which I think they have done in the State of Massachusetts, they are scheduled to go to $5.25, that is fine. If the State of New York wants a minimum wage of $6 an hour, they have the right to do so. Why in the world should we make it national? What about the State of Montana, or some rural town in Montana? Maybe they have different economic circumstances, which they most certainly do, than, say, New York City or Washington, DC.

Why should we presuppose we have all the wisdom and we should mandate what the wages should be nationally, and make it is against the law for you to have a job even if you are 16 years old and want to get started climbing the economic ladder? We are going to say, ''No, if you cannot get a job that pays at least $5.15 an hour, you cannot have a job. The Federal Government has determined it is better for you to stay at home, not work. If you cannot get a job at $5.15 an hour, we prefer you not to have a job. It is against the law for you to have a job.''

I think that is a mistake. I think it is a serious mistake. I think it will cost jobs. I do not know how many jobs it will cost. The Congressional Budget Office estimates employment losses for a 90-cent-per-hour increase in minimum wage from roughly 100,000 to 500,000 jobs. That is a pretty significant economic impact on that 100,000 or that 500,000 people who lose a job.

Those are people that may need the job more than anything. Maybe they are people that want to start climbing the economic ladder, and we will say, ''No, you need not apply. That job is not worth it.'' Maybe it was pumping gas, sacking groceries, or some menial task. That first job can be one of the most important, in fact, maybe the most important job somebody will have because they start learning skills. They might learn they need more education, or have an idea, ''Wait, I need to make more money, so therefore I better go back to school,'' or vo-tech, or finish high school, or maybe go to college. No, we will have a Federal law that says if you do not make at least $5.15 an hour, we have determined you should not have a job. As a matter of fact, it is illegal for you to have a job. I think that is wrong.

The Employment Policies Institute estimates that the job loss for an increase of 90 cents is over 600,000, if Senator KENNEDY's amendment passes. Mr. President, 10,000 are in Oklahoma, 18,000 would be in Georgia. I do not want to pass a law that will put 10,000 Oklahomans out of work. Again, if they want to do that in the State of Massachusetts, power to them. If they want to do it in other States, they have that right to do so. We should not interfere with that.

What about States rights? The 10th amendment of the Constitution says all the rights and powers are reserved to the States and the people. They did not envision the Federal Government mandating that if you do not make $5.15 an hour, you cannot have a job. That is what Senator KENNEDY's amendment would do.

Senator KENNEDY's amendment is even worse than the language that already passed the House, which President Clinton said he would sign. The House bill at least has a training wage of 90 days; Senator KENNEDY only has one for 30 days. The House bill does not hit the restaurant owners and workers; it allows a tip credit. Most people that work in restaurants make $8 or $9 an hour on average. They are not minimum wage, so they keep the tip credit at $2.13. Senator KENNEDY has that increased. That would be a big hit on somebody that has a small restaurant. My point being that his language is even worse than what passed the House. The net result is you will put hundreds of thousands of people out of work.

I believe that is a serious, serious mistake. Not only that, but now it would be retroactive. So, think of that. You have a small business. Senator KENNEDY does not give a small business exemption, no matter how small. My colleagues know I used to have a janitorial service. We did not pay minimum wage. I used to work for a janitorial service that did pay minimum wage. Senator KENNEDY's bill would make it retroactive. That might be nice if you got the wage, but what about the employer that could not cover it?

I remember asking my boss, when I was making $1.60 an hour, for a raise, and after a couple weeks he gave me a nickel-an-hour raise. Senator KENNEDY will mandate they have to give 45 cents retroactive to July 5. What if they cannot afford that? Sorry, you just lost a job, thanks to Senator KENNEDY's amendment.

We should not allow that to happen. We should not be passing laws around this place that will put hundreds of thousands of people out of work. We should not be passing laws around this place that say it is illegal for you to have a job that pays $5.10 an hour because the Federal Government has determined that any job that is worth having should pay at least $5.15 an hour.

I believe that is very bad economics. It does not make sense. I do not believe we can repeal the law of supply and demand. If we can, why stop at $5.15? Maybe we should have another amendment that says make it $10 an hour if there is no negative impact on a 21-percent increase in the minimum wage. Increase it 100 percent—make it $10 an hour or $20 an hour. Anybody making $5 an hour, I would like them to make $10 or $20. I would like them to be better off financially. If there are no negative economic consequences, why not do it? We are not going to do it because people know it would have a negative economic consequence. We know we would be putting people out of work, and there are certain jobs in certain places that cannot afford to pay it.

The people we will hurt the most are the people we should be hurting the least. We will be hurting a little restaurant or grocery store that is competing in some rural town, trying to stay alive, competing against Wal-Mart. Some big business comes in and the little guy is having a hard time staying alive. Yet, we are going to mandate a 21-percent increase in minimum wage. Maybe they were hiring some young people, 16 and 17 years old, that wanted to earn some money in the summertime, and we will tell them, ''No, you cannot do that. It is against the law. Unless you pay at least $5.15 an hour, we have determined that job is not worth having.'' We have decided that in Washington, DC, because we are the source of all wisdom.

What is right about $5.15? Why not make it $6 or $7 or $8 or $10? It just does not make sense. If you repeal the law of supply and demand, we should make it $10 or $20, but we cannot. It will cost jobs. If we pass the increase in minimum wage, it will cost jobs. We will put people out of work, people that need to work the most, people that want to start climbing the economic ladder. That is a serious mistake.

I mentioned, Mr. President, I worked for a janitorial service in Stillwater, OK, and the 1968 minimum wage was $1.60. My wife and I both had a job there. We worked at it a month before we asked for the raise. We got the nickel. We decided that was not enough, so we started our own janitorial service and we made a lot more money working for ourselves. We got started low on the economic ladder, but we were able to climb up. I am glad the Federal Government did not come in and say they wanted the minimum wage at that time to be much, much higher. I might not have gotten that job. I might not have gotten the training, and I might not have started my own janitorial service and put myself and several other people through school.

We should not deny people economic opportunities. We should not be passing laws that will be putting people out of work. That is exactly what we will be doing if we pass this increase in minimum wage. I hope we will not do it. I urge my colleagues to vote no on the Kennedy amendment tomorrow.

MESSAGES FROM THE HOUSE DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on July 2, 1996,