from the sales into the Colorado River Dam fund.

S. 1367. An act to amend the Act which established the Saint-Gaudes Historic Site, in the State of New Hampshire, by modifying the boundary and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance, without amendment:

S. 3267: An original bill to amend the Internal Revenue Code of 1986 to maintain retiree health benefits under the Coal Industry Retiree Health Benefit Act of 1992 and adjust inequities related to the United Mine Workers of America Combined Benefit Fund (Rept. No. 106–512).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ROTH:

S. 3267. An original bill to amend the Internal Revenue Code of 1986 to maintain retiree health benefits under the Coal Industry Retiree Health Benefit Act of 1992 and adjust inequities related to the United Mine Workers of America Combined Benefit Fund; from the Committee on Finance; placed on the calendar.

By Mr. SMITH of Oregon:

S. 3268. A bill to amend the Oil Pollution Act of 1990 to improve provisions concerning the recovery of damages for injuries resulting from oil spills; to the Committee on Environment and Public Works.

By Mr. DURBIN:

S.J. Res. 56. A joint resolution proposing an amendment to the Constitution of the United States to abolish the electoral college and to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Con. Res. 159. A concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. SMITH of Oregon:

S. 3268. A bill to amend the Oil Pollution Act of 1990 to improve provisions concerning the recovery of damages for injuries resulting from oil spills; to the Committee on Environment and Public Works.

FISHERMEN AND AQUACULTURE OIL SPILL ASSISTANCE ACT

Mr. SMITH of Oregon. Mr. President, today I am introducing legislation to address concerns raised by a number of my constituents with respect to the Oil Pollution Act in the aftermath of the New Carissa incident. This legislation, the Fishermen and Aquaculture Oil Spill Assistance Act, is the first step toward ensuring that small businesses, such as the fishermen and shellfish producers in my state, who are impacted by these oil spills, are not victimized a second time by a lengthy claims procedure under the OPA.

For the benefit of my colleagues who are not aware of this incident, the New Carissa was a large wood-chip freighter that ran aground near Coos Bay, Oregon last year and leaked 60,000 gallons of oil. This devastated the coastal environment in that area, and temporarily damaged some of the important oyster beds for which Coos Bay is well-known in the seafood industry. In fact, we still have the ship's stern section sitting off-shore, marring the natural beauty of the Oregon coast.

Over the last several months I have heard from my constituents from that part of the Oregon coast, who are extremely dissatisfied with both the emergency response planning and the claims process under the Oil Pollution Act as it applies to aquaculture producers. With respect to the emergency response plans, the complaint has been that the concerns of shellfish producers are not necessarily taken into account in the development of these plans and that quick action in the early hours of a spill could protect the areas where the oyster beds are present. On the matter of the claims process, the complaint has been that there is little small businesses can do in the immediate term if the responsible party fails to make the interim payments to claimants required under the OPA.

This legislation addresses the concerns by authorizing the President to offer loans to fishermen and aquaculture producers who are mired in the claims process, but have not been receiving the required interim payments. This would help these small, often family-owned, businesses meet their most pressing expenses should the claims procedure become a drawn out affair. Secondly, this legislation calls upon the Secretary of Commerce and the Administrator of the Environmental Protection Agency to study the claims process and the emergency response plans to determine if they adequately protect the interests of seafood producers and submit any recommendations to the Congress. Ultimately, my aim is to ensure that future oil spill incidents do not cause the same problems to others that oyster producers in Oregon have suffered following the New Carissa spill.

I am pleased that my friend from the Oregon delegation, Mr. DEFAZIO, intends to introduce a companion measure today in the House of Representatives. Over the upcoming holidays we intend to look over this matter again and reintroduce this legislation, after receiving further feedback from our constituents, early in the 107th Congress.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 3268

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fishery and Aquaculture Oil Spill Assistance Act''.

SEC. 2. INTEREST; PARTIAL PAYMENT OF CLAIMS.

Section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705) is amended by adding at the end the following:

''(c) LOAN PROGRAM.—

''(1) IN GENERAL.—The President shall establish a loan program to assist injured parties in meeting financial obligations during the claims procedure described in section 1013.

''(2) CONDITION FOR LOAN.—A loan may be awarded under paragraph (1) only to a fisherman or aquaculture producer to whom a responsible party has failed to provide an interim payment under subsection (a).''.

SEC. 3. USES OF THE FUND.

Section 1012(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)) is amended—

(1) in paragraph (5)(C), by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(6) the making of loans to assist any injured party in paying financial obligations during the claims procedure described in section 1013.''.

SEC. 4. STUDY.

Not later than 270 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Administrator of the Environmental Protection Agency, shall submit to Congress a study that contains—

(1) an assessment of the effectiveness of the claims procedures and emergency response programs under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) concerning claims filed by, and emergency responses carried out to protect the interests of, fishermen and aquaculture producers; and

(2) any legislative or other recommendations to improve the procedures and programs referred to in paragraph (1).

Mr. DURBIN:

S.J. Res. 56. A joint resolution proposing an amendment to the Constitution of the United States to abolish the electoral college and to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

THE ELECTORAL COLLEGE

Mr. DURBIN. Mr. President, earlier this morning I held a press conference with a colleague of mine from the State of Illinois, RAY LAHOOD. RAY LAHOOD is a Congressman from the city of Peoria, and a Republican. It was interesting to see a bipartisan press conference at this point in the congressional session.

Congressman LAHOOD and I agree on an issue which could become supremely important in just a few days. Given the tight Presidential race this year, we have the possibility that the winning candidate for President might not win the popular vote in our country. This

potential outcome highlights a serious and persistent flaw in our current system of electing a Chief Executive of the United States.

I am introducing a joint resolution to amend the Constitution to replace the electoral college with the direct election of the President and Vice President.

I introduced a similar measure in 1993 with Congressman GERALD KLECZKA of Wisconsin in the House. I will be doing the same in the Senate. But I hope to attract the support of colleagues on both sides of the aisle regardless of the outcome on November 7.

The electoral college is an antiquated institution that has outlived its purpose. It was the product of contentious debate and a great deal of controversy. Most of the delegates to the Constitutional Convention in 1787 felt that the process of selecting a President should not be left up to a direct vote of the people. And most agreed with the sentiments of George Mason of Virginia, who said, ''it were as unnatural to refer the choice of a proper character for Chief Magistrate to the people, as it would be to refer a trial of colors to a blind man.''

After a prolonged debate, an indirect method of electing the President was adopted. This compromise plan, known as the Electoral College Method, provided for the election of the President and Vice President by State appointed electors. Under Article II, Section 1, Clause 2 of the Constitution as amended by the 12th Amendment in 1804, each state is required to appoint in a manner determined by the state legislature a number of electors equal in number to its congressional representation. If no candidate receives a simple majority of electoral votes, then the House of Representatives chooses the President from the three candidates with the greatest number of votes and the Senate similarly chooses a Vice President from the top two contenders for that office.

The commonly held opinion among the delegates in 1787 was that matters of such gravity should not be left up to the average citizen. Moreover, the discussions of the convention reveal that the delegates questioned whether voters in one State could have enough relevant knowledge regarding the character of public men living hundreds of miles away. In addition, the delegates from the less populous States were concerned that a direct election of the President would enhance the power and prestige of the more populous states.

But today, these concerns are no longer compelling—if they ever were.

The 17th amendment to the Constitution was ratified in 1913 and provided for the direct popular election of U.S. Senators. Before that, Senators were chosen by State legislatures. But come 1913, we decided to trust the people to choose the Senators. I don't believe our Nation suffered by that decision. I think the Senate as an institution has been enhanced by that decision. It is no longer a back-room deal in a State capitol that sends a Senator to Washington, it is a decision made by the people of each State in an open and free election.

The incredible advances in communication technologies since the 18th Century render moot the concerns that citizens do not have enough information to make an informed decision about a President. Clearly potential voters today have more information about presidential candidates than their counterparts had 200 years ago regarding their directly elected Representatives to Congress.

It has been argued that smaller States have a slight advantage in the current system, because states receive a minimum of three electoral votes, regardless of their population. However, any serious study of presidential campaigns would demonstrate that the more populous states, with their large electoral prizes, as well as medium sized swing states, have the true advantage. The winner-take-all aspect in each State motivates presidential candidates to focus on States with a moderate or large number of electoral votes, assuming the candidates believe they have a chance to win the popular vote there. Less populous States with only a few electoral votes are largely ignored. Also States that are heavily leaning toward one of the presidential candidates are similarly ignored.

You do not see AL GORE and JOE LIEBERMAN spend that much time in the State of Texas, nor do you find George W. Bush visiting the State of New York very often. Most campaigns have written off certain States. So the people in that State do not see much of the Presidential campaign except for national coverage.

Clearly, there is a reason why there have been more congressionally proposed constitutional amendments on this subject than any other. The electoral college system, as it stands today, has several major defects. The most significant of these are the result of voting schemes other than a direct popular vote. The most prevalent example is the unit vote or so-called winner-take-all formula. The unit vote is the practice of awarding all of a State's electoral votes to the candidate with a popular vote plurality in the State, regardless of whether the plurality is one vote or one million votes. All States and the District of Columbia with the exception of the States of Maine and Nebraska have adopted this method.

In doing my research on this isue, I learned that Maine and Nebraska vote by congressional district and allocate their Presidential electors accordingly.

The first problem with the electoral college system is that it is inherently unfair and may disenfranchise voters. Senator Birch Bayh—father of our colleague, Senator EVAN BAYH—discussed this problem on the floor of the Senate when he introduced a resolution to abolish the electoral college on January 15, 1969. During his floor statement he said:

> As a result, the popular vote totals of the losing candidate at the State level are completely discounted in the final electoral tabulation. In effect, millions of voters are disenfranchised if they happen to vote for the losing candidate in their State.

The famous Missouri Senator Thomas Hart Benton, who was the first Senator to serve in the Senate for 30 years, further pointed out the injustice of this system when he said:

> To lose votes is the fate of all minorities, and it is their duty to submit; but this is not the case of votes lost, but of votes taken away, added to those of the majority and given to a person to whom the minority is opposed.

Another problem with the electoral college system is that it often leads to wide disparities between the popular vote and the electoral vote. For example, since 1824, when the popular vote first began to be recorded along with the electoral vote, winners of presidential elections have averaged 51 percent of the popular vote as compared to an average of 71 percent of the electoral vote. In comparison, the losing main opponents have averaged 42 percent of the popular vote, but just 27 percent of the electoral vote. Year to year statistics vary greatly.

A more serious problem is that the electoral college system can lead to Presidents who received fewer popular votes than their main opponent. In fact, this has happened 3 times out of the 42 presidential elections since 1824.

Another indication as to the likelihood of a non-majority President can be seen in the elections of 1844, 1880, 1884, 1960, and 1968, in which the main opponent lost the popular vote by an average of only 0.3 percent. This is in stark contrast to the winning margin in electoral votes for these elections, which averaged 17 percent. Other close presidential elections occurred in 1916, 1948, and 1976. In those years, if a mere few thousand votes had been switched in a few key states where the vote was close, a different candidate would have won the White House. In 1916, for example, a shift of only 2,000 votes in California would have made Charles Evans Hughes President, despite Woodrow Wilson's half-million popular vote advantage. And in 1976, a 6,000 vote shift in Ohio and a 4,000 vote shift in Hawaii would have elected Gerald Ford, even though Jimmy Carter won the popular vote by 1.6 million ballots.

One can conclude that approximately one in fourteen presidential elections have resulted in a non-majority President, while one in five have nearly resulted in one.

Senator Birch Bayh eloquently pointed out the risk of this system in his floor statement on January 15, 1969:

> The present electoral vote system has in the past, and may in the future, produce a President who has received fewer popular votes than his opponent. I cannot see how such a system can be beneficial to the American people. I see, instead, only grave dangers that could divide this Nation at a critical hour if the President-elect lacked a popular mandate.

The third pernicious flaw in the electoral college system is that it produces artificial distortions in the political process. The fact that presidential candidates cater to the larger and swing states often gives undue influence to a limited number of contested States. So-called safe States are given scant or no attention by candidates—who have limited time, energy, and resources. Senator Thomas J. Dodd, the distinguished Senator from Connecticut who was known as an ardent crusader and civil rights advocate, argued convincingly on this subject soon after President Kennedy's narrow victory in 1960. He said:

The shift of a few thousand votes in these States would have elected Dewey in 1948. The shift of a few thousand votes in Illinois and New Jersey could have changed the result of an election as close as this past one. There is something wrong with an election system which hinges, not on the vote of 70 million, but on the vote of several thousand in a few key States.

The issue isn't simply that every vote matters in a close election. The issue is the injustice of a few thousand votes in just a few states having a disproportional impact on a National election. Why should a vote in Missouri or Florida be worth more to a presidential candidate than one in Wyoming, Mississippi, or Rhode Island?

The fourth and last major flaw in the electoral college system is that electors, in general, are not bound to cast their vote in accordance with the popular vote results from their State. While some States require a binding oath or pledge under penalty of law, the majority of States have no or an insignificant penalty. This leads to the disturbing possibility that a President, in an election with a close electoral vote, could win through subterfuge. Instances of rogue electors casting votes contrary to the results in their State have occurred in the following years: 1948, 1956, 1960, 1968, 1972, 1976, and 1988.

Since 1797, when Representative William L. Smith of South Carolina offered the first Constitutional amendment proposing to reform our procedure for electing the President, hardly a session of Congress has passed without the introduction of one or more similar proposals. According to the Congressional Research Service, approximately 109 constitutional amendments on electoral college reform were introduced in Congress between 1889 and 1946. Another 265 were introduced between 1947 and 1968. The distinguished Senator from South Carolina Olin Johnston summed up the sentiments of many of the critics of the electoral college system when he said on the floor of the Senate on January 5, 1961:

All of these proposals recognized . . . that the so-called electoral college system has never functioned as contemplated by the framers of the Constitution.

While all of these attempts failed, the most successful effort took place after the 1968 presidential election when third party candidate George Wallace received 46 electoral votes. In that election, there was considerable concern that no candidate would receive a majority of electoral votes and that the new President would be selected by the House of Representatives. As a result, H.J. Res. 681 was introduced by Representative Emanuel Celler in the 91st Congress, proposing to abolish the electoral college and replace it with the direct popular election of the President and Vice President. Included in H.J. Res. 681 was a provision for a runoff election if no candidate received at least 40 percent of the popular vote. While this joint resolution passed the House on September 18, 1969, by a vote of 338–70, it died in the Senate because of a filibuster by Senators from small States and southern States.

The joint resolution I am introducing today is similar to H.J. Res. 681, in that it calls for the direct election of the President and Vice President and includes a provision for a runoff election. More specifically, in the event that no candidate receives at least 40 percent of the popular vote, a runoff would be held 21 days after the general election between the two candidates with the greatest number of popular votes. This resolution builds upon a proposal I offered with Representative GERALD KLECZKA in 1993 and other resolutions introduced in the current Congress by Representatives RAY LAHOOD and JAMES LEACH.

Every public opinion poll indicates that an overwhelming majority of Americans want to elect their President directly by popular vote. Direct popular election has been endorsed in the past by a large number of civic-minded groups including the American Bar Association, the AFL–CIO, the UAW, U.S. Chamber of Commerce, the National Federation of Independent Business, and the NAACP.

If we believe that the President represents and speaks for the people of this great country, then we have an obligation to allow the people to have their voices heard. Abraham Lincoln once said, ''Public opinion is everything. With it, nothing can fail. Without it, nothing can succeed.''

Mr. President, to reiterate, as Congressman LAHOOD and I said in our bipartisan press conference, although this is an issue which apparently seems so rational and so easy to argue, it is one that has run into a lot of debate on the floor of the Senate. I spoke to one of my colleagues from a smaller State and told him what I was doing. He said: I'll oppose you all the way because my tiny State has three electoral votes, and the Presidental candidate has been spending a lot of time in my State and would spend no time there if we had to rely on a popular vote.

But it seems strange to me we rely on a popular vote for virtually every other election in America but not the Presidential election. If we have a disparity between the popular vote for President and the electoral vote for President, if we have someone elected President who does not receive a majority of the votes of the American people, it will create a problem for that administration. It is tough enough to lead in this great Nation, tough enough for a President to muster popular support for difficult decisions to be made. But if that President does not bring a mandate from the people to the office, his power will be diminished.

I sincerely hope that does not occur. But whether or not, I hope my colleagues will join me supporting this effort to abolish the electoral college and say we trust the people in this country. The arguments made over 200 years ago do not apply today. The people of this country should choose the President as they choose Members of Congress as well as U.S. Senators.

I ask unanimous consent a copy of the legislation be printed in the CONGRESSIONAL RECORD.

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

S.J. RES. 56

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

''ARTICLE—

''SECTION 1. The President and Vice President shall be elected by the people of the several States and the district constituting the seat of government of the United States.

''SECTION 2. The electors in each State shall have the qualifications requisite for electors of Representatives in Congress from that State, except that the legislature of any State may prescribe less restrictive qualifications with respect to residence and Congress may establish uniform residence and age qualifications. Congress shall establish qualifications for electors in the district constituting the seat of government of the United States.

''SECTION 3. The persons having the greatest number of votes for President and Vice President shall be elected, if such number be at least 40 per centum of the whole number of votes cast for such offices in the general election. If no persons have such number, a runoff election shall be held 21 days after the general election. In the runoff election, the choice of President and Vice President shall be made from the persons who received the two highest numbers of votes for each office in the general election.

''SECTION 4. The times, places, and manner of holding such elections, and entitlement to inclusion on the ballot for the general election, shall be prescribed in each State by the legislature thereof; but Congress may at any time by law make or alter such regulations. Congress shall prescribe by law the time, place, and manner in which the results of such elections shall be ascertained and declared.

''SECTION 5. Each elector shall cast a single vote jointly applicable to President and Vice President in any such election. Names of candidates shall not be joined unless they shall have consented thereto and no candidate shall consent to his or her name's

being joined with that of more than one other person.

''SECTION 6. Congress may by law provide for the case of the death of any candidate for President or Vice President before the day on which the President-elect or the Vice President-elect has been chosen; and for the case of a tie in any such election.

''SECTION 7. Congress shall have the power to implement and enforce this article by appropriate legislation.

''SECTION 8. This article shall take effect one year after the twenty-first day of January following ratification.''.

ADDITIONAL COSPONSORS

S. 2287

At the request of Mr. L. CHAFEE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2287, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

SENATE CONCURRENT RESOLUTION 159—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. LOTT submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 159

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Wednesday, November 1, 2000, or Thursday, November 2, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, November 14, 2000, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Wednesday, November 1, 2000, or Thursday, November 2, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until noon on Monday, November 13, 2000, at 2 p.m., or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

AMENDMENTS SUBMITTED

FSC REPEAL AND EXTRATERRITORIAL INCOME EXCLUSION ACT OF 2000

LOTT AMENDMENT NO. 4356

Mr. LOTT proposed an amendment to the bill (H.R. 4986) to amend the Internal Revenue Code of 1986 to repeal the provisions relating to foreign sales corporations (FSCs) and to exclude extraterritorial income from gross income; as follows:

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''FSC Repeal and Extraterritorial Income Exclusion Act of 2000''.

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

SEC. 2. REPEAL OF FOREIGN SALES CORPORATION RULES.

Subpart C of part III of subchapter N of chapter 1 (relating to taxation of foreign sales corporations) is hereby repealed.

SEC. 3. TREATMENT OF EXTRATERRITORIAL INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting before section 115 the following new section:

''SEC. 114. EXTRATERRITORIAL INCOME.

''(a) EXCLUSION.—Gross income does not include extraterritorial income.

''(b) EXCEPTION.—Subsection (a) shall not apply to extraterritorial income which is not qualifying foreign trade income as determined under subpart E of part III of subchapter N.

''(c) DISALLOWANCE OF DEDUCTIONS.—

''(1) IN GENERAL.—Any deduction of a taxpayer allocated under paragraph (2) to extraterritorial income of the taxpayer excluded from gross income under subsection (a) shall not be allowed.

''(2) ALLOCATION.—Any deduction of the taxpayer properly apportioned and allocated to the extraterritorial income derived by the taxpayer from any transaction shall be allocated on a proportionate basis between—

''(A) the extraterritorial income derived from such transaction which is excluded from gross income under subsection (a), and

''(B) the extraterritorial income derived from such transaction which is not so excluded.

''(d) DENIAL OF CREDITS FOR CERTAIN FOREIGN TAXES.—Notwithstanding any other provision of this chapter, no credit shall be allowed under this chapter for any income, war profits, and excess profits taxes paid or accrued to any foreign country or possession of the United States with respect to extraterritorial income which is excluded from gross income under subsection (a).

''(e) EXTRATERRITORIAL INCOME.—For purposes of this section, the term 'extraterritorial income' means the gross income of the taxpayer attributable to foreign trading gross receipts (as defined in section 942) of the taxpayer.''.

(b) QUALIFYING FOREIGN TRADE INCOME.—Part III of subchapter N of chapter 1 is amended by inserting after subpart D the following new subpart:

''Subpart E—Qualifying Foreign Trade Income

''Sec. 941. Qualifying foreign trade income.

''Sec. 942. Foreign trading gross receipts.

''Sec. 943. Other definitions and special rules.

''SEC. 941. QUALIFYING FOREIGN TRADE INCOME.

''(a) QUALIFYING FOREIGN TRADE INCOME.—For purposes of this subpart and section 114—

''(1) IN GENERAL.—The term 'qualifying foreign trade income' means, with respect to any transaction, the amount of gross income which, if excluded, will result in a reduction of the taxable income of the taxpayer from such transaction equal to the greatest of—

''(A) 30 percent of the foreign sale and leasing income derived by the taxpayer from such transaction,

''(B) 1.2 percent of the foreign trading gross receipts derived by the taxpayer from the transaction, or

''(C) 15 percent of the foreign trade income derived by the taxpayer from the transaction.

In no event shall the amount determined under subparagraph (B) exceed 200 percent of the amount determined under subparagraph (C).

''(2) ALTERNATIVE COMPUTATION.—A taxpayer may compute its qualifying foreign trade income under a subparagraph of paragraph (1) other than the subparagraph which results in the greatest amount of such income.

''(3) LIMITATION ON USE OF FOREIGN TRADING GROSS RECEIPTS METHOD.—If any person computes its qualifying foreign trade income from any transaction with respect to any property under paragraph (1)(B), the qualifying foreign trade income of such person (or any related person) with respect to any other transaction involving such property shall be zero.

''(4) RULES FOR MARGINAL COSTING.—The Secretary shall prescribe regulations setting forth rules for the allocation of expenditures in computing foreign trade income under paragraph (1)(C) in those cases where a taxpayer is seeking to establish or maintain a market for qualifying foreign trade property.

''(5) PARTICIPATION IN INTERNATIONAL BOYCOTTS, ETC.—Under regulations prescribed by the Secretary, the qualifying foreign trade income of a taxpayer for any taxable year shall be reduced (but not below zero) by the sum of—

''(A) an amount equal to such income multiplied by the international boycott factor determined under section 999, and

''(B) any illegal bribe, kickback, or other payment (within the meaning of section 162(c)) paid by or on behalf of the taxpayer directly or indirectly to an official, employee, or agent in fact of a government.

''(b) FOREIGN TRADE INCOME.—For purposes of this subpart—

''(1) IN GENERAL.—The term 'foreign trade income' means the taxable income of the taxpayer attributable to foreign trading gross receipts of the taxpayer.

''(2) SPECIAL RULE FOR COOPERATIVES.—In any case in which an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products sells qualifying foreign trade property, in computing the taxable income of such cooperative, there shall not be taken into account any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions).

''(c) FOREIGN SALE AND LEASING INCOME.—For purposes of this section—

''(1) IN GENERAL.—The term 'foreign sale and leasing income' means, with respect to any transaction—

''(A) foreign trade income properly allocable to activities which—

''(i) are described in paragraph (2)(A)(i) or (3) of section 942(b), and

''(ii) are performed by the taxpayer (or any person acting under a contract with such taxpayer) outside the United States, or

''(B) foreign trade income derived by the taxpayer in connection with the lease or rental of qualifying foreign trade property for use by the lessee outside the United States.

''(2) SPECIAL RULES FOR LEASED PROPERTY.—

''(A) SALES INCOME.—The term 'foreign sale and leasing income' includes any foreign trade income derived by the taxpayer from the sale of property described in paragraph (1)(B).

''(B) LIMITATION IN CERTAIN CASES.—Except as provided in regulations, in the case of property which—

''(i) was manufactured, produced, grown, or extracted by the taxpayer, or

''(ii) was acquired by the taxpayer from a related person for a price which was not determined in accordance with the rules of section 482,

the amount of foreign trade income which may be treated as foreign sale and leasing income under paragraph (1)(B) or subparagraph (A) of this paragraph with respect to any transaction involving such property shall not exceed the amount which would have been determined if the taxpayer had acquired such property for the price determined in accordance with the rules of section 482.

''(3) SPECIAL RULES.—

''(A) EXCLUDED PROPERTY.—Foreign sale and leasing income shall not include any income properly allocable to excluded property described in subparagraph (B) of section 943(a)(3) (relating to intangibles).

''(B) ONLY DIRECT EXPENSES TAKEN INTO ACCOUNT.—For purposes of this subsection, any expense other than a directly allocable expense shall not be taken into account in computing foreign trade income.

''SEC. 942. FOREIGN TRADING GROSS RECEIPTS.

''(a) FOREIGN TRADING GROSS RECEIPTS.—

''(1) IN GENERAL.—Except as otherwise provided in this section, for purposes of this subpart, the term 'foreign trading gross receipts' means the gross receipts of the taxpayer which are—

''(A) from the sale, exchange, or other disposition of qualifying foreign trade property,

''(B) from the lease or rental of qualifying foreign trade property for use by the lessee outside the United States,

''(C) for services which are related and subsidiary to—

''(i) any sale, exchange, or other disposition of qualifying foreign trade property by such taxpayer, or

''(ii) any lease or rental of qualifying foreign trade property described in subparagraph (B) by such taxpayer,

''(D) for engineering or architectural services for construction projects located (or proposed for location) outside the United States, or

''(E) for the performance of managerial services for a person other than a related person in furtherance of the production of foreign trading gross receipts described in subparagraph (A), (B), or (C).

Subparagraph (E) shall not apply to a taxpayer for any taxable year unless at least 50 percent of its foreign trading gross receipts (determined without regard to this sentence) for such taxable year is derived from activities described in subparagraph (A), (B), or (C).

''(2) CERTAIN RECEIPTS EXCLUDED ON BASIS OF USE; SUBSIDIZED RECEIPTS EXCLUDED.—The term 'foreign trading gross receipts' shall not include receipts of a taxpayer from a transaction if—

''(A) the qualifying foreign trade property or services—

''(i) are for ultimate use in the United States, or

''(ii) are for use by the United States or any instrumentality thereof and such use of qualifying foreign trade property or services is required by law or regulation, or

''(B) such transaction is accomplished by a subsidy granted by the government (or any instrumentality thereof) of the country or possession in which the property is manufactured, produced, grown, or extracted.

''(3) ELECTION TO EXCLUDE CERTAIN RECEIPTS.—The term 'foreign trading gross receipts' shall not include gross receipts of a taxpayer from a transaction if the taxpayer elects not to have such receipts taken into account for purposes of this subpart.

''(b) FOREIGN ECONOMIC PROCESS REQUIREMENTS.—

''(1) IN GENERAL.—Except as provided in subsection (c), a taxpayer shall be treated as having foreign trading gross receipts from any transaction only if economic processes with respect to such transaction take place outside the United States as required by paragraph (2).

''(2) REQUIREMENT.—

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to the gross receipts of a taxpayer derived from any transaction if—

''(i) such taxpayer (or any person acting under a contract with such taxpayer) has participated outside the United States in the solicitation (other than advertising), the negotiation, or the making of the contract relating to such transaction, and

''(ii) the foreign direct costs incurred by the taxpayer attributable to the transaction equal or exceed 50 percent of the total direct costs attributable to the transaction.

''(B) ALTERNATIVE 85-PERCENT TEST.—A taxpayer shall be treated as satisfying the requirements of subparagraph (A)(ii) with respect to any transaction if, with respect to each of at least 2 subparagraphs of paragraph (3), the foreign direct costs incurred by such taxpayer attributable to activities described in such subparagraph equal or exceed 85 percent of the total direct costs attributable to activities described in such subparagraph.

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

''(i) TOTAL DIRECT COSTS.—The term 'total direct costs' means, with respect to any transaction, the total direct costs incurred by the taxpayer attributable to activities described in paragraph (3) performed at any location by the taxpayer or any person acting under a contract with such taxpayer.

''(ii) FOREIGN DIRECT COSTS.—The term 'foreign direct costs' means, with respect to any transaction, the portion of the total direct costs which are attributable to activities performed outside the United States.

''(3) ACTIVITIES RELATING TO QUALIFYING FOREIGN TRADE PROPERTY.—The activities described in this paragraph are any of the following with respect to qualifying foreign trade property—

''(A) advertising and sales promotion,

''(B) the processing of customer orders and the arranging for delivery,

''(C) transportation outside the United States in connection with delivery to the customer,

''(D) the determination and transmittal of a final invoice or statement of account or the receipt of payment, and

''(E) the assumption of credit risk.

''(4) ECONOMIC PROCESSES PERFORMED BY RELATED PERSONS.—A taxpayer shall be treated as meeting the requirements of this subsection with respect to any sales transaction involving any property if any related person has met such requirements in such transaction or any other sales transaction involving such property.

''(c) EXCEPTION FROM FOREIGN ECONOMIC PROCESS REQUIREMENT.—

''(1) IN GENERAL.—The requirements of subsection (b) shall be treated as met for any taxable year if the foreign trading gross receipts of the taxpayer for such year do not exceed $5,000,000.

''(2) RECEIPTS OF RELATED PERSONS AGGREGATED.—All related persons shall be treated as one person for purposes of paragraph (1), and the limitation under paragraph (1) shall be allocated among such persons in a manner provided in regulations prescribed by the Secretary.

''(3) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership, S corporation, or other pass-thru entity, the limitation under paragraph (1) shall apply with respect to the partnership, S corporation, or entity and with respect to each partner, shareholder, or other owner.

''SEC. 943. OTHER DEFINITIONS AND SPECIAL RULES.

''(a) QUALIFYING FOREIGN TRADE PROPERTY.—For purposes of this subpart—

''(1) IN GENERAL.—The term 'qualifying foreign trade property' means property—

''(A) manufactured, produced, grown, or extracted within or outside the United States,

''(B) held primarily for sale, lease, or rental, in the ordinary course of trade or business for direct use, consumption, or disposition outside the United States, and

''(C) not more than 50 percent of the fair market value of which is attributable to—

''(i) articles manufactured, produced, grown, or extracted outside the United States, and

''(ii) direct costs for labor (determined under the principles of section 263A) performed outside the United States.

For purposes of subparagraph (C), the fair market value of any article imported into the United States shall be its appraised value, as determined by the Secretary under section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a) in connection with its importation, and the direct costs for labor under clause (ii) do not include costs that would be treated under the principles of section 263A as direct labor costs attributable to articles described in clause (i).

''(2) U.S. TAXATION TO ENSURE CONSISTENT TREATMENT.—Property which (without regard to this paragraph) is qualifying foreign trade property and which is manufactured, produced, grown, or extracted outside the United States shall be treated as qualifying foreign trade property only if it is manufactured, produced, grown, or extracted by—

''(A) a domestic corporation,

''(B) an individual who is a citizen or resident of the United States,

''(C) a foreign corporation with respect to which an election under subsection (e) (relating to foreign corporations electing to be subject to United States taxation) is in effect, or

''(D) a partnership or other pass-thru entity all of the partners or owners of which are described in subparagraph (A), (B), or (C).

Except as otherwise provided by the Secretary, tiered partnerships or pass-thru entities shall be treated as described in subparagraph (D) if each of the partnerships or entities is directly or indirectly wholly owned by persons described in subparagraph (A), (B), or (C).

''(3) EXCLUDED PROPERTY.—The term 'qualifying foreign trade property' shall not include—

''(A) property leased or rented by the taxpayer for use by any related person,

''(B) patents, inventions, models, designs, formulas, or processes whether or not patented, copyrights (other than films, tapes, records, or similar reproductions, and other than computer software (whether or not patented), for commercial or home use), goodwill, trademarks, trade brands, franchises, or other like property,

''(C) oil or gas (or any primary product thereof),

''(D) products the transfer of which is prohibited or curtailed to effectuate the policy set forth in paragraph (2)(C) of section 3 of Public Law 96–72, or

''(E) any unprocessed timber which is a softwood.

For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber.

''(4) PROPERTY IN SHORT SUPPLY.—If the President determines that the supply of any property described in paragraph (1) is insufficient to meet the requirements of the domestic economy, the President may by Executive order designate the property as in short supply. Any property so designated shall not be treated as qualifying foreign trade property during the period beginning with the date specified in the Executive order and ending with the date specified in an Executive order setting forth the President's determination that the property is no longer in short supply.

''(b) OTHER DEFINITIONS AND RULES.—For purposes of this subpart—

''(1) TRANSACTION.—

''(A) IN GENERAL.—The term 'transaction' means—

''(i) any sale, exchange, or other disposition,

''(ii) any lease or rental, and

''(iii) any furnishing of services.

''(B) GROUPING OF TRANSACTIONS.—To the extent provided in regulations, any provision of this subpart which, but for this subparagraph, would be applied on a transaction-by-transaction basis may be applied by the taxpayer on the basis of groups of transactions based on product lines or recognized industry or trade usage. Such regulations may permit different groupings for different purposes.

''(2) UNITED STATES DEFINED.—The term 'United States' includes the Commonwealth of Puerto Rico. The preceding sentence shall not apply for purposes of determining whether a corporation is a domestic corporation.

''(3) RELATED PERSON.—A person shall be related to another person if such persons are treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414, except that determinations under subsections (a) and (b) of section 52 shall be made without regard to section 1563(b).

''(4) GROSS AND TAXABLE INCOME.—Section 114 shall not be taken into account in determining the amount of gross income or foreign trade income from any transaction.

''(c) SOURCE RULE.—Under regulations, in the case of qualifying foreign trade property manufactured, produced, grown, or extracted within the United States, the amount of income of a taxpayer from any sales transaction with respect to such property which is treated as from sources without the United States shall not exceed—

''(1) in the case of a taxpayer computing its qualifying foreign trade income under section 941(a)(1)(B), the amount of the taxpayer's foreign trade income which would (but for this subsection) be treated as from sources without the United States if the foreign trade income were reduced by an amount equal to 4 percent of the foreign trading gross receipts with respect to the transaction, and

''(2) in the case of a taxpayer computing its qualifying foreign trade income under section 941(a)(1)(C), 50 percent of the amount of the taxpayer's foreign trade income which would (but for this subsection) be treated as from sources without the United States.

''(d) TREATMENT OF WITHHOLDING TAXES.—

''(1) IN GENERAL.—For purposes of section 114(d), any withholding tax shall not be treated as paid or accrued with respect to extraterritorial income which is excluded from gross income under section 114(a). For purposes of this paragraph, the term 'withholding tax' means any tax which is imposed on a basis other than residence and for which credit is allowable under section 901 or 903.

''(2) EXCEPTION.—Paragraph (1) shall not apply to any taxpayer with respect to extraterritorial income from any transaction if the taxpayer computes its qualifying foreign trade income with respect to the transaction under section 941(a)(1)(A).

''(e) ELECTION TO BE TREATED AS DOMESTIC CORPORATION.—

''(1) IN GENERAL.—An applicable foreign corporation may elect to be treated as a domestic corporation for all purposes of this title if such corporation waives all benefits to such corporation granted by the United States under any treaty. No election under section 1362(a) may be made with respect to such corporation.

''(2) APPLICABLE FOREIGN CORPORATION.—For purposes of paragraph (1), the term 'applicable foreign corporation' means any foreign corporation if—

''(A) such corporation manufactures, produces, grows, or extracts property in the ordinary course of such corporation's trade or business, or

''(B) substantially all of the gross receipts of such corporation are foreign trading gross receipts.

''(3) PERIOD OF ELECTION.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, an election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the taxpayer. Any revocation of such election shall apply to taxable years beginning after such revocation.

''(B) TERMINATION.—If a corporation which made an election under paragraph (1) for any taxable year fails to meet the requirements of subparagraph (A) or (B) of paragraph (2) for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year.

''(C) EFFECT OF REVOCATION OR TERMINATION.—If a corporation which made an election under paragraph (1) revokes such election or such election is terminated under subparagraph (B), such corporation (and any successor corporation) may not make such election for any of the 5 taxable years beginning with the first taxable year for which such election is not in effect as a result of such revocation or termination.

''(4) SPECIAL RULES.—

''(A) REQUIREMENTS.—This subsection shall not apply to an applicable foreign corporation if such corporation fails to meet the requirements (if any) which the Secretary may prescribe to ensure that the taxes imposed by this chapter on such corporation are paid.

''(B) EFFECT OF ELECTION, REVOCATION, AND TERMINATION.—

''(i) ELECTION.—For purposes of section 367, a foreign corporation making an election under this subsection shall be treated as transferring (as of the first day of the first taxable year to which the election applies) all of its assets to a domestic corporation in connection with an exchange to which section 354 applies.

''(ii) REVOCATION AND TERMINATION.—For purposes of section 367, if—

''(I) an election is made by a corporation under paragraph (1) for any taxable year, and

''(II) such election ceases to apply for any subsequent taxable year,

such corporation shall be treated as a domestic corporation transferring (as of the 1st day of the first such subsequent taxable year to which such election ceases to apply) all of its property to a foreign corporation in connection with an exchange to which section 354 applies.

''(C) ELIGIBILITY FOR ELECTION.—The Secretary may by regulation designate one or more classes of corporations which may not make the election under this subsection.

''(f) RULES RELATING TO ALLOCATIONS OF QUALIFYING FOREIGN TRADE INCOME FROM SHARED PARTNERSHIPS.—

''(1) IN GENERAL.—If—

''(A) a partnership maintains a separate account for transactions (to which this subpart applies) with each partner,

''(B) distributions to each partner with respect to such transactions are based on the amounts in the separate account maintained with respect to such partner, and

''(C) such partnership meets such other requirements as the Secretary may by regulations prescribe,

then such partnership shall allocate to each partner items of income, gain, loss, and deduction (including qualifying foreign trade income) from any transaction to which this subpart applies on the basis of such separate account.

''(2) SPECIAL RULES.—For purposes of this subpart, in the case of a partnership to which paragraph (1) applies—

''(A) any partner's interest in the partnership shall not be taken into account in determining whether such partner is a related person with respect to any other partner, and

''(B) the election under section 942(a)(3) shall be made separately by each partner with respect to any transaction for which the partnership maintains separate accounts for each partner.

''(g) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—Any amount described in paragraph (1) or (3) of section 1385(a)—

''(1) which is received by a person from an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products, and

''(2) which is allocable to qualifying foreign trade income and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d),

shall be treated as qualifying foreign trade income of such person for purposes of section 114. The taxable income of the organization shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

''(h) SPECIAL RULE FOR DISCS.—Section 114 shall not apply to any taxpayer for any taxable year if, at any time during the taxable year, the taxpayer is a member of any controlled group of corporations (as defined in section 927(d)(4), as in effect before the date of the enactment of this subsection) of which a DISC is a member.''

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(1) The second sentence of section 56(g)(4)(B)(i) is amended by inserting before the period ''or under section 114''.

(2) Section 275(a) is amended—

(A) by striking ''or'' at the end of paragraph (4)(A), by striking the period at the end of paragraph (4)(B) and inserting '', or'', and by adding at the end of paragraph (4) the following new subparagraph:

''(C) such taxes are paid or accrued with respect to qualifying foreign trade income (as defined in section 941).''; and

(B) by adding at the end the following new sentence: ''A rule similar to the rule of section 943(d) shall apply for purposes of paragraph (4)(C).''.

(3) Paragraph (3) of section 864(e) is amended—

(A) by striking ''For purposes of'' and inserting:

''(A) IN GENERAL.—For purposes of''; and

(B) by adding at the end the following new subparagraph:

''(B) ASSETS PRODUCING EXEMPT EXTRATERRITORIAL INCOME.—For purposes of allocating and apportioning any interest expense, there shall not be taken into account any qualifying foreign trade property (as defined in section 943(a)) which is held by the taxpayer for lease or rental in the ordinary course of trade or business for use by the lessee outside the United States (as defined in section 943(b)(2)).''.

(4) Section 903 is amended by striking ''164(a)'' and inserting ''114, 164(a),''.

(5) Section 999(c)(1) is amended by inserting ''941(a)(5),'' after ''908(a),''.

(6) The table of sections for part III of subchapter B of chapter 1 is amended by inserting before the item relating to section 115 the following new item:

''Sec. 114. Extraterritorial income.''.

(7) The table of subparts for part III of subchapter N of chapter 1 is amended by striking the item relating to subpart E and inserting the following new item:

''Subpart E. Qualifying foreign trade income.''.

(8) The table of subparts for part III of subchapter N of chapter 1 is amended by striking the item relating to subpart C.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall apply to transactions after September 30, 2000.

(b) NO NEW FSCS; TERMINATION OF INACTIVE FSCS.—

(1) NO NEW FSCS.—No corporation may elect after September 30, 2000, to be a FSC (as defined in section 922 of the Internal Revenue Code of 1986, as in effect before the amendments made by this Act).

(2) TERMINATION OF INACTIVE FSCS.—If a FSC has no foreign trade income (as defined in section 923(b) of such Code, as so in effect) for any period of 5 consecutive taxable years beginning after December 31, 2001, such FSC shall cease to be treated as a FSC for purposes of such Code for any taxable year beginning after such period.

(c) TRANSITION PERIOD FOR EXISTING FOREIGN SALES CORPORATIONS.—

(1) IN GENERAL.—In the case of a FSC (as so defined) in existence on September 30, 2000, and at all times thereafter, the amendments made by this Act shall not apply to any transaction in the ordinary course of trade or business involving a FSC which occurs—

(A) before January 1, 2002; or

(B) after December 31, 2001, pursuant to a binding contract—

(i) which is between the FSC (or any related person) and any person which is not a related person; and

(ii) which is in effect on September 30, 2000, and at all times thereafter.

For purposes of this paragraph, a binding contract shall include a purchase option, renewal option, or replacement option which is included in such contract and which is enforceable against the seller or lessor.

(2) ELECTION TO HAVE AMENDMENTS APPLY EARLIER.—A taxpayer may elect to have the amendments made by this Act apply to any transaction by a FSC or any related person to which such amendments would apply but for the application of paragraph (1). Such election shall be effective for the taxable year for which made and all subsequent taxable years, and, once made, may be revoked only with the consent of the Secretary of the Treasury.

(3) EXCEPTION FOR OLD EARNINGS AND PROFITS OF CERTAIN CORPORATIONS.—

(A) IN GENERAL.—In the case of a foreign corporation to which this paragraph applies—

(i) earnings and profits of such corporation accumulated in taxable years ending before October 1, 2000, shall not be included in the gross income of the persons holding stock in such corporation by reason of section 943(e)(4)(B)(i), and

(ii) rules similar to the rules of clauses (ii), (iii), and (iv) of section 953(d)(4)(B) shall apply with respect to such earnings and profits.

The preceding sentence shall not apply to earnings and profits acquired in a transaction after September 30, 2000, to which section 381 applies unless the distributor or transferor corporation was immediately before the transaction a foreign corporation to which this paragraph applies.

(B) EXISTING FSCS.—This paragraph shall apply to any controlled foreign corporation (as defined in section 957) if—

(i) such corporation is a FSC (as so defined) in existence on September 30, 2000,

(ii) such corporation is eligible to make the election under section 943(e) by reason of being described in paragraph (2)(B) of such section, and

(iii) such corporation makes such election not later than for its first taxable year beginning after December 31, 2001.

(C) OTHER CORPORATIONS.—This paragraph shall apply to any controlled foreign corporation (as defined in section 957), and such corporation shall (notwithstanding any provision of section 943(e)) be treated as an applicable foreign corporation for purposes of section 943(e), if—

(i) such corporation is in existence on September 30, 2000,

(ii) as of such date, such corporation is wholly owned (directly or indirectly) by a domestic corporation (determined without regard to any election under section 943(e)),

(iii) for each of the 3 taxable years preceding the first taxable year to which the election under section 943(e) by such controlled foreign corporation applies—

(I) all of the gross income of such corporation is subpart F income (as defined in section 952), including by reason of section 954(b)(3)(B), and

(II) in the ordinary course of such corporation's trade or business, such corporation regularly sold (or paid commissions) to a FSC which on September 30, 2000, was a related person to such corporation,

(iv) such corporation has never made an election under section 922(a)(2) (as in effect before the date of the enactment of this paragraph) to be treated as a FSC, and

(v) such corporation makes the election under section 943(e) not later than for its first taxable year beginning after December 31, 2001.

The preceding sentence shall cease to apply as of the date that the domestic corporation referred to in clause (ii) ceases to wholly own (directly or indirectly) such controlled foreign corporation.

(4) RELATED PERSON.—For purposes of this subsection, the term ''related person'' has the meaning given to such term by section 943(b)(3).

(5) SECTION REFERENCES.—Except as otherwise expressly provided, any reference in this subsection to a section or other provision shall be considered to be a reference to a section or other provision of the Internal Revenue Code of 1986, as amended by this Act.

(d) SPECIAL RULES RELATING TO LEASING TRANSACTIONS.—

(1) SALES INCOME.—If foreign trade income in connection with the lease or rental of property described in section 927(a)(1)(B) of such Code (as in effect before the amendments made by this Act) is treated as exempt foreign trade income for purposes of section 921(a) of such Code (as so in effect), such property shall be treated as property described in section 941(c)(1)(B) of such Code (as added by this Act) for purposes of applying section 941(c)(2) of such Code (as so added) to any subsequent transaction involving such property to which the amendments made by this Act apply.

(2) LIMITATION ON USE OF GROSS RECEIPTS METHOD.—If any person computed its foreign trade income from any transaction with respect to any property on the basis of a transfer price determined under the method described in section 925(a)(1) of such Code (as in effect before the amendments made by this Act), then the qualifying foreign trade income (as defined in section 941(a) of such Code, as in effect after such amendment) of such person (or any related person) with respect to any other transaction involving such property (and to which the amendments made by this Act apply) shall be zero.

CONTINUING APPROPRIATIONS FY 2000

LOTT AMENDMENT NO. 4357

Mr. LOTT proposed an amendment to the bill (H.J. Res. 84) making further continuing appropriations for the fiscal year 2000, and for other purposes; as follows:

Strike all after the resolving clause and insert the following:

That Public Law 106–275, is further amended by striking the date specified in section 106(c) and inserting ''November 14, 2000''.

Amend the title so as to read: ''Making further continuing appropriations for the fiscal year 2001, and for other purposes.''

WILLIAM KENZO NAKAMURA UNITED STATES COURTHOUSE

HERBERT H. BATEMAN EDUCATIONAL AND ADMINISTRATIVE CENTER

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate now proceed en bloc to the following bills which are at the desk: H.R. 5302; and, H.R. 5388.

The PRESIDING OFFICER. The clerk will report the bills by title.

The legislative clerk read as follows:

A bill (H.R. 5302) to designate the United States courthouse located at 1010 Fifth Avenue in Seattle, Washington as the ''William Kenzo Nakamura United States Courthouse.''

A bill (H.R. 5388) to designate a building proposed to be located within the boundaries of the Chincoteague National Wildlife Refuse as the ''Herbert H. Bateman Educational and Administrative Center.''

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. MURKOWSKI. Mr. President, I further ask unanimous consent that the bills be read the third time and passed, the motions to reconsider be