AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Congressional Record

United States of America

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

Vol. 142 WASHINGTON, THURSDAY, AUGUST 1, 1996 No. 116

House of Representatives

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are aware, O God, that the thoughts we think are translated into words and our words are transposed into action and all that we do has great effect on us and those whom we represent and serve. Remind us day by day, O God, that what we think or say or do has a profound impression on the meaning and substance of all things. May Your word of peace be made known in our lives and may all we ask or think or do bring glory to Your creation and serve people whatever their need. In Your name, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey [Mr. PALLONE] come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment, a bill and a joint resolution of the House of the following titles:

H.R. 3215. An act to amend title 18, United States Code, to repeal the provision relating to Federal employees contracting or trading with Indians.

H.J. Res. 166. Joint resolution granting the consent of Congress to the Mutual Aid Agreement between the city of Bristol, Virginia, and the city of Bristol, Tennessee.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1936. An act to amend the Nuclear Waste Policy Act of 1982.

S. 1995. An act to authorize construction of the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will make a statement.

On May 25, 1995, the Chair took the opportunity to reiterate guidelines on the prohibition against former Members exercising floor privileges during the consideration of a matter in which they have a personal or pecuniary interest or are employed or retained as a lobbyist.

Clause 3 of House rule XXXII and the subsequent guidelines issued by previous Speakers on this matter make it clear that consideration of legislative measures is not limited solely to those pending before the House. Consideration also includes all bills and resolutions either which have been called up by a full committee or subcommittee or on which hearings have been held by a full committee or subcommittee of the House.

Former Members can be prohibited from privileges of the floor, the Speaker's lobby and respective Cloakrooms should it be ascertained they have direct interests in legislation that is before a subcommittee, full committee, or the House. Not only do those circumstances prohibit former Members but the fact that a former Member is employed or retained by a lobbying organization attempting to directly or indirectly influence pending legislation is cause for prohibiting access to the House Chamber.

First announced by Speaker O'Neill on January 6, 1977, again on June 7, 1978, and by Speaker Foley in 1994, the guidelines were intended to prohibit former Members from using their floor privileges under the restrictions laid out in this rule. This restriction extends not only to the House floor but adjacent rooms, the Cloakrooms, and the Speaker's lobby.

Members who have reason to know that a former Member is on the floor inconsistent with clause 3, rule XXXII should notify the Sergeant at Arms promptly.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain ten 1 minutes on each side.

THIS CONGRESS THE MOST PRODUCTIVE IN DECADES

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

Mr. ARMEY. Mr. Speaker, I want to congratulate the Republican Congress on the work that it is achieving this week in culmination of what has been years of hard work.

Yesterday the President agreed to sign our welfare reform measure and we passed it overwhelmingly through this body. We are going to go out now and address the needs of the American working men and women and the American family.

After this week is over, if the President again agrees to sign the work before this body, men and women working in America will no longer have to be afraid to change jobs, will no longer have to be concerned that they will

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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lose their insurance portability, will no longer have to be disadvantaged if they are self-employed in the acquisition of the insurance that best fits their family's needs.

In addition to that, given the terrible burdens that fall on the family when two parents are working outside the home, we have an opportunity to allow them to have the choice, in legislation we will pass through this House this week, to choose between overtime and flex time so that those families that value time with their children more than the extra money may be free to choose for that configuration of compensation and time that best suits the needs of the family.

These are indeed good days for the families of America, and I must say, Mr. Speaker, I am so proud of the work that is done by this Republican Congress, the most productive Congress in decades.

KENNEDY HEALTH INSURANCE REFORM BILL BROUGHT TO HOUSE FLOOR

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

Mr. PALLONE. Mr. Speaker, it is a testimony to President Clinton and to the Democrats in Congress that the Kennedy health insurance reform bill will finally be brought to the floor in the House of Representatives today.

It was not until President Clinton this year, in his State of the Union address, said that he wanted to see health care reform and that people could take their health insurance with them when they changed jobs or lost jobs, or that they would not be barred from health insurance because of preexisting medical conditions, it was not until the President came forward and said he wanted that bill, a clean bill passed, that finally we were able to, grudgingly, get the Republican leadership to move this health insurance reform bill.

Even so, the Republican leadership constantly tried to kill and destroy the bill by throwing in the poison pill of medical savings accounts. Finally, the bill that comes to the floor today is essentially a clean bill. There is some provision for MSA's but it is a very small provision.

It was the recognition of the fact that only a clean bill, as promulgated and as preached by President Clinton, could pass this House and pass the Senate, it was only when the Republican leadership understood that, that it was possible to bring this bill to the floor today.

CONGRESS REFORMS HEALTH CARE AND WELFARE THIS WEEK

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

Mr. GANSKE. Mr. Speaker, today we take up the Health Insurance Portability and Accountability Act of 1996. This bill is long overdue. The American people have demanded this kind of change for many years. We will provide genuine health care reform, expand accessibility, ensure portability, and all without a Government takeover of the health care sector.

This bill fights fraud and abuse, it allows the self-employed to increase their health care deductible, it establishes medical savings accounts, and it provides deductions for long-term care.

This is a win-win proposal for the American people. We will provide expanded health care coverage without creating huge new bureaucracies. In fact, we will give more power to individuals to make their own decisions on health insurance.

Mr. Speaker, the debate gets pretty hot sometimes, but this week alone we will have reformed health care and welfare. I want to salute my colleagues on both sides of the aisle who have helped make this the most productive Congress in a generation.

CONFERENCE REPORT ON H.R. 3448, SMALL BUSINESS JOB PROTECTION ACT OF 1996

Mr. ARCHER submitted the following conference report and statement on the 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 employer 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:

CONFERENCE REPORT (H. REPT. 104–737)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the 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 employer 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, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

TITLE I

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(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 or 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 providing, 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 STORAGE OF PRODUCT SAMPLES.

(a) IN GENERAL.—Paragraph (2) of section 280A(c) is amended by striking ''inventory'' and inserting ''inventory or product samples''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 1114. TREATMENT OF CERTAIN CHARITABLE RISK POOLS.

(a) GENERAL RULE.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) CHARITABLE RISK POOLS.—

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

''(A) a qualified charitable risk pool shall be treated as an organization organized and operated exclusively for charitable purposes, and

''(B) subsection (m) shall not apply to a qualified charitable risk pool.

''(2) QUALIFIED CHARITABLE RISK POOL.—For purposes of this subsection, the term 'qualified charitable risk pool' means any organization—

''(A) which is organized and operated solely to pool insurable risks of its members (other than risks related to medical malpractice) and to provide information to its members with respect to loss control and risk management,

''(B) which is comprised solely of members that are organizations described in subsection (c)(3) and exempt from tax under subsection (a), and

''(C) which meets the organizational requirements of paragraph (3).

''(3) ORGANIZATIONAL REQUIREMENTS.—An organization (hereinafter in this subsection referred to as the 'risk pool') meets the organizational requirements of this paragraph if—

''(A) such risk pool is organized as a nonprofit organization under State law provisions authorizing risk pooling arrangements for charitable organizations,

''(B) such risk pool is exempt from any income tax imposed by the State (or will be so exempt after such pool qualifies as an organization exempt from tax under this title),

''(C) such risk pool has obtained at least $1,000,000 in startup capital from nonmember charitable organizations,

''(D) such risk pool is controlled by a board of directors elected by its members, and

''(E) the organizational documents of such risk pool require that—

''(i) each member of such pool shall at all times be an organization described in subsection (c)(3) and exempt from tax under subsection (a),

''(ii) any member which receives a final determination that it no longer qualifies as an organization described in subsection (c)(3) shall immediately notify the pool of such determination and the effective date of such determination, and

''(iii) each policy of insurance issued by the risk pool shall provide that such policy will not cover the insured with respect to events occurring after the date such final determination was issued to the insured.

An organization shall not cease to qualify as a qualified charitable risk pool solely by reason of the failure of any of its members to continue to be an organization described in subsection (c)(3) if, within a reasonable period of time after such pool is notified as required under subparagraph (C)(ii), such pool takes such action as may be reasonably necessary to remove such member from such pool.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) STARTUP CAPITAL.—The term 'startup capital' means any capital contributed to, and any program-related investments (within the meaning of section 4944(c)) made in, the risk pool before such pool commences operations.

''(B) NONMEMBER CHARITABLE ORGANIZATION.—The term 'nonmember charitable organization' means any organization which is described in subsection (c)(3) and exempt from tax under subsection (a) and which is not a member of the risk pool and does not benefit (directly or indirectly) from the insurance coverage provided by the pool to its members.''

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

SEC. 1115. 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 DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TRANSITIONAL RULE.—If—

(A) for purposes of applying part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 to any taxable year beginning before January 1, 1987, an agricultural or horticultural organization did not treat any portion of membership dues received by it as income derived in an unrelated trade or business, and

(B) such organization had a reasonable basis for not treating such dues as income derived in an unrelated trade or business,

then, for purposes of applying such part III to any such taxable year, in no event shall any portion of such dues be treated as derived in an unrelated trade or business.

(3) REASONABLE BASIS.—For purposes of paragraph (2), an organization shall be treated as having a reasonable basis for not treating membership dues as income derived in an unrelated trade or business if the taxpayer's treatment of such dues was in reasonable reliance on any of the following:

(A) Judicial precedent, published rulings, technical advice with respect to the organization, or a letter ruling to the organization.

(B) A past Internal Revenue Service audit of the organization in which there was no assessment attributable to the reclassification of membership dues for purposes of the tax on unrelated business income.

(C) Long-standing recognized practice of agricultural or horticultural organizations.

SEC. 1116. 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,''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to remuneration paid—

(i) after December 31, 1994, and

(ii) after December 31, 1984, and before January 1, 1995, unless the payor treated such remuneration (when paid) as being subject to tax under chapter 21 of the Internal Revenue Code of 1986.

(B) REPORTING REQUIREMENT.—The amendment made by paragraph (1)(C) shall apply to remuneration paid after December 31, 1996.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 68 (relating to information concerning transactions with other persons) is amended by inserting after section 6050Q the following new section:

''SEC. 6050R. RETURNS RELATING TO CERTAIN PURCHASES OF FISH.

''(a) REQUIREMENT OF REPORTING.—Every person—

''(1) who is engaged in the trade or business of purchasing fish for resale from any person engaged in the trade or business of catching fish; and

''(2) who makes payments in cash in the course of such trade or business to such a person of $600 or more during any calendar year for the purchase of fish,

shall make a return (at such times as the Secretary may prescribe) described in subsection (b) with respect to each person to whom such a payment was made during such calendar year.

''(b) RETURN.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe, and

''(2) contains—

''(A) the name, address, and TIN of each person to whom a payment described in subsection (a)(2) was made during the calendar year;

''(B) the aggregate amount of such payments made to such person during such calendar year and the date and amount of each such payment, and

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

''(c) STATEMENT TO BE FURNISHED WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

''(1) the name and address of the person required to make such a return, and

''(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

''(d) DEFINITIONS.—For purposes of this section:

''(1) CASH.—The term 'cash' has the meaning given such term by section 6050I(d).

''(2) FISH.—The term 'fish' includes other forms of aquatic life.''.

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (A) of section 6724(d)(1) is amended by striking ''or'' at the end of clause (vi), by striking ''and'' at the end of clause (vii) and inserting ''or'', and by adding at the end the following new clause:

''(viii) section 6050R (relating to returns relating to certain purchases of fish), and''.

(B) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (R) through (U) as subparagraphs (S) through (V), respectively, and by inserting after subparagraph (Q) the following new subparagraph:

''(R) section 6050R(c) (relating to returns relating to certain purchases of fish),''.

(C) The table of sections for subpart B of part III of subchapter A of chapter 68 is amended by inserting after the item relating to 6050Q the following new item:

''Sec. 6050R. Returns relating to certain purchases of fish.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after December 31, 1997.

SEC. 1117. 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. 1118. 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. 1119. 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), respectively, 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) EXPANSION OF OKLAHOMA CITY ENTERPRISE COMMUNITY.—Notwithstanding sections 1391 and 1392(a)(3)(D) of the Internal Revenue Code of 1986, the boundaries of the enterprise community for Oklahoma City, Oklahoma, designated by the Secretary of Housing and Urban Development on December 21, 1994, may be extended with respect to census tracts located in the area damaged due to the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995, primarily in the area bounded on the south by Robert S. Kerr Avenue, on the north by North 13th Street, on the east by Oklahoma Avenue, and on the west by Shartel Avenue.

(d) EFFECTIVE DATE.—

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

(2) SUBSECTION (c).—Subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 1120. 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. 1121 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. 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 OF AVAILABILITY OF SECTION.—An officer or employee of the Internal Revenue Service shall, before or at the commencement of any audit inquiry 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).

''(5) PRESERVATION OF PRIOR PERIOD SAFE HARBOR.—If—

''(A) an individual would (but for the treatment referred to in subparagraph (B)) be deemed not to be an employee of the taxpayer under subsection (a) for any prior period, and

''(B) such individual is treated by the taxpayer as an employee for employment tax purposes for any subsequent period,

then, for purposes of applying such taxes for such prior period with respect to the taxpayer, the individual shall be deemed not to be an employee.

''(6) SUBSTANTIALLY SIMILAR POSITION.—For purposes of this section, the determination as to whether an individual holds a position substantially similar to a position held by another individual shall include consideration of the relationship between the taxpayer and such individuals.''.

(b) EFFECTIVE DATES.—

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

(2) NOTICE BY INTERNAL REVENUE SERVICE.—Section 530(e)(1) 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.

SEC. 1123. TREATMENT OF HOUSING PROVIDED TO EMPLOYEES BY ACADEMIC HEALTH CENTERS.

(a) IN GENERAL.—Paragraph (4) of section 119(d) (relating to lodging furnished by certain educational institutions to employees) is amended to read as follows:

''(4) EDUCATIONAL INSTITUTION, ETC.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'educational institution' means—

''(i) an institution described in section 170(b)(1)(A)(ii) (or an entity organized under State law and composed of public institutions so described), or

''(ii) an academic health center.

''(B) ACADEMIC HEALTH CENTER.—For purposes of subparagraph (A), the term 'academic health center' means an entity—

''(i) which is described in section 170(b)(1)(A)(iii),

''(ii) which receives (during the calendar year in which the taxable year of the taxpayer begins) payments under subsection (d)(5)(B) or (h) of section 1886 of the Social Security Act (relating to graduate medical education), and

''(iii) which has as one of its principal purposes or functions the providing and teaching of basic and clinical medical science and research with the entity's own faculty.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

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—

''(I) receiving assistance under a food stamp program under the Food Stamp Act of 1977 for the 6-month period ending on the hiring date, or

''(II) receiving such assistance for at least 3 months of the 5-month period ending on the hiring date, in the case of a member of a family who ceases to be eligible for such assistance under section 6(o) of the Food Stamp Act of 1977.

''(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 prescreening 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 'prescreening 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 400 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), 41(b)(2)(D)(iii), 45A(b)(1)(B), 51 (a) and (g), and 196(c) are each amended in the text by striking ''targeted jobs credit'' each place it appears 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 headings for sections 41(b)(2)(D)(iii) and 1396(c)(3) are each amended by striking ''TARGETED JOBS CREDIT'' and inserting ''WORK OPPORTUNITY CREDIT''.

(5) The heading for subsection (j) of section 51 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 ''May 31, 1997. In the case of any taxable year beginning in 1997, only expenses paid with respect to courses beginning before July 1, 1997, shall be taken into account in determining the amount excluded under this section.''.

(b) LIMITATION TO EDUCATION BELOW GRADUATE LEVEL.—The last sentence of section 127(c)(1) is amended by inserting before the period the following: '', and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree''.

(c) EFFECTIVE DATES.—

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

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1996.

(3) 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. FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS.

(a) IN GENERAL.—Subparagraph (B) of section 3306(c)(1) (defining employment) is amended by striking ''before January 1, 1995,''.

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

SEC. 1204. 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 May 31, 1997.

Notwithstanding the preceding sentence, in the case of a taxpayer making an election under subsection (c)(4) for its first taxable year beginning after June 30, 1996, and before July 1, 1997, this section shall apply to amounts paid or incurred during the first 11 months of such taxable year.

''(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 May 31, 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.

(3) ESTIMATED TAX.—The amendments made by this section shall not be taken into account under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) in determining the amount of any installment required to be paid for a taxable year beginning in 1997.

SEC. 1205. 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—

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

''(2) after May 31, 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'', 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. 1206. 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—

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

''(ii) after May 31, 1997.''.

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

SEC. 1207. 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 ''July 1, 1998'' and by striking ''January 1, 1996'' and inserting ''January 1, 1997''.

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

SEC. 1208. MORATORIUM FOR EXCISE TAX ON DIESEL FUEL SOLD FOR USE OR USED IN DIESEL-POWERED MOTORBOATS.

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 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, 1997,''.

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,''.

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—

''(i) all items of income, loss, or deduction taken into account under section 1366(a), and

''(ii) 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) BASIS REDUCTION.—Except as provided in regulations, for purposes of paragraph (1), the basis of any stock acquired by purchase (within the meaning of section 1012) shall be reduced by the amount of any dividends received by the organization with respect to the stock.''.

(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 subsection (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 subsection (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 among investment options 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—

''(i) had compensation from the employer in excess of $80,000, and

''(ii) if the employer elects the application of this clause for such preceding year, was in the top-paid group of employees for such preceding year.

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), (5), and (12) and by redesignating paragraphs (3), (4), (7), (8), (9), (10), and (11) as paragraphs (2) through (8), 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)(4)''.

(C) Section 416(i)(1)(A) is amended by striking ''section 414(q)(8)'' and inserting ''section 414(q)(5)''.

(D) Subparagraph (A) of section 414(r)(2) is amended by striking ''subsection (q)(8)'' and inserting ''subsection (q)(5)''.

(E) Section 414(q)(5), as redesignated by subparagraph (A), is amended by striking ''under paragraph (4), or the number of officers taken into account under paragraph (5)''.

(2) 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 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)(4), 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.—In the case of any contract purchased in a plan year beginning before January 1, 1995, 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.

(2) ROLLOVERS.—Solely for purposes of applying section 403(b)(8) of such Code to a contract to which paragraph (1) 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. SPECIAL RULES RELATING TO JOINT AND SURVIVOR ANNUITY EXPLANATIONS.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 417(a) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULES RELATING TO TIME FOR WRITTEN EXPLANATION.—Notwithstanding any other provision of this subsection—

''(A) EXPLANATION MAY BE PROVIDED AFTER ANNUITY STARTING DATE.—

''(i) IN GENERAL.—A plan may provide the written explanation described in paragraph (3)(A) after the annuity starting date. In any case to which this subparagraph applies, the applicable election period under paragraph (6) shall not end before the 30th day after the date on which such explanation is provided.

''(ii) REGULATORY AUTHORITY.—The Secretary may by regulations limit the application of clause (i), except that such regulations may not limit the period of time by which the annuity starting date precedes the provision of the written explanation other than by providing that the annuity starting date may not be earlier than termination of employment.

''(B) WAIVER OF 30-DAY PERIOD.—A plan may permit a participant to elect (with any applicable spousal consent) to waive any requirement that the written explanation be provided at least 30 days before the annuity starting date (or to waive the 30-day requirement under subparagraph (A)) if the distribution commences more than 7 days after such explanation is provided.''

(b) AMENDMENT TO ERISA.—Section 205(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)) is amended by adding at the end the following new paragraph:

''(8) Notwithstanding any other provision of this subsection—

''(A)(i) A plan may provide the written explanation described in paragraph (3)(A) after the annuity starting date. In any case to which this subparagraph applies, the applicable election period under paragraph (7) shall not end before the 30th day after the date on which such explanation is provided.

''(ii) The Secretary may by regulations limit the application of clause (i), except that such regulations may not limit the period of time by which the annuity starting date precedes the provision of the written explanation other than by providing that the annuity starting date may not be earlier than termination of employment.

''(B) A plan may permit a participant to elect (with any applicable spousal consent) to waive any requirement that the written explanation be provided at least 30 days before the annuity starting date (or to waive the 30-day requirement under subparagraph (A)) if the distribution commences more than 7 days after such explanation is provided.''

(c) EFFECTIVE DATE.—The amendments made by this section 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 (U), by striking the period at the end of subparagraph (V) and inserting a comma, and by inserting after subparagraph (V) the following new subparagraphs:

''(W) 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

''(X) 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)(X).''.

(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)(W).''.

(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. SAMPLE LANGUAGE FOR SPOUSAL CONSENT AND QUALIFIED DOMESTIC RELATIONS FORMS.

(a) DEVELOPMENT OF SAMPLE LANGUAGE.—Not later than January 1, 1997, the Secretary of the Treasury shall develop—

(1) sample language for inclusion in a 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) sample language for inclusion in a 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 sample language 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. ALTERNATIVE NONDISCRIMINATION RULES FOR CERTAIN PLANS THAT PROVIDE FOR EARLY PARTICIPATION.

(a) CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of section 401(k) (relating to application of participation and discrimination standards), as amended by section 1433(d)(1) of this Act, is amended by adding at the end the following new subparagraph:

''(F) SPECIAL RULE FOR EARLY PARTICIPATION.—If an employer elects to apply section 410(b)(4)(B) in determining whether a cash or deferred arrangement meets the requirements of subparagraph (A)(i), the employer may, in determining whether the arrangement meets the requirements of subparagraph (A)(ii), exclude from consideration all eligible employees (other than highly compensated employees) who have not met the minimum age and service requirements of section 410(a)(1)(A).''.

(b) MATCHING CONTRIBUTIONS.—Paragraph (5) of section 401(m) (relating to employees taken into consideration) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR EARLY PARTICIPATION.—If an employer elects to apply section 410(b)(4)(B) in determining whether a plan meets the requirements of section 410(b), the employer may, in determining whether the plan meets the requirements of paragraph (2), exclude from consideration all eligible employees (other than highly compensated employees) who have not met the minimum age and service requirements of section 410(a)(1)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1998.

SEC. 1460. CLARIFICATION OF APPLICATION OF ERISA TO INSURANCE COMPANY GENERAL ACCOUNTS.

(a) IN GENERAL.—Section 401 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) is amended by adding at the end the following new subsection:

''(c)(1)(A) Not later than June 30, 1997, the Secretary shall issue proposed regulations to provide guidance for the purpose of determining, in cases where an insurer issues 1 or more policies to or for the benefit of an employee benefit plan (and such policies are supported by assets of such insurer's general account), which assets held by the insurer (other than plan assets held in its separate accounts) constitute assets of the plan for purposes of this part and section 4975 of the Internal Revenue Code of 1986 and to provide guidance with respect to the application of this title to the general account assets of insurers.

''(B) The proposed regulations under subparagraph (A) shall be subject to public notice and comment until September 30, 1997.

''(C) The Secretary shall issue final regulations providing the guidance described in subparagraph (A) not later than December 31, 1997.

''(D) Such regulations shall only apply with respect to policies which are issued by an insurer on or before December 31, 1998, to or for the benefit of an employee benefit plan which is supported by assets of such insurer's general account. With respect to policies issued on or before December 31, 1998, such regulations shall take effect at the end of the 18-month period following the date on which such regulations become final.

''(2) The Secretary shall ensure that the regulations issued under paragraph (1)—

''(A) are administratively feasible, and

''(B) protect the interests and rights of the plan and of its participants and beneficiaries (including meeting the requirements of paragraph (3)).

''(3) The regulations prescribed by the Secretary pursuant to paragraph (1) shall require, in connection with any policy issued by an insurer to or for the benefit of an employee benefit plan to the extent that the policy is not a guaranteed benefit policy (as defined in subsection (b)(2)(B))—

''(A) that a plan fiduciary totally independent of the insurer authorize the purchase of such policy (unless such purchase is a transaction exempt under section 408(b)(5)),

''(B) that the insurer describe (in such form and manner as shall be prescribed in such regulations), in annual reports and in policies issued to the policyholder after the date on which such regulations are issued in final form pursuant to paragraph (1)(C) —

''(i) a description of the method by which any income and expenses of the insurer's general account are allocated to the policy during the term of the policy and upon the termination of the policy, and

''(ii) for each report, the actual return to the plan under the policy and such other financial information as the Secretary may deem appropriate for the period covered by each such annual report,

''(C) that the insurer disclose to the plan fiduciary the extent to which alternative arrangements supported by assets of separate accounts of the insurer (which generally hold plan assets) are available, whether there is a right under the policy to transfer funds to a separate account and the terms governing any such right, and the extent to which support by assets of the insurer's general account and support by assets of separate accounts of the insurer might pose differing risks to the plan, and

''(D) that the insurer manage those assets of the insurer which are assets of such insurer's general account (irrespective of whether any such assets are plan assets) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, taking into account all obligations supported by such enterprise.

''(4) Compliance by the insurer with all requirements of the regulations issued by the Secretary pursuant to paragraph (1) shall be deemed compliance by such insurer with sections 404, 406, and 407 with respect to those assets of the insurer's general account which support a policy described in paragraph (3).

''(5)(A) Subject to subparagraph (B), any regulations issued under paragraph (1) shall not take effect before the date on which such regulations become final.

''(B) No person shall be subject to liability under this part or section 4975 of the Internal Revenue Code of 1986 for conduct which occurred before the date which is 18 months following the date described in subparagraph (A) on the basis of a claim that the assets of an insurer (other than plan assets held in a separate account) constitute assets of the plan, except—

''(i) as otherwise provided by the Secretary in regulations intended to prevent avoidance of the regulations issued under paragraph (1), or

''(ii) as provided in an action brought by the Secretary pursuant to paragraph (2) or (5) of section 502(a) for a breach of fiduciary responsibilities which would also constitute a violation of Federal or State criminal law.

The Secretary shall bring a cause of action described in clause (ii) if a participant, beneficiary, or fiduciary demonstrates to the satisfaction of the Secretary that a breach described in clause (ii) has occurred.

''(6) Nothing in this subsection shall preclude the application of any Federal criminal law.

''(7) For purposes of this subsection, the term 'policy' includes a contract.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on January 1, 1975.

(2) CIVIL ACTIONS.—The amendment made by this section shall not apply to any civil action commenced before November 7, 1995.

SEC. 1461. SPECIAL RULES FOR CHAPLAINS AND SELF-EMPLOYED MINISTERS.

(a) IN GENERAL.—Section 414(e) (defining church plan) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULES FOR CHAPLAINS AND SELF-EMPLOYED MINISTERS.—

''(A) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this part—

''(i) IN GENERAL.—An employee of a church or a convention or association of churches shall include a duly ordained, commissioned, or licensed minister of a church who, in connection with the exercise of his or her ministry—

''(I) is a self-employed individual (within the meaning of section 401(c)(1)(B)), or

''(II) is employed by an organization other than an organization described in section 501(c)(3).

''(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—

''(I) SELF-EMPLOYED.—A minister described in clause (i)(I) shall be treated as his or her own employer which is an organization described in section 501(c)(3) and which is exempt from tax under section 501(a).

''(II) OTHERS.—A minister described in clause (i)(II) shall be treated as employed by an organization described in section 501(c)(3) and exempt from tax under section 501(a).

''(B) SPECIAL RULES FOR APPLYING SECTION 403(b) TO SELF-EMPLOYED MINISTERS.—In the case of a minister described in subparagraph (A)(i)(I)—

''(i) the minister's includible compensation under section 403(b)(3) shall be determined by reference to the minister's earned income (within the meaning of section 401(c)(2)) from such ministry rather than the amount of compensation which is received from an employer, and

''(ii) the years (and portions of years) in which such minister was a self-employed individual (within the meaning of section 401(c)(1)(B)) with respect to such ministry shall be included for purposes of section 403(b)(4).

''(C) EFFECT ON NON-DENOMINATIONAL PLANS.—If a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry participates in a church plan (within the meaning of this section) and in the exercise of such ministry is employed by an employer not eligible to participate in such church plan, then such employer may exclude such minister from being treated as an employee of such employer for purposes of applying sections 401(a)(3), 401(a)(4), and 401(a)(5), as in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(26), 401(k)(3), 401(m), 403(b)(1)(D) (including section 403(b)(12)), and 410 to any stock bonus, pension, profit-sharing, or annuity plan (including an annuity described in section 403(b) or a retirement income account described in section 403(b)(9)). The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purpose of, and prevent the abuse of, this subparagraph.

''(D) COMPENSATION TAKEN INTO ACCOUNT ONLY ONCE.—If any compensation is taken into account in determining the amount of any contributions made to, or benefits to be provided under, any church plan, such compensation shall not also be taken into account in determining the amount of any contributions made to, or benefits to be provided under, any other stock bonus, pension, profit-sharing, or annuity plan which is not a church plan.''

(b) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—Section 404(a) (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end the following new paragraph:

''(10) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—In the case of contributions made by a minister described in section 414(e)(5) to a retirement income account described in section 403(b)(9) and not by a person other than such minister, such contributions—

''(A) shall be treated as made to a trust which is exempt from tax under section 501(a) and which is part of a plan which is described in section 401(a), and

''(B) shall be deductible under this subsection to the extent such contributions do not exceed the limit on elective deferrals under section 402(g), the exclusion allowance under section 403(b)(2), or the limit on annual additions under section 415.

For purposes of this paragraph, all plans in which the minister is a participant shall be treated as one plan.''.

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

SEC. 1462. DEFINITION OF HIGHLY COMPENSATED EMPLOYEE FOR PRE-ERISA RULES FOR CHURCH PLANS.

(a) IN GENERAL.—Section 414(q) (defining highly compensated employee), as amended by section 1431(c)(1)(A) of this Act, is amended by adding at the end the following new paragraph:

''(7) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES UNDER PRE-ERISA RULES FOR CHURCH PLANS.—In the case of a church plan (as defined in subsection (e)), no employee shall be considered an officer, a person whose principal duties consist of supervising the work of other employees, or a highly compensated employee for any year unless such employee is a highly compensated employee under paragraph (1) for such year.''.

(b) SAFEHARBOR AUTHORITY.—The Secretary of the Treasury may design nondiscrimination and coverage safe harbors for church plans.

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

SEC. 1463. RULE RELATING TO INVESTMENT IN CONTRACT NOT TO APPLY TO FOREIGN MISSIONARIES.

(a) IN GENERAL.—The last sentence of section 72(f) is amended by inserting '', or to the extent such credits are attributable to services performed as a foreign missionary (within the meaning of section 403(b)(2)(D)(iii))'' before the end period.

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

SEC. 1464. WAIVER OF EXCISE TAX ON FAILURE TO PAY LIQUIDITY SHORTFALL.

(a) IN GENERAL.—Section 4971(f) (relating to failure to pay liquidity shortfall) is amended by adding at the end the following new paragraph:

''(4) WAIVER BY SECRETARY.—If the taxpayer establishes to the satisfaction of the Secretary that—

''(A) the liquidity shortfall described in paragraph (1) was due to reasonable cause and not willful neglect, and

''(B) reasonable steps have been taken to remedy such liquidity shortfall,

the Secretary may waive all or part of the tax imposed by this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by clause (ii) of section 751(a)(9)(B) of the Retirement Protection Act of 1994 (108 Stat. 5020).

SEC. 1465. 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, 1998, 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 ''2000'' for ''1998''.

Subtitle E—Foreign Simplification

SEC. 1501. REPEAL OF INCLUSION OF CERTAIN EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) IN GENERAL.—

(1) REPEAL OF INCLUSION.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is

amended by striking subparagraph (C), by striking ''; and'' at the end of subparagraph (B) and inserting a period, and by adding ''and'' at the end of subparagraph (A).

(2) REPEAL OF INCLUSION AMOUNT.—Section 956A (relating to earnings invested in excess passive assets) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (G) of section 904(d)(3), as amended by section 1703(i)(1), is amended by striking ''subparagraph (B) or (C) of section 951(a)(1)'' and inserting ''section 951(a)(1)(B)''.

(1) Paragraph (1) of section 956(b) is amended to read as follows:

''(1) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the sum of—

''(A) the amount (not including a deficit) referred to in section 316(a)(1), and

''(B) the amount referred to in section 316(a)(2),

but reduced by distributions made during the taxable year and by earnings and profits described in section 959(c)(1).''.

(2) Paragraph (3) of section 956(b) is amended to read as follows:

''(3) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

''(A) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation,

''(B) the average referred to in subsection (a)(1)(A) for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

''(C) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.''..

(3) Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding ''or'' at the end of paragraph (1), by striking ''or'' at the end of paragraph (2), and by striking paragraph (3).

(4) Subsection (a) of section 959 is amended by striking ''paragraphs (2) and (3)'' in the last sentence and inserting ''paragraph (2)''.

(5) Subsection (c) of section 959 is amended by adding at the end the following flush sentence:

''References in this subsection to section 951(a)(1)(C) and subsection (a)(3) shall be treated as references to such provisions as in effect on the day before the date of the enactment of the Small Business Job Protection Act of 1996.''.

(6) Paragraph (1) of section 959(f) is amended to read as follows:

''(1) IN GENERAL.—For purposes of this section, amounts that would be included under subparagraph (B) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3).''.

(7) Paragraph (2) of section 959(f) is amended by striking ''subparagraphs (B) and (C) of section 951(a)(1)'' and inserting ''section 951(a)(1)(B)''.

(8) Subsection (b) of section 989 is amended by striking ''subparagraph (B) or (C) of section 951(a)(1)'' and inserting ''section 951(a)(1)(B)''.

(9) Paragraph (9) of section 1297(b) is amended by striking ''subparagraph (B) or (C) of section 951(a)(1)'' and inserting ''section 951(a)(1)(B)''.

(10) Subsections (d)(3)(B) and (e)(2)(B)(ii) of section 1297 are each amended by striking ''or section 956A''.

(11) Subparagraph (G) of section 904(d)(3) is amended by striking ''subparagraph (B) or (C) of section 951(a)(1)'' and inserting ''section 951(a)(1)(B)''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the item relating to section 956A.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1996, and to taxable years of United States shareholders within which or with which such taxable years of foreign corporations end.

Subtitle F—Revenue Offsets

PART I—GENERAL PROVISIONS

SEC. 1601. TERMINATION 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.—

''(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) TRANSITION 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, and before January 1, 2002.

''(B) SPECIAL RULE FOR 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, 1998.

''(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 RESTRICTED CREDIT.—

''(A) IN GENERAL.—In the case of an existing credit claimant—

''(i) the credit under subsection (a)(1)(A) shall be allowed for the period beginning with the first taxable year after the last taxable year to which subparagraph (A) or (B) of paragraph (2), whichever is appropriate, applied and ending with the last taxable year beginning before January 1, 2006, except that

''(ii) the aggregate amount of taxable income taken into account under subsection (a)(1)(A) for any such taxable year shall not exceed the adjusted base period income of such claimant.

''(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, 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.

''(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)(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, or

''(ii) which acquired all of the assets of a trade or business of a corporation which—

''(I) satisfied the requirements of subclause (I) of clause (i) with respect to such trade or business, and

''(II) satisfied the requirements of subclause (II) of clause (i).

''(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 (other than in an acquisition described in subparagraph (A)(ii)), 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 (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.

''(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 FOR ACTIVE BUSINESS INCOME.—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 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—

''(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, and before January 1, 2006.''.

(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) 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.''.

(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 DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 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.

(3) SPECIAL TRANSITION RULE FOR PAYMENT OF ESTIMATED TAX INSTALLMENT.—In determining the amount of any installment due under section 6655 of the Internal Revenue Code of 1986 after the date of the enactment of this Act and before October 1, 1996, only ½ of any increase in tax (for the taxable year for which such installment is made) by reason of the amendments made by subsections (a) and (b) shall be taken into account. Any reduction in such installment by reason of the preceding sentence shall be recaptured by increasing the next required installment for such year by the amount of such reduction.

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. CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS TREATED AS UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

''(17) TREATMENT OF CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), any amount included in gross income under section 951(a)(1)(A) shall be included as an item of gross income derived from an unrelated trade or business to the extent the amount so included is attributable to insurance income (as defined in section 953) which, if derived directly by the organization, would be treated as gross income from an unrelated trade or business. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

''(B) EXCEPTION.—

''(i) IN GENERAL.—Subparagraph (A) shall not apply to income attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is—

''(I) such organization,

''(II) an affiliate of such organization which is exempt from tax under section 501(a), or

''(III) a director or officer of, or an individual who (directly or indirectly) performs services for, such organization or affiliate but only if the insurance covers primarily risks associated with the performance of services in connection with such organization or affiliate.

''(ii) AFFILIATE.—For purposes of this subparagraph—

''(I) IN GENERAL.—The determination as to whether an entity is an affiliate of an organization shall be made under rules similar to the rules of section 168(h)(4)(B).

''(II) SPECIAL RULE.—Two or more organizations (and any affiliates of such organizations) shall be treated as affiliates if such organizations are colleges or universities described in section 170(b)(1)(A)(ii) or organizations described in section 170(b)(1)(A)(iii) and participate in an insurance arrangement that provides for any profits from such arrangement to be returned to the policyholders in their capacity as such.

''(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations for the application of this paragraph in the case of income paid through 1 or more entities or between 2 or more chains of entities.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts included in gross income in any taxable year beginning after December 31, 1995.

SEC. 1604. DEPRECIATION UNDER INCOME FORECAST METHOD.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) DEPRECIATION UNDER INCOME FORECAST METHOD.—

''(1) IN GENERAL.—If the depreciation deduction allowable under this section to any taxpayer with respect to any property is determined under the income forecast method or any similar method—

''(A) the income from the property to be taken into account in determining the depreciation deduction under such method shall be equal to the amount of income earned in connection with the property before the close of the 10th taxable year following the taxable year in which the property was placed in service,

''(B) the adjusted basis of the property shall only include amounts with respect to which the requirements of section 461(h) are satisfied,

''(C) the depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be equal to the adjusted basis of such property as of the beginning of such 10th taxable year, and

''(D) such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.

''(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—

''(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the basis of the sum of the following (instead of the estimated income from such property)—

''(i) the actual income earned in connection with such property for periods before the close of the recomputation year, and

''(ii) an estimate of the future income to be earned in connection with such property for periods after the recomputation year and before the close of the 10th taxable year following the taxable year in which the property was placed in service,

''(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each such prior taxable year which would result solely from the application of subparagraph (A), and

''(C) then using the adjusted overpayment rate (as defined in section 460(b)(7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any cost incurred after the property is placed in service (which is not treated as a separate property under paragraph (5)) shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such cost is incurred) such cost to its value as of the date the property is placed in service. The taxpayer may elect with respect to any property to have the preceding sentence not apply to such property.

''(3) EXCEPTION FROM LOOK-BACK METHOD.—Paragraph (1)(D) shall not apply with respect to any property which had a cost basis of $100,000 or less.

''(4) RECOMPUTATION YEAR.—For purposes of this subsection, except as provided in regulations, the term 'recomputation year' means, with respect to any property, the 3d and the 10th taxable years beginning after the taxable year in which the property was placed in service, unless the actual income earned in connection with the property for the period before the close of such 3d or 10th taxable year is within 10 percent of the income earned in connection with the property for such period which was taken into account under paragraph (1)(A).

''(5) SPECIAL RULES.—

''(A) CERTAIN COSTS TREATED AS SEPARATE PROPERTY.—For purposes of this subsection, the following costs shall be treated as separate properties:

''(i) Any costs incurred with respect to any property after the 10th taxable year beginning after the taxable year in which the property was placed in service.

''(ii) Any costs incurred after the property is placed in service and before the close of such 10th taxable year if such costs are significant and give rise to a significant increase in the income from the property which was not included in the estimated income from the property.

''(B) SYNDICATION INCOME FROM TELEVISION SERIES.—In the case of property which is 1 or more episodes in a television series, income from syndicating such series shall not be required to be taken into account under this subsection before the earlier of—

''(i) the 4th taxable year beginning after the date the first episode in such series is placed in service, or

''(ii) the earliest taxable year in which the taxpayer has an arrangement relating to the future syndication of such series.

''(C) SPECIAL RULES FOR FINANCIAL EXPLOITATION OF CHARACTERS, ETC.—For purposes of this subsection, in the case of television and motion picture films, the income from the property shall include income from the exploitation of characters, designs, scripts, scores, and other incidental income associated with such films, but only to the extent that such income is earned in connection with the ultimate use of such items by, or the ultimate sale of merchandise to, persons who are not related persons (within the meaning of section 267(b)) to the taxpayer.

''(D) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under paragraph (1) for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

''(E) DETERMINATIONS.—For purposes of paragraph (2), determinations of the amount of income earned in connection with any property shall be made in the same manner as for purposes of applying the income forecast method; except that any income from the disposition of such property shall be taken into account.

''(F) TREATMENT OF PASS-THRU ENTITIES.—Rules similar to the rules of section 460(b)(4) shall apply for purposes of this subsection.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to property placed in service after September 13, 1995.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any property produced or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such production or acquisition.

(3) UNDERPAYMENTS OF INCOME TAX.—No addition to tax shall be made under section 6662 of such Code as a result of the application of subsection (d) of that section (relating to substantial understatements of income tax) with respect to any underpayment of income tax for any taxable year ending before such date of enactment, to the extent such underpayment was created or increased by the amendments made by subsection (a).

SEC. 1605. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES AND FOR DAMAGES NOT ATTRIBUTABLE TO PHYSICAL INJURIES OR SICKNESS.

(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 physical injuries or physical sickness;''.

(b) EMOTIONAL DISTRESS AS SUCH TREATED AS NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Section 104(a) is amended by striking the last sentence and inserting the following new sentence: ''For purposes of paragraph (2), emotional distress shall not be treated as a physical injury or physical sickness. The preceding sentence shall not apply to an amount of damages not in excess of the amount paid for medical care (described in subparagraph (A) or (B) of section 213(d)(1)) attributable to emotional distress.''.

(c) 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.—The phrase '(other than punitive damages)' shall not apply to 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).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after the date of the enactment of this Act, in taxable years ending after such date.

(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. 1606. REPEAL OF DIESEL FUEL TAX REBATE TO PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Section 6427 (relating to fuels not used for taxable purposes) is amended by striking subsection (g).

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 34(a) is amended to read as follows:

''(3) under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(k)).''.

(2) Paragraphs (1) and (2)(A) of section 6427(i) are each amended—

(A) by striking ''(g),'', and

(B) by striking ''(or a qualified diesel powered highway vehicle purchased)'' each place it appears.

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

SEC. 1607. 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 in calendar years after 1995 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 apply with respect to sales occurring after the date which is 7 days after the date of the enactment of this Act.

SEC. 1608. TERMINATION OF FUTURE TAX-EXEMPT BOND FINANCING FOR LOCAL FURNISHERS OF ELECTRICITY AND GAS.

(a) IN GENERAL.—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 January 1, 1997, and

''(ii) be used to provide service within the area served by such person on January 1, 1997, (or within a county or city any portion of which is within such area), 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.''.

(b) NO INFERENCE WITH RESPECT TO OUTSTANDING BONDS.—The use of the term ''person'' in section 142(f)(3) of the Internal Revenue Code of 1986, as added by subsection (a), shall not be construed to affect the tax-exempt status of interest on any bonds issued before the date of the enactment of this Act.

SEC. 1609. 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 calendar 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 calendar 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 calendar 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 calendar 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) FLIGHT-BY-FLIGHT DETERMINATION OF AVAILABILITY FOR HIRE FOR AFFILIATED GROUPS.—Section 4282 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) AVAILABILITY FOR HIRE.—For purposes of subsection (a), the determination of whether an aircraft is available for hire by persons who are not members of an affiliated group shall be made on a flight-by-flight basis.''

(g) CONSOLIDATION OF TAXES ON AVIATION GASOLINE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to imposition of tax on gasoline and diesel fuel) is amended by redesignating clause (ii) as clause (iii) and by striking clause (i) and inserting the following:

''(i) in the case of gasoline other than aviation gasoline, 18.3 cents per gallon,

''(ii) in the case of aviation gasoline, 19.3 cents per gallon, and''.

(2) TERMINATION.—Subsection (d) of section 4081 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) AVIATION GASOLINE.—On and after January 1, 1997, the rate specified in subsection (a)(2)(A)(ii) shall be 4.3 cents per gallon.''

(3) REPEAL OF RETAIL LEVEL TAX.—

(A) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(B) Paragraph (3) of section 4041(c), as redesignated by paragraph (1), is amended by striking ''paragraphs (1) and (2)'' and inserting ''paragraph (1)''.

(4) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(k) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(B) Paragraph (1) of section 4081(d) is amended by striking ''each rate of tax specified in subsection (a)(2)(A)'' and inserting ''the rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A)''.

(C) Sections 6421(f)(2)(A) and 9502(f)(1)(A) are each amended by striking ''section 4041(c)(4)'' and inserting ''section 4041(c)(2)''.

(D) Paragraph (2) of section 9502(b) is amended by striking ''14 cents'' and inserting ''15 cents''.

(h) 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 calendar 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.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 7th calendar day after the date of the enactment of this Act, except that the amendments made by subsection (b) shall not apply to any amount paid before such date.

SEC. 1610. 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. 1611. 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. 1612. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.

(a) GENERAL RULE.—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:

''SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.

''(a) COMPUTATION OF RESERVES.—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(1)(A) shall not apply.

''(b) SEGREGATED ASSETS UNDER MODIFIED GUARANTEED CONTRACTS MARKED TO MARKET.—

''(1) IN GENERAL.—In the case of any life insurance company, for purposes of this subtitle—

''(A) Any gain or loss with respect to a segregated asset shall be treated as ordinary income or loss, as the case may be.

''(B) If any segregated asset is held by such company as of the close of any taxable year—

''(i) such company shall recognize gain or loss as if such asset were sold for its fair market value on the last business day of such taxable year, and

''(ii) any such gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.

''(2) SEGREGATED ASSET.—For purposes of paragraph (1), the term 'segregated asset' means any asset held as part of a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.

''(c) SPECIAL RULE IN COMPUTING LIFE INSURANCE RESERVES.—For purposes of applying section 816(b)(1)(A) to any modified guaranteed contract, an assumed rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.

''(d) MODIFIED GUARANTEED CONTRACT DEFINED.—For purposes of this section, the term 'modified guaranteed contract' means a contract not described in section 817—

''(1) all or part of the amounts received under which are allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,

''(2) which—

''(A) provides for the payment of annuities,

''(B) is a life insurance contract, or

''(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or liability contract,

''(3) for which reserves are valued at market for annual statement purposes, and

''(4) which provides for a net surrender value or a policyholder's fund (as defined in section 807(e)(1)).

If only a portion of a contract is not described in section 817, such portion shall be treated for purposes of this section as a separate contract.

''(e) REGULATIONS.—The Secretary may prescribe regulations—

''(1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B),

''(2) to determine the interest rates applicable under sections 807(c)(3), 807(d)(2)(B), and 812 with respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts and, to the extent appropriate for such a contract, to modify or waive the applicability of section 811(d),

''(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) of the company,

''(4) to provide appropriate treatment of transfers of assets to and from the segregated account, and

''(5) as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by inserting after the item relating to section 817 the following new item:

''Sec. 817A. Special rules for modified guaranteed contracts.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) TREATMENT OF NET ADJUSTMENTS.—Except as provided in paragraph (3), in the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value adjustments and to mark segregated assets to market for any taxable year—

(A) such changes shall be treated as a change in method of accounting initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986, shall be taken into account as ordinary income by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1995.

(3) LIMITATION ON LOSS RECOGNITION AND ON DEDUCTION FOR RESERVE INCREASES.—

(A) LIMITATION ON LOSS RECOGNITION.—

(i) IN GENERAL.—The aggregate loss recognized by reason of the application of section 481 of the Internal Revenue Code of 1986 with respect to section 817A(b) of such Code (as added by this section) for the first taxable year of the taxpayer beginning after December 31, 1995, shall not exceed the amount included in the taxpayer's gross income for such year by reason of the excess (if any) of—

(I) the amount of life insurance reserves as of the close of the prior taxable year, over

(II) the amount of such reserves as of the beginning of such first taxable year,

to the extent such excess is attributable to subsection (a) of such section 817A. Notwithstanding the preceding sentence, the adjusted basis of each segregated asset shall be determined as if all such losses were recognized.

(ii) DISALLOWED LOSS ALLOWED OVER PERIOD.—The amount of the loss which is not allowed under clause (i) shall be allowed ratably over the period of 7 taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1995.

(B) LIMITATION ON DEDUCTION FOR INCREASE IN RESERVES.—

(i) IN GENERAL.—The deduction allowed for the first taxable year of the taxpayer beginning after December 31, 1995, by reason of the application of section 481 of such Code with respect to section 817A(a) of such Code (as added by this section) shall not exceed the aggregate built-in gain recognized by reason of the application of such section 481 with respect to section 817A(b) of such Code (as added by this section) for such first taxable year.

(ii) DISALLOWED DEDUCTION ALLOWED OVER PERIOD.—The amount of the deduction which is disallowed under clause (i) shall be allowed ratably over the period of 7 taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1995.

(iii) BUILT-IN GAIN.—For purposes of this subparagraph, the built-in gain on an asset is the amount equal to the excess of—

(I) the fair market value of the asset as of the beginning of the first taxable year of the taxpayer beginning after December 31, 1995, over

(II) the adjusted basis of such asset as of such time.

SEC. 1613. 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.

SEC. 1614. ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.

(a) IN GENERAL.—Subsection (d) of section 150 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(3) ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.—

''(A) IN GENERAL.—Any qualified scholarship funding bond, and qualified student loan bond, outstanding on the date of the issuer's election under this paragraph (and any bond (or series of bonds) issued to refund such a bond) shall not fail to be a tax-exempt bond solely because the issuer ceases to be described in subparagraphs (A) and (B) of paragraph (2) if the issuer meets the requirements of subparagraphs (B) and (C) of this paragraph.

''(B) ASSETS AND LIABILITIES OF ISSUER TRANSFERRED TO TAXABLE SUBSIDIARY.—The requirements of this subparagraph are met by an issuer if—

''(i) all of the student loan notes of the issuer and other assets pledged to secure the repayment of qualified scholarship funding bond indebtedness of the issuer are transferred to another corporation within a reasonable period after the election is made under this paragraph;

''(ii) such transferee corporation assumes or otherwise provides for the payment of all of the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election is made under this paragraph;

''(iii) to the extent permitted by law, such transferee corporation assumes all of the responsibilities, and succeeds to all of the rights, of the issuer under the issuer's agreements with the Secretary of Education in respect of student loans;

''(iv) immediately after such transfer, the issuer, together with any other issuer which has made an election under this paragraph in respect of such transferee, hold all of the senior stock in such transferee corporation; and

''(v) such transferee corporation is not exempt from tax under this chapter.

''(C) ISSUER TO OPERATE AS INDEPENDENT ORGANIZATION DESCRIBED IN SECTION 501(C)(3).—The requirements of this subparagraph are met by an issuer if, within a reasonable period after the transfer referred to in subparagraph (B)—

''(i) the issuer is described in section 501(c)(3) and exempt from tax under section 501(a);

''(ii) the issuer no longer is described in subparagraphs (A) and (B) of paragraph (2); and

''(iii) at least 80 percent of the members of the board of directors of the issuer are independent members.

''(D) SENIOR STOCK.—For purposes of this paragraph, the term 'senior stock' means stock—

''(i) which participates pro rata and fully in the equity value of the corporation with all other common stock of the corporation but which has the right to payment of liquidation proceeds prior to payment of liquidation proceeds in respect of other common stock of the corporation;

''(ii) which has a fixed right upon liquidation and upon redemption to an amount equal to the greater of—

''(I) the fair market value of such stock on the date of liquidation or redemption (whichever is applicable); or

''(II) the fair market value of all assets transferred in exchange for such stock and reduced by the amount of all liabilities of the corporation which has made an election under this paragraph assumed by the transferee corporation in such transfer;

''(iii) the holder of which has the right to require the transferee corporation to redeem on a date that is not later than 10 years after the date on which an election under this paragraph was made and pursuant to such election such stock was issued; and

''(iv) in respect of which, during the time such stock is outstanding, there is not outstanding any equity interest in the corporation having any liquidation, redemption or dividend rights in the corporation which are superior to those of such stock.

''(E) INDEPENDENT MEMBER.—The term 'independent member' means a member of the board of directors of the issuer who (except for services as a member of such board) receives no compensation directly or indirectly—

''(i) for services performed in connection with such transferee corporation, or

''(ii) for services as a member of the board of directors or as an officer of such transferee corporation.

For purposes of clause (ii), the term 'officer' includes any individual having powers or responsibilities similar to those of officers.

''(F) COORDINATION WITH CERTAIN PRIVATE FOUNDATION TAXES.—For purposes of sections 4942 (relating to the excise tax on a failure to distribute income) and 4943 (relating to the excise tax on excess business holdings), the transferee corporation referred to in subparagraph (B) shall be treated as a functionally related business (within the meaning of section 4942(j)(4)) with respect to the issuer during the period commencing with the date on which an election is made under this paragraph and ending on the date that is the earlier of—

''(i) the last day of the last taxable year for which more than 50 percent of the gross income of such transferee corporation is derived from, or more than 50 percent of the assets (by value) of such transferee corporation consists of, student loan notes incurred under the Higher Education Act of 1965; or

''(ii) the last day of the taxable year of the issuer during which occurs the date which is 10 years after the date on which the election under this paragraph is made.

''(G) ELECTION.—An election under this paragraph may be revoked only with the consent of the Secretary.''.

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

SEC. 1615. CERTAIN TAX BENEFITS DENIED TO INDIVIDUALS FAILING TO PROVIDE TAXPAYER IDENTIFICATION NUMBERS.

(a) PERSONAL EXEMPTION.—

(1) IN GENERAL.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by adding at the end the following new subsection:

''(e) IDENTIFYING INFORMATION REQUIRED.—No exemption shall be allowed under this section with respect to any individual unless the TIN of such individual is included on the return claiming the exemption.''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (e) of section 6109 is repealed.

(B) Section 6724(d)(3) is amended by adding ''and'' at the end of subparagraph (C), by striking subparagraph (D), and by redesignating subparagraph (E) as subparagraph (D).

(b) DEPENDENT CARE CREDIT.—Subsection (e) of section 21 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by adding at the end the following new paragraph:

''(10) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO QUALIFYING INDIVIDUALS.—No credit shall be allowed under this section with respect to any qualifying individual unless the TIN of such individual is included on the return claiming the credit.''.

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors), as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is amended by striking ''and' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting '', and'', and by inserting at the end the following new subparagraph:

''(H) an omission of a correct TIN required under section 21 (relating to expenses for household and dependent care services necessary for gainful employment) or section 151 (relating to allowance of deductions for personal exemptions).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to returns the due date for which (without regard to extensions) is on or after the 30th day after the date of the enactment of this Act.

(2) SPECIAL RULE FOR 1995 AND 1996.—In the case of returns for taxable years beginning in 1995 or 1996, a taxpayer shall not be required by the amendments made by this section to provide a taxpayer identification number for a child who is born after October 31, 1995, in the case of a taxable year beginning in 1995 or November 30, 1996, in the case of a taxable year beginning in 1996.

SEC. 1616. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

''(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

''(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

''(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

''(A) such change shall be treated as a change in a method of accounting,

''(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

''(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

''(i) shall be determined by taking into account only applicable excess reserves, and

''(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

''(2) APPLICABLE EXCESS RESERVES.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

''(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before January 1, 1996, over

''(ii) the lesser of—

''(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

''(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

''(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

''(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

''(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

''(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve; except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

''(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

''(A) IN GENERAL.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

''(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

''(ii) such taxable year shall be disregarded in determining—

''(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

''(II) the amount of such adjustment.

''(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

''(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

''(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

''(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

''(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995:

''(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

''(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4)—

''(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

''(ii) no amount shall be includible in gross income by reason of such reduction.

''(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(c) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

''(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

''(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

''(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

''(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spin-offs, and other reorganizations.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence: ''Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995.''

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking ''or to which section 593 applies''.

(6) Subparagraph (A) of section 585(a)(2) is amended by striking ''other than an organization to which section 593 applies''.

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking ''by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)'' and inserting ''by a taxpayer having a balance described in subsection (g)(2)(A)(ii)''.

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

''(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987),''.

(C) The second sentence of section 593(e)(1) is amended by striking ''the association or an institution that is treated as a mutual savings bank under section 591(b)'' and inserting ''a taxpayer having a balance described in subsection (g)(2)(A)(ii)''.

(D) The third sentence of section 593(e)(1) is amended by striking ''an association'' and inserting ''a taxpayer having a balance described in subsection (g)(2)(A)(ii)''.

(E) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581) to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.''

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking ''Except as provided in paragraph (2), the'' in paragraph (1) and inserting ''The'',

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3), (5), and (6) as paragraphs (2), (3), and (4), respectively,

(C) by striking in paragraph (2) (as so redesignated) all that follows ''subsection'' and inserting a period, and

(D) by striking the last sentence of paragraph (4) (as so redesignated).

(11) Paragraph (3) of section 992(d) is amended by striking ''or 593''.

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking ''or 593''.

(14) Subsection (c) of section 1277 is amended by striking ''or to which section 593 applies''.

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking ''or to which section 593 applies''.

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7)(B).—The amendments made by subsection (b)(7)(B) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

SEC. 1617. EXCLUSION FOR ENERGY CONSERVATION SUBSIDIES LIMITED TO SUBSIDIES WITH RESPECT TO DWELLING UNITS.

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

(b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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 each debt instrument 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.

''(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 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 cost of acquiring such property, 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 (or person) in the same manner as if such holder (or person) 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 the sum of—

''(1) such holder's taxable income determined solely with respect to such interests (including gains and losses from sales and exchanges of such interests), and

''(2) the excess inclusion (if any) under section 860E(a)(1) for such taxable year.

''(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.

''(d) AFFILIATED GROUPS.—All members of an affiliated group filing a consolidated return shall be treated as 1 taxpayer for purposes of this section.

''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 the inclusion in gross income under 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.—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(b)(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 after the date of such ceasation.

''(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.

''(6) PERMITTED ASSETS NOT TREATED AS INTEREST IN FASIT.—Except as provided in regulations prescribed by the Secretary, any asset which is a permitted asset at the time acquired by a FASIT shall not be treated at any time as an interest in such 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) interest payments (or other similar amounts), if any, with respect to such interest are determined based on a fixed rate, or, except as otherwise provided by the Secretary, at a variable rate permitted under section 860G(a)(1)(B)(i),

''(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—

''(I) failing to meet the requirements of one or more of clauses (i), (iv), or (v) thereof, or

''(II) failing to meet the requirement of clause (ii) thereof but only if interest payments (or other similar amounts), if any, with respect to such interest consist of a specified portion of the interest payments on permitted assets and such portion does not vary during the period such interest is outstanding.

''(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),

''(F) any regular interest in another FASIT, and

''(G) any regular interest in a REMIC.

''(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.—

''(A) IN GENERAL.—The term 'foreclosure property' means property—

''(i) which would be foreclosure property under section 856(e) (determined without regard to paragraph (5) thereof) if such property were real property acquired by a real estate investment trust, and

''(ii) 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).

''(B) AUTHORITY TO REDUCE GRACE PERIOD.—In the case of property other than real property and other than personal property incident to real property, the Secretary may by regulation reduce for purposes of subparagraph (A) the periods otherwise applicable under paragraphs (2) and (3) of section 856(e).

''(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 OTHER PROVISIONS.—

''(1) WASH SALES RULES.—Rules similar to the rules of section 860F(d) shall apply to the ownership interest in a FASIT.

''(2) SECTION 475.—Except as provided by the Secretary by regulations, if any security which is sold or contributed to a FASIT by the holder of the ownership interest in such FASIT was required to be marked-to-market under section 475 by such holder, section 475 shall continue to apply to such security; except that in applying section 475 while such security is held by the FASIT, the fair market value of such security for purposes of section 475 shall not be less than its value under section 860I(d).

''(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 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 interests in a FASIT.''.

(6) Paragraph (3) of section 860G(a) 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 inserting after subparagraph (C) the following new subparagraph:

''(D) any regular interest in a FASIT which is transferred to, or purchased by, the REMIC as described in clauses (i) and (ii) of subparagraph (A) but only if 95 percent or more of the value of the assets of such FASIT is at all times attributable to obligations described in subparagraph (A) (without regard to such clauses).''.

(7) Subparagraph (C) of section 1202(e)(4) is amended by striking ''or REMIC'' and inserting ''REMIC, or FASIT''.

(8) 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 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.''.

(9) 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 September 1, 1997.

(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) is in existence on August 31, 1997.

(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).

Subtitle G—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(b)(2) is amended by adding at the end thereof the following new subparagraph:

''(C) APPLICABLE FAMILY MEMBER.—For purposes of this subsection, the term 'applicable family member' includes any lineal descendant of any parent of the transferor or the transferor's spouse.''.

(B) 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''.

(C) 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, any amendment made by this section shall take effect as if 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) IN GENERAL.—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) EFFECTIVE DATE.—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) 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.

(h) 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.

(i) 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.

(j) 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''.

(k) 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.

(l) 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.

(m) 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.

(n) 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) AMENDMENT TO ERISA.—Section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148(b)) is amended by adding at the end the following new sentence: ''A loan made by a plan shall not fail to meet the requirements of the preceding sentence by reason of a loan repayment suspension described under section 414(u)(4) of the Internal Revenue Code of 1986.''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as of December 12, 1994.

(o) 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.

(p) 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.

(q) 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.

(r) 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.

(s) TECHNICAL CORRECTION OF INTERMEDIATE SANCTIONS PROVISIONS.—

(1) Subparagraph (C) of section 6652(c)(1) is amended by striking ''$10'' and inserting ''$20'', and by striking ''$5,000'' and inserting ''$10,000''.

(2) Subparagraph (D) of section 6652(c)(1) is amended by striking ''$10'' and inserting ''$20''.

(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 H—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 tax so paid. 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.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a)(1) shall take effect on January 1, 1997.

(B) HALON-1211.—In the case of Halon-1211, the amendment made by subsection (a)(1) shall take effect on January 1, 1998.

(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 1608) 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 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 (or allowance or payment described in section 135(d)(1) (B) or (C)) received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship, allowance, or payment.

''(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.

''(7) PROHIBITION ON EXCESS CONTRIBUTIONS.—A program shall not be treated as a qualified State tuition program unless it provides adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary.

''(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 distribution or earnings under such program.

''(2) CONTRIBUTIONS.—In no event shall a contribution to a qualified State tuition program on behalf of a designated beneficiary be treated as a taxable gift for purposes of chapter 12.

''(3) DISTRIBUTIONS.—

''(A) IN GENERAL.—Any distribution under a qualified State tuition program shall be includible in the gross income of the distributee in the 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.—Any benefit furnished 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 family of 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 family of the old beneficiary.

''(D) OPERATING RULES.—For purposes of applying section 72—

''(i) to the extent provided by the Secretary, 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.

''(4) ESTATE TAX INCLUSION.—The value of any interest in any qualified State tuition program which is attributable to contributions made by an individual to such program on behalf of any designated beneficiary shall be includible in the gross estate of the contributor for purposes of chapter 11.

''(5) SPECIAL RULE FOR APPLYING SECTION 2503(e).—For purposes of section 2503(e), the waiver (or payment to an educational institution) of qualified higher education expenses of a designated beneficiary under a qualified State tuition program shall be treated as a qualified transfer.

''(d) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—If there is a distribution to any individual with respect to an interest in a qualified State tuition 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 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), 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 the 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 educational 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) CONFORMING AMENDMENTS.—

(1) Section 135(d)(1) 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 at the end the following new subparagraph:

''(D) a payment, waiver, or reimbursement of qualified higher education expenses under a qualified State tuition program (within the meaning of section 529(b)).''

(2) The table of parts for subchapter F of chapter 1 is amended by adding at the end the following new item:

''Part VIII. Qualified State tuition programs.''

(c) 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 date such program meets the requirements of such amendments 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.

SEC. 1807. ADOPTION ASSISTANCE.

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

''SEC. 23. ADOPTION EXPENSES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred by the taxpayer.

''(2) YEAR CREDIT ALLOWED.—The credit under paragraph (1) with respect to any expense shall be allowed—

''(A) for the taxable year following the taxable year during which such expense is paid or incurred, or

''(B) in the case of an expense which is paid or incurred during the taxable year in which the adoption becomes final, for such taxable year.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed $5,000 ($6,000, in the case of a child with special needs).

''(2) INCOME LIMITATION.—

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

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

''(ii) $40,000.

''(B) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), adjusted gross income shall be determined—

''(i) without regard to sections 911, 931, and 933, and

''(ii) after the application of sections 86, 135, 137, 219, and 469.

''(3) DENIAL OF DOUBLE BENEFIT.—

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

''(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program.

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

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

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

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

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

''(C) which are not expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse, and

''(D) which are not reimbursed under an employer program or otherwise.

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

''(A) who—

''(i) has not attained age 18, or

''(ii) is physically or mentally incapable of caring for himself, and

''(B) in the case of qualified adoption expenses paid or incurred after December 31, 2001, who is a child with special needs.

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

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

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

''(C) such child is a citizen or resident of the United States (as defined in section 217(h)(3)).

''(e) SPECIAL RULES FOR FOREIGN ADOPTIONS.—In the case of an adoption of a child who is not a citizen or resident of the United States (as defined in section 217(h)(3))—

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

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

''(f) FILING REQUIREMENTS.—

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

''(2) TAXPAYER MUST INCLUDE TIN.—

''(A) In general.—No credit shall be allowed under this section with respect to any eligible child unless the taxpayer includes (if known) the name, age, and TIN of such child on the return of tax for the taxable year.

''(B) OTHER METHODS.—The Secretary may, in lieu of the information referred to in subparagraph (A), require other information meeting the purposes of subparagraph (A), including identification of an agent assisting with the adoption.

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

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

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

''SEC. 137. ADOPTION ASSISTANCE PROGRAMS.

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

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed $5,000 ($6,000, in the case of a child with special needs).

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

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

''(B) $40,000.

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

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

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

''(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a separate written plan of an employer for the exclusive benefit of such employer's employees—

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

''(2) which meets requirements similar to the requirements of paragraphs (2), (3), (5), and (6) of section 127(b).

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

''(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 23(d) (determined without regard to reimbursements under this section).

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

''(f) TERMINATION.—This section shall not apply to amounts paid or expenses incurred after December 31, 2001.''

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 25(e)(1) is amended by inserting ''and section 23'' after ''this section''.

(2) Sections 86(b)(2)(A) and 135(c)(4)(A) are each amended by inserting ''137,'' before ''911''.

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

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

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

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

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

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

''Sec. 23. Adoption expenses.''

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

''Sec. 137. Adoption assistance programs.

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

(d) STUDY AND REPORT.—The Secretary of the Treasury shall study the effect on adoptions of the tax credit and gross income exclusion established by the amendments made by this section and shall submit a report regarding the study to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than January 1, 2000.

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

SEC. 1808. REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION.

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

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

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

(3) by adding at the end the following:

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

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

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

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

''(d)(1) If, during any quarter of a fiscal year, a State's program operated under this part is found, as a result of a review conducted under section 1123A, or otherwise, to have violated section 471(a)(18) with respect to a person or to have failed to implement a corrective action plan within a period of time not to exceed 6 months with respect to such violation, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amount otherwise payable to the State under this part, for that fiscal year quarter and for any subsequent quarter of such fiscal year, until the State program is found, as a result of a subsequent review under section 1123A, to have implemented a corrective action plan with respect to such violation, by—

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

''(B) 3 percent of such otherwise payable amount, in the case of the 2nd such finding for the fiscal year with respect to the State; or

''(C) 5 percent of such otherwise payable amount, in the case of the 3rd or subsequent such finding for the fiscal year with respect to the State.

In imposing the penalties described in this paragraph, the Secretary shall not reduce any fiscal year payment to a State by more than 5 percent.

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

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

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

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

(c) CIVIL RIGHTS.—

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

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

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

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

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

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

SEC. 1809. 6-MONTH DELAY OF ELECTRONIC FUND TRANSFER REQUIREMENT.

Notwithstanding any other provision of law, the increase in the applicable required percentages for fiscal year 1997 in clauses (i)(IV) and (ii)(IV) of section 6302(h)(2)(C) of the Internal Revenue Code of 1986 shall not take effect before July 1, 1997.

Subtitle I—Foreign Trust Tax Compliance

SEC. 1901. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

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

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

''(a) NOTICE OF CERTAIN EVENTS.—

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

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

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

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

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

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

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

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

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

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

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

''(B) EXCEPTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

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

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

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

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

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

''(A) the name of such trust,

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

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

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

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

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

''(d) SPECIAL RULES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

(d) EFFECTIVE DATES.—

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

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

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

SEC. 1902. COMPARABLE PENALTIES FOR FAILURE TO FILE RETURN RELATING TO TRANSFERS TO FOREIGN ENTITIES.

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

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

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

SEC. 1903. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

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

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

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

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

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

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

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

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

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

''(i) the trust,

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

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

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

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

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

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

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

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

''(5) OUTBOUND TRUST MIGRATIONS.—If—

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

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

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

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

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

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

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

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

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

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

SEC. 1904. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

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

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

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

''(2) EXCEPTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) CREDIT FOR CERTAIN TAXES.—

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

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

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

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

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

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

(d) EFFECTIVE DATE.—

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

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

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

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

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

(e) TRANSITIONAL RULE.—If—

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

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

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

SEC. 1905. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

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

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

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

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

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

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

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

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

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

''(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

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

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

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

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

SEC. 1906. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

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

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

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

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

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

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

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

''(ii) the aggregate undistributed net income.

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

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

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

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

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

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

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

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

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

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

''(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes

of this part, including regulations to prevent avoidance of such purposes.''.

(c) TREATMENT OF LOANS FROM TRUSTS.—

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

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

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

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

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

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

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

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

''(B) RELATED PERSON.—

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

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

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

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

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

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

(d) EFFECTIVE DATES.—

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

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

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

SEC. 1907. RESIDENCE OF TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

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

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

''(E) any trust if—

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

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

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

''(31) FOREIGN ESTATE OR TRUST.—

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

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

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

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

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

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

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

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

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

Subtitle J—Generalized System of Preferences

SEC. 1951. SHORT TITLE.

This subtitle may be cited as the ''GSP Renewal Act of 1996''.

SEC. 1952. GENERALIZED SYSTEM OF PREFERENCES.

(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended to read as follows:

''TITLE V—GENERALIZED SYSTEM OF PREFERENCES

''SEC. 501. AUTHORITY TO EXTEND PREFERENCES.

''The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

''(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

''(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

''(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

''(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

''SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES.

''(a) AUTHORITY TO DESIGNATE COUNTRIES.—

''(1) BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate countries as beneficiary developing countries for purposes of this title.

''(2) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

''(b) COUNTRIES INELIGIBLE FOR DESIGNATION.—

''(1) SPECIFIC COUNTRIES.—The following countries may not be designated as beneficiary developing countries for purposes of this title:

''(A) Australia.

''(B) Canada.

''(C) European Union member states.

''(D) Iceland.

''(E) Japan.

''(F) Monaco.

''(G) New Zealand.

''(H) Norway.

''(I) Switzerland.

''(2) OTHER BASES FOR INELIGIBILITY.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

''(A) Such country is a Communist country, unless—

''(i) the products of such country receive nondiscriminatory treatment,

''(ii) such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and

''(iii) such country is not dominated or controlled by international communism.

''(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

''(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

''(ii) to cause serious disruption of the world economy.

''(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

''(D)(i) Such country—

''(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

''(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

''(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless clause (ii) applies.

''(ii) This clause applies if the President determines that—

''(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

''(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

''(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

''(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

''(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

''(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.

''(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

''(1) an expression by such country of its desire to be so designated;

''(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

''(3) whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

''(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

''(5) the extent to which such country is providing adequate and effective protection of intellectual property rights;

''(6) the extent to which such country has taken action to—

''(A) reduce trade distorting investment practices and policies (including export performance requirements); and

''(B) reduce or eliminate barriers to trade in services; and

''(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

''(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF COUNTRY DESIGNATION.—

''(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. In taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section.

''(2) CHANGED CIRCUMSTANCES.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

''(3) ADVICE TO CONGRESS.—The President shall, as necessary, advise the Congress on the application of section 501 and subsection (c) of this section, and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in subsection (c).

''(e) MANDATORY GRADUATION OF BENEFICIARY DEVELOPING COUNTRIES.—If the President determines that a beneficiary developing country has become a 'high income' country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.

''(f) CONGRESSIONAL NOTIFICATION.—

''(1) NOTIFICATION OF DESIGNATION.—

''(A) IN GENERAL.—Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.

''(B) DESIGNATION AS LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.

''(2) NOTIFICATION OF TERMINATION.—If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country of the President's intention to terminate such designation, together with the considerations entering into such decision.

''SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

''(a) ELIGIBLE ARTICLES.—

''(1) DESIGNATION.—

''(A) IN GENERAL.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles from all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

''(B) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Except for articles described in subparagraphs (A), (B), and (E) of subsection (b)(1) and articles described in paragraphs (2) and (3) of subsection (b), the President may, in carrying out section 502(d)(1) and subsection (c)(1) of this section, designate articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

''(C) THREE-YEAR RULE.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of 3 years after such denial.

''(2) RULE OF ORIGIN.—

''(A) GENERAL RULE.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

''(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

''(ii) the sum of—

''(I) the cost or value of the materials produced in the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 507(2), plus

''(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

''(B) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

''(i) simple combining or packaging operations, or

''(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

''(3) REGULATIONS.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

''(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

''(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

''(b) ARTICLES THAT MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.—

''(1) IMPORT SENSITIVE ARTICLES.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

''(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

''(B) Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

''(C) Import-sensitive electronic articles.

''(D) Import-sensitive steel articles.

''(E) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

''(F) Import-sensitive semimanufactured and manufactured glass products.

''(G) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

''(2) ARTICLES AGAINST WHICH OTHER ACTIONS TAKEN.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

''(3) AGRICULTURAL PRODUCTS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

''(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—

''(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

''(2) COMPETITIVE NEED LIMITATION.—

''(A) BASIS FOR WITHDRAWAL OF DUTY-FREE TREATMENT.—

''(i) IN GENERAL.—Except as provided in clause (ii) and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

''(I) a quantity of an eligible article having an appraised value in excess of the applicable amount for the calendar year, or

''(II) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during any calendar year,

the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

''(ii) ANNUAL ADJUSTMENT OF APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

''(I) for 1996, $75,000,000, and

''(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

''(B) COUNTRY DEFINED.—For purposes of this paragraph, the term 'country' does not include an association of countries which is treated as one country under section 507(2), but does include a country which is a member of any such association.

''(C) REDESIGNATIONS.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

''(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.

''(E) ARTICLES NOT PRODUCED IN THE UNITED STATES EXCLUDED.—Subparagraph (A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

''(F) DE MINIMIS WAIVERS.—

''(i) IN GENERAL.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

''(ii) APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

''(I) for calendar year 1996, $13,000,000, and

''(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $500,000.

''(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

''(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

''(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

''(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

''(C) publishes the determination described in subparagraph (B) in the Federal Register.

''(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

''(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

''(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

''(3) OTHER BASES FOR WAIVER.—The President may waive the application of subsection (c)(2) if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2) was made with respect to a beneficiary developing country, the President determines that—

''(A) there has been a historical preferential trade relationship between the United States and such country,

''(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

''(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,

and the President publishes that determination in the Federal Register.

''(4) LIMITATIONS ON WAIVERS.—

''(A) IN GENERAL.—The President may not exercise the waiver authority under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which equals or exceeds 30 percent of the aggregate appraised value of all articles that entered duty-free under this title during the preceding calendar year.

''(B) OTHER WAIVER LIMITS.—The President may not exercise the waiver authority provided under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which exceeds 15 percent of the aggregate appraised value of all articles that have entered duty-free under this title during the preceding calendar year from those beneficiary developing countries which for the preceding calendar year—

''(i) had a per capita gross national product (calculated on the basis of the best available information, including that of the International Bank for Reconstruction and Development) of $5,000 or more; or

''(ii) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an aggregate appraised value of more than 10 percent of the aggregate appraised value of all articles that entered duty-free under this title during that year.

''(C) CALCULATION OF LIMITATIONS.—There shall be counted against the limitations imposed under subparagraphs (A) and (B) for any calendar year only that value of any eligible article of any country that—

''(i) entered duty-free under this title during such calendar year; and

''(ii) is in excess of the value of that article that would have been so entered during such calendar year if the limitations under subsection (c)(2)(A) applied.

''(5) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

''(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under subsection (a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

''(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

''SEC. 504. REVIEW AND REPORT TO CONGRESS.

The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

''SEC. 505. DATE OF TERMINATION.

''No duty-free treatment provided under this title shall remain in effect after May 31, 1997.

''SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

''The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry.

''SEC. 507. DEFINITIONS.

''For purposes of this title:

''(1) BENEFICIARY DEVELOPING COUNTRY.—The term 'beneficiary developing country' means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.

''(2) COUNTRY.—The term 'country' means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.

''(3) ENTERED.—The term 'entered' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

''(4) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term 'internationally recognized worker rights' includes—

''(A) the right of association;

''(B) the right to organize and bargain collectively;

''(C) a prohibition on the use of any form of forced or compulsory labor;

''(D) a minimum age for the employment of children; and

''(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

''(5) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—The term 'least-developed beneficiary developing country' means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2).''.

(b) TABLE OF CONTENTS.—The items relating to title V in the table of contents of the Trade Act of 1974 are amended to read as follows:

''TITLE V—GENERALIZED SYSTEM OF PREFERENCES

''Sec. 506. Agricultural exports of beneficiary developing countries.

''Sec. 507. Definitions.''.

SEC. 1953. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle apply to articles entered on or after October 1, 1996.

(b) RETROACTIVE APPLICATION.—

(1) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to subsection (c)—

(A) any article that was entered—

(i) after July 31, 1995, and

(ii) before January 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry, and

(B) any article that was entered—

(i) after December 31, 1995, and

(ii) before October 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 (as amended by this subtitle) would have applied if the entry had been made on or after October 1, 1996, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(2) LIMITATION ON REFUNDS.—No refund shall be made pursuant to this subsection before October 1, 1996.

(3) ENTRY.—As used in this subsection, the term ''entry'' includes a withdrawal from warehouse for consumption.

(c) REQUESTS.—Liquidation or reliquidation may be made under subsection (b) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

SEC. 1954. CONFORMING AMENDMENTS.

(a) TRADE LAWS.—

(1) Section 1211(b) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3011(b)) is amended—

(A) in paragraph (1), by striking ''(19 U.S.C. 2463(a), 2464(c)(3))'' and inserting ''(as in effect on July 31, 1995)''; and

(B) in paragraph (2), by striking ''(19 U.S.C. 2464(c)(1))'' and inserting the following: ''(as in effect on July 31, 1995)''.

(2) Section 203(c)(7) of the Andean Trade Preference Act (19 U.S.C. 3202(c)(7)) is amended by striking ''502(a)(4)'' and inserting ''507(4)''.

(3) Section 212(b)(7) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)(7)) is amended by striking ''502(a)(4)'' and inserting ''507(4)''.

(4) General note 3(a)(iv)(C) of the Harmonized Tariff Schedule of the United States is amended by striking ''sections 503(b) and 504(c)'' and inserting ''subsections (a), (c), and (d) of section 503''.

(5) Section 201(a)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3331(a)(2)) is amended by striking ''502(a)(2) of the Trade Act of 1974 (19 U.S.C. 2462(a)(2))'' and inserting ''502(f)(2) of the Trade Act of 1974''.

(6) Section 131 of the Uruguay Round Agreements Act (19 U.S.C. 3551) is amended in subsections (a) and (b)(1) by striking ''502(a)(4)'' and inserting ''507(4)''.

(b) OTHER LAWS.—

(1) Section 871(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking ''within the meaning of section 502'' and inserting ''under title V''.

(2) Section 2202(8) of the Export Enhancement Act of 1988 (15 U.S.C. 4711(8)) is amended by striking ''502(a)(4)'' and inserting ''507(4)''.

(3) Section 231A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended—

(A) in paragraph (1) by striking ''502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))'' and inserting ''507(4) of the Trade Act of 1974'';

(B) in paragraph (2) by striking ''505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))'' and inserting ''504 of the Trade Act of 1974''; and

(C) in paragraph (4) by striking ''502(a)(4)'' and inserting ''507(4)''.

(4) Section 1621(a)(1) of the International Financial Institutions Act (22 U.S.C. 262p–4p(a)(1)) is amended by striking ''502(a)(4)'' and inserting ''507(4)''.

(5) Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444–2) is amended in subsections (a)(5)(F)(v) and (n)(1)(C) by striking ''503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d))'' and inserting ''503(b)(3) of the Trade Act of 1974''.

And the Senate agree to the same.

TITLE II

That the House recede from its disagreement to the amendments of the Senate numbered 2 and 3 and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 4 and agree to the same with an amendment as follows:

On page 236, line 12 of the House engrossed bill, strike ''Act'' and insert ''This section and sections 2102 and 2103''; and on page 237, line 4 of the House engrossed bill, strike ''section 1'' and insert ''section 2102''; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5 and agree to the same with an amendment as follows:

On page 237, line 18 of the House engrossed bill, strike ''June 30, 1996'' and insert ''September 30, 1996''; on line 19, strike ''July 1, 1996'' and insert ''October 1, 1996''; beginning in line 20 strike ''after the expiration of such year'' and insert ''beginning September 1, 1997''; and after line 21, insert the following:

(c) CONFORMING AMENDMENT.—Section 6 of such Act (29 U.S.C. 206) is amended by striking subsection (c).

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 6 and agree to the same with an amendment as follows:

On page 239, line 1 of the House engrossed bill, strike ''next to''; in line 3 of such page strike ''to read as follows'' and insert ''by striking 'previous sentence' and inserting 'preceding 2 sentences' and by striking '(1)' and '(2)' and such section is amended by striking the next to last sentence and inserting the following''; and in line 15 of such page strike ''cash''; and the Senate agree to the same.

From the Committee on Ways and Means, for consideration of the House bill (except for title II) and the Senate amendment numbered 1, and modifications committed to conference:

BILL ARCHER,
PHIL CRANE,
BILL THOMAS,
SAM GIBBONS,
CHARLES B. RANGEL,

As additional conferees from the Committee on Economic and Educational Opportunities, for consideration of secs. 1704(h)(1)(B) and 1704(l) of the House bill and secs. 1421(d), 1442(b), 1442(c), 1451, 1457, 1460(b), 1460(c), 1461, 1465, and 1704(h)(1)(B) of the Senate amendment numbered 1, and modifications committed to conference:

WILLIAM F. GOODLING,
CASS BALLENGER,

As additional conferees from the Committee on Economic and Educational Opportunities, for consideration of title II of the House bill and the Senate amendments numbered 2–6, and modifications committed to conference:

WILLIAM F. GOODLING,
H.W. FAWELL,
FRANK RIGGS,
WILLIAM L. CLAY,
MAJOR R. OWENS,
MAURICE HINCHEY,

Managers on the Part of the House.

From the Committee on Labor and Human Resources:

NANCY LANDON KASSEBAUM,
EDWARD M. KENNEDY,
JIM JEFFORDS,

From the Committee on Finance:

BILL ROTH,
JOHN H. CHAFEE,
CHUCK GRASSLEY,
ORIN G. HATCH,
AL SIMPSON,
LARRY PRESSLER,
DANIEL P. MOYNIHAN,
MAX BAUCUS,
DAVID PRYOR,
JOHN D. ROCKEFELLER IV,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the 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 employer 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, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

I. SMALL BUSINESS AND OTHER TAX PROVISIONS

A. SMALL BUSINESS PROVISIONS

1. INCREASE IN EXPENSING FOR SMALL BUSINESSES

(Sec. 1111 of the House bill and the Senate amendment.)

Present law

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $17,500 of the cost of qualifying property placed in service for the taxable year (sec. 179).[1] In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $17,500 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. In addition, the amount eligible to be expensed for a taxable year may not exceed the taxable income of the taxpayer for the year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations).

House bill

The House bill increases the $17,500 amount allowed to be expensed under Code section

[1] The amount permitted to be expensed under Code section 179 is increased by up to an additional $20,000 for certain property placed in service by a business located in an empowerment zone (sec. 1397A).

179 to $25,000. The increase is phased in as follows:

Taxable year beginning in—	Maximum expensing
1996	$18,500
1997	19,000
1998	20,000
1999	21,000
2000	22,000
2001	23,000
2002	23,500
2003 and thereafter	25,000

Effective date.—The provision is effective for property placed in service in taxable years beginning after December 31, 1995, subject to the phase-in schedule set forth above.

Senate amendment [2]

The Senate amendment increases the $17,500 amount allowed to be expensed under Code section 179 to $25,000. The increase is phased in as follows:

Taxable year beginning in—	Maximum expensing
1997	$18,000
1998	18,500
1999	19,000
2000	20,000
2001	24,000
2002	24,000
2003 and thereafter	25,000

Effective date.—The provision is effective for property placed in service in taxable years beginning after December 31, 1996, subject to the phase-in schedule set forth above.

Conference agreement

The conference agreement follows the Senate amendment.

2. TAX CREDIT FOR SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS

(Sec. 1112 of the House bill and the Senate amendment.)

Present law

Employee tip income is treated as employer-provided wages for purposes of the Federal Insurance Contributions Act (''FICA''). Employees are required to report to the employer the amount of tips received. The Omnibus Budget Reconciliation Act of 1993 (''OBRA 1993'') provided a business tax credit with respect to certain employer FICA taxes paid with respect to tips treated as paid by the employer. The credit applies to tips received from customers in connection with the provision of food or beverages for consumption on the premises of an establishment with respect to which the tipping of employees is customary. OBRA 1993 provided that the FICA tip credit is effective for taxes paid after December 31, 1993. Temporary Treasury regulations provide that the tax credit is available only with respect to tips reported by the employee. The temporary regulations also provide that the credit is effective for FICA taxes paid by an employer after December 31, 1993, with respect to tips received for services performed after December 31, 1993.

House bill

The provision clarifies the credit with respect to employer FICA taxes paid on tips by providing that the credit is (1) available whether or not the employee reported the tips on which the employer FICA taxes were paid pursuant to section 6053(a), and (2) effective with respect to taxes paid after December 31, 1993, regardless of when the services with respect to which the tips are received were performed.

The provision also modifies the credit so that it applies with respect to tips received from customers in connection with the delivery or serving of food or beverages, regardless of whether the food or beverages are for consumption on the premises of the establishment.

Effective date.—The clarifications relating to the effective date and nonreported tips are effective as if included in OBRA 1993. The provision expanding the tip credit to the provision of food or beverages not for consumption on the premises of the establishment is effective with respect to FICA taxes paid on tips received with respect to services performed after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. HOME OFFICE DEDUCTION: TREATMENT OF STORAGE OF PRODUCT SAMPLES

(Sec. 1113 of the House bill.)

Present law

A taxpayer's business use of his or her home may give rise to a deduction for the business portion of expenses related to operating the home (e.g., a portion of rent or depreciation and repairs). Code section 280A(c)(1) provides, however, that business deductions generally are allowed only with respect to a portion of a home that is used exclusively and regularly in one of the following ways: (1) as the principal place of business for a trade or business; (2) as a place of business used to meet with patients, clients, or customers in the normal course of the taxpayer's trade or business; or (3) in connection with the taxpayer's trade or business, if the portion so used constitutes a separate structure not attached to the dwelling unit. In the case of an employee, the Code further requires that the business use of the home must be for the convenience of the employer (sec. 280A(c)(1)). These rules apply to houses, apartments, condominiums, mobile homes, boats, and other similar property used as the taxpayer's home (sec. 280A(f)(1)).

Section 280A(c)(2) contains a special rule that allows a home office deduction for business expenses related to a space within a home that is used on a regular (even if not exclusive) basis as a storage unit for the inventory of the taxpayer's trade or business of selling products at retail or wholesale, but only if the home is the sole fixed location of such trade or business.

Home office deductions may not be claimed if they create (or increase) a net loss from a business activity, although such deductions may be carried over to subsequent taxable years (sec. 280A(c)(5)).

House bill

The House bill clarifies that the special rule contained in present-law section 280A(c)(2) permits deductions for expenses related to a storage unit in a taxpayer's home regularly used for inventory or product samples (or both) of the taxpayer's trade or business of selling products at retail or wholesale, provided that the home is the sole fixed location of such trade or business.

Effective date—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. TREATMENT OF CERTAIN CHARITABLE RISK POOLS

(Sec. 1114 of the House bill.)

Present law

Organizations described in section 501(c)(3) (which are referred to as ''charities'') generally are exempt from Federal income tax and are eligible to receive tax-deductible contributions and to use the proceeds of tax-exempt financing. Section 501(c)(3) requires that an organization be organized and operated exclusively for a charitable or other specifically enumerated exempt purpose in order to qualify for tax-exempt status under that section.

Section 501(c)(3) requires that an organization that is organized and operated exclusively for charitable purposes is entitled to tax-exempt status under that section only if the organization satisfies the additional requirements that no part of its net earnings inures to the benefit of any private individual or shareholder (referred to as the ''private inurement test'') and only if the organization does not engage in political campaign activity on behalf of (or in opposition to) any candidate for public office and does not engage in substantial lobbying activities.

Section 501(m) provides that an organization described in section 501(c)(3) or 501(c)(4) of the Code is exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance. For purposes of this rule, commercial-type insurance does not include insurance provided at substantially below cost to a class of charitable recipients.

Present law does not specifically accord tax-exempt status to an organization that pools insurable risks of a group of tax-exempt organizations described in section 501(c)(3).

House bill

Under the House bill, a qualified charitable risk pool is treated as organized and operated exclusively for charitable purposes. The provision make inapplicable to a qualified charitable risk pool the present-law rule under section 501(m) that a charitable organization described in section 501(c)(3) is exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance.

The House bill defines a qualified charitable risk pool as an organization organized and operated solely to pool insurable risks of its members (other than medical malpractice risks) and to provide information to its members with respect to loss control and risk management. Because a qualified charitable risk pool must be organized and operated solely to pool insurable risks of its members and to provide information to members with respect to loss control and risk management, no profit may be accorded to any member of the organization other than through providing members with insurance coverage below the cost of comparable commercial coverage and through providing members with loss control and risk management information. Only charitable tax-exempt organizations described in section 501(c)(3) may be members of a qualified charitable risk pool.

The House bill further requires that a qualified risk pool is required to (1) be organized as a nonprofit organization under State law authorizing risk pooling for charitable organizations; (2) be exempt from State income tax; (3) obtain at least $1 million in startup capital from nonmember charitable organizations; (4) be controlled by a board of directors elected by its members; and (5) provide in its organizational documents that members must be tax-exempt charitable organizations at all times, and if a member loses that status it must immediately notify the organization, and that no insurance coverage applies to a member after the date of any final determination that the member no longer qualifies as a tax-exempt charitable organization.

To be entitled to tax-exempt status under section 501(c)(3), a qualified charitable risk

[2] See discussion in Part VII (Tax Technical Corrections Provisions) below, regarding the Senate amendment clarification of the present-law provision that horses are qualified property for purposes of section 179.

pool described in the provision also must satisfy the other requirements of that section (i.e., the private inurement test and the prohibition of political campaign activities and substantial lobbying).

Effective date.—The provision applies to taxable years beginning after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

5. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS

(Sec. 1115 of the House bill and sec. 1113 of the Senate amendments.)

Present law

Tax-exempt organizations generally are subject to the unrelated business income tax (''UBIT'') on income derived from a trade or business regularly carried on that is not substantially related to the performance of the organization's tax-exempt functions (secs. 511–514). Dues payments made to a membership organization generally are not subject to the UBIT. However, several courts have held that, with respect to postal labor organizations, dues payments were subject to the UBIT when received from individuals who were not postal workers, but who became ''associate'' members for the purpose of obtaining health insurance available to members of the organization. See *National League of Postmasters of the United States* v. *Commissioner,* No. 95–2646 (4th Cir. 1996), *American Postal Workers Union, AFL–CIO* v. *United States,* 925 F.2d 480 (D.C. Cir. 1991), *National Association of Postal Supervisors* v. *United States,* 944 F.2d 859 (Fed. Cir. 1991).

In Rev. Proc. 95–21 (issued March 23, 1995), the IRS set forth its position regarding when associate member dues payments received by an organization described in section 501(c)(5) will be treated as subject to the UBIT. The IRS stated that dues payments from associate members will not be treated as subject to UBIT unless, for the relevant period, ''the associate member category has been formed or availed of for the principal purpose of producing unrelated business income.'' Thus, under Rev. Proc. 95–21, the focus of the inquiry is upon the organization's purposes in forming the associate member category (and whether the purposes of that category of membership are substantially related to the organization's exempt purposes other than through the production of income) rather than upon the motive of the individuals who join as associate members.

House bill

Under the House bill, if an agricultural or horticultural organization described in section 501(c)(5) requires annual dues not exceeding $100 to be paid in order to be a member of such organization, then in no event will any portion of such dues be subject to the UBIT by reason of any benefits or privileges to which members of such organization are entitled. For taxable years beginning after 1995, the $100 amount will be indexed for inflation. The term ''dues'' is defined as ''any payment required to be made in order to be recognized by the organization as a member of the organization.'' Thus, if a person is recognized as a member of an organization by virtue of having paid annual dues for his or her membership, then any subsequent payments made by that person during the year to purchase another membership in the same organization (covering the same period) would not be within the scope of the provision.

Effective date.—The provision applies to taxable years beginning after December 31, 1994.

Senate amendment

Same as the House bill, except that the Senate amendment applies to taxable years beginning after December 31, 1986. The Senate amendment also provides transitional relief to agricultural or horticultural organizations that had a reasonable basis for not treating membership dues received prior to January 1, 1987, as unrelated business income. In such cases, no portion of such dues will be treated as derived from an unrelated trade or business.

Conference agreement

The conference agreement follows the Senate amendment. The conferees intend that, if a person makes a single payment that entitles the person to be recognized as a member of the organization for more than twelve months, then such payment may be prorated to determine whether annual dues exceed the $100 cap (as adjusted for inflation).

6. CLARIFY EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN

(Sec. 1116(a) of the House bill and sec. 1114 of the Senate amendment.)

Present law

Under present law, service as a crew member on a fishing vessel is generally excluded from the definition of employment for purposes of income tax withholding on wages and for purposes of the Federal Insurance Contributions Act (FICA) and the Federal Unemployment Tax Act (FUTA) taxes if the operating crew of the boat normally consists of fewer than 10 individuals, the individual receives a share of the catch based on the total catch, and the individual does not receive cash remuneration other than proceeds from the sale of the individual's share of the catch. If a crew member receives any other cash, e.g., payment for services as an engineer, the exemption from FICA and FUTA taxes does not apply. Crew members to which the exemption applies are subject to self-employment taxes. Special reporting requirements apply to the operators of boats on which exempt crew members serve.

House bill

The operating crew of a boat is 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. In addition, the exemption applies if the crew member receives certain cash payments. The cash payments cannot exceed $100 per trip, is contingent on a minimum catch, and is paid solely for additional duties (e.g., as mate, engineer, or cook) for which additional cash remuneration is customary.

Effective date.—The provision applies to remuneration paid after December 31, 1996. In addition, the provision applies to remuneration paid after December 31, 1996. In addition, the provision applies to remuneration paid after December 31, 1984, and before January 1, 1997, unless the payor treated such remuneration when paid as subject to FICA taxes.

Senate amendment

The Senate amendment is the same as the House bill.

Effective date.—The provision applies to remuneration paid after December 31, 1994. In addition, the provision applies to remuneration paid after December 31, 1984, and before January 1, 1995, unless the payer treated such remuneration when paid as subject to FICA taxes.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Effective date.—The conference agreement follows the Senate amendment.

7. REPORTING REQUIREMENTS FOR PURCHASERS OF FISH

(Sec. 1116(b) of the House bill.)

Present law

Under present law, a person engaged in a trade or business who make payments during the calendar year of $600 or more to a person for ''rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, or other income'' must file an information return with the Internal Revenue Service reporting the amount of such payments, as well as the name, address, and taxpayer identification number of the person to whom such payments were made (Code sec. 6041). A similar statement must also be furnished to the person to whom such payments were made. Treasury regulations provide that payments for ''merchandise'' are not required to be reported under this provision (Treas. reg. sec. 1.6041–3(d)). Consequently, information reporting is generally not required with respect to purchases of fish or other forms of aquatic life. Information reporting is required by a person engaged in a trade or business who, in the course of that trade or business, receives more than $10,000 in cash in one transaction (or several related transactions) (Code sec. 6050I).

House bill

The provision requires persons engaged in the trade or business of purchasing fish for resale who pay more than $600 in cash in a calendar year for fish or other forms of aquatic life from any seller engaged in the trade or business of catching fish to file information reports with the Secretary regarding such purchases. A copy of the report must be provided to the seller.

Effective date.—The provision is effective for purchases made after December 31, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision is effective for purchases made after December 31, 1997.

8. MODIFY RULES GOVERNING ISSUANCE OF TAX-EXEMPT BONDS FOR FIRST-TIME FARMERS

(Sec. 1115 of the Senate amendment.)

Present law

Interest on bonds issued by State and local governments to provide financing to private persons is taxable unless an exception is provided in the Internal Revenue Code. One such exception allows State and local governments to issue bonds to finance loans to first-time farmers for the acquisition of land (and limited amounts of related depreciable farm property) if the purchasers will be the principal user of the property and will materially participate in the farming operation in which the property is to be used.

A first-time farmer is defined as an individual who has at no time owned farm land in excess of 15 percent of the median size of the farm in the county in which such land is located, and the fair market value of the land has not at any time when held by the individual exceeded $125,000.

Under general rules governing issuance of tax-exempt bonds, working capital financing (including purchases from related parties) is precluded.

House bill

No provision.

Senate amendment

The Senate amendment makes two modifications to the rules governing issuance of tax-exempt bonds for first-time farmers. First, the definition of first-time farmer is broadened to include an individual who has at no time owned farm land in excess of 30 percent of the median size farm in the county. Second, these bonds may be used to finance purchases between related parties provide that: (1) the price paid reflects the fair market value of the property and, (2) the seller has no financial interest in the farming operation conducted on the land after the bond-financed sale occurs.

Effective date.—For financing provided with bonds issued after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment with a clarification relating to the circumstances in which a related seller is treated as having a continuing financial interest in bond-financed farmland. In general, the conferees intend that such a seller will not be treated as have a financial interest if the seller.

(a) has no more than a ten-percent interest in the capital or profits in a partnership comprising the farm;

(b) has no more than a ten-percent stock interest in a corporation comprising the farm;

(c) has no more ten-percent of the beneficial interest in a trust comprising the farm;

(d) is not a principal user of the farm; or

(e) has no other direct or indirect ownership or use of the farm which has as a principal purposes, the avoidance of this provision.

The conferees further intend that issuers making loans to finance related party sales provide appropriate notice to borrowers of these restrictions and of the fact that bond-proceeds may not be re-transferred from sellers to purchasers as part of efforts (e.g., step-transactions) to transfer both property financed with the bond proceeds and the bond proceeds received by the seller.

9. CLARIFY TREATMENT OF NEWSPAPER DISTRIBUTORS AND CARRIERS AS DIRECT SELLERS

(Sec. 1116 of the Senate amendment.)

Present law

For Federal tax purposes, there are two classifications of workers: a worker is either an employee of the service recipient or an independent contractor. Significant tax consequences result from the classification of a worker as an employee or independent contractor. These differences relate to withhold an employment tax requirements, as well as the ability to exclude certain types of compensation from income or take tax deductions for certain expenses. Some of these consequences favor employee status, while others favor independent contractor status. For example, an employee may exclude from gross income employer-provided benefits such as pension, health, and group-term life insurance benefits. On the other hand, an independent contractor can establish his or her own pension plan and deduct contributions to the plan. An independent contractor also has greater ability to deduct work-related expenses.

Under present law, the determination of whether a worker is an employee or an independent contractor is generally made under a common-law facts and circumstances test that seeks to determine whether the service provider is subject to the control of the service recipient, not only as to the nature of the work performed, but the circumstances under which it is performed. Under a special safe harbor rule (sec. 530 of the Revenue Act of 1978), a service recipient may treat a worker as an independent contractor for employment tax purposes even though the worker is an employee under the common-law test if the service recipient has a reasonable basis for treating the worker as an independent contractor and certain other requirements are met.

In addition to the common-law test, there are also some persons who are treated by statute as either employees or independent contractors. For example, ''direct sellers'' are deemed to be independent contractors. A direct seller is a person engaged in the trade or business of selling consumer products in the home or otherwise than in a permanent retail establishment, if substantially all the remuneration for the performance of the services is directly related to sales or other output rather than to the number of hours worked, and the services performed by the person are performed pursuant to a written contract between such person and the service recipient and such contract provides that the person will not be treated as an employee for Federal tax purposes.

The newspaper industry has generally taken the position that newspaper distributors and carriers should be treated as direct sellers for income and employment tax purposes. The Internal Revenue Service has generally taken the position that the direct seller rules do not apply to newspaper distributors and carriers operating under an agency distribution system (i.e., where the publisher retains title to the newspapers).

House bill

No provision.

Senate amendment

The Senate amendment clarifies the treatment of qualifying newspaper distributors and carriers as direct sellers. Under the Senate amendment, a person engaged in the trade or business of the delivery or distribution of newspapers or shopping news (including any services that are directly related to such trade or business such as solicitation of customers of collection of receipts) qualifies as a direct seller, provided substantially all the remuneration for the performance of the services is directly related to sales or other output rather than to the number of hours worked, and the services performed by the person are performed pursuant to a written contract between such person and the service recipient and such contract provides that the person will not be treated as an employee for Federal tax purposes. The Senate amendment is intended to apply to newspaper distributors and carriers whether or not they hire others to assist in the delivery of newspapers. The Senate amendment also applies to newspaper distributors and carriers operating under either a buy-sell distribution system (i.e., where the newspaper distributors or carriers purchase the newspapers from the publisher) or an agency distribution system. For example, newspaper distributors and carriers operating under an agency distribution system who are paid based on the number of papers delivered and have an appropriate written agreement qualify as direct sellers. The status of newspaper distributors and carriers who do not qualify as direct sellers under the Senate amendment continue to be determined under present-law rules. No inference is intended with respect to the employment status of newspaper distributors and carriers prior to the effective date of the Senate amendment. Further, the provision is intended to clarify the worker classification issue for income and employment taxes only. The provision is not intended to have any impact whatsoever on the interpretation or applicability of Federal, State, or local labor laws.

Effective date—The provision is effective with respect to services performed after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

10. APPLICATION OF INVOLUNTARY CONVERSION RULES TO PROPERTY DAMAGED AS A RESULT OF PRESIDENTIALLY DECLARED DISASTERS

(Sec. 1117 of the Senate amendment.)

Present law

A taxpayer may elect not to recognize gain with respect to property that is involuntarily converted if the taxpayer acquires within an applicable period property similar or related in service or use. If the taxpayer does not replace the converted property with property similar or related in service or use, then gain generally is recognized.

House bill

No provision.

Senate amendment

Any tangible property acquired and held for productive use in a business is treated as similar or related in service or use to property that (1) was held for investment or for productive use in a business and (2) was involuntarily converted as a result of a Presidentially declared disaster.

Effective date.—The Senate amendment is effective for disasters for which a Presidential declaration is made after December 31, 1994, in taxable years ending after that date.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that the boundaries of the enterprise community for Oklahoma City designated by the Secretary of Housing and Urban Development on December 21, 1994, may be extended with respect to the census tracts located in the area damaged by the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995. The modification is effective on the date of enactment.

11. ESTABLISH 15-YEAR RECOVERY PERIOD FOR RETAIL MOTOR FUELS OUTLET STORES

(Sec. 1118 of the Senate amendment.)

Present law

Under present law, depreciation for property used in the retail gasoline trade is calculated under section 168 using a 15-year recovery period and the 150-percent declining balance method. Nonresidential real property is depreciated using a 39-year recovery period and the straight-line method. It is understood that taxpayers generally have taken the position that convenience stores and other buildings installed at retail motor fuels outlets have a 15-year recovery period. The IRS, in a position described in a recent Coordinated Issues Paper, generally limits the application of the 15-year recovery period to instances where the structure: (1) is 1,400 square feet or less or (2) meets a 50-percent test. The 50-percent test is met if: (1) 50 percent or more of the gross revenues that are generated from the building are derived from petroleum sales and (2) 50 percent or more of the floor space in the building is devoted to petroleum marketing sales.

House bill

No provision.

Senate amendment

The Senate amendment provides that 15-year property includes any section 1250 property (generally, depreciable real property) that is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet). A retail motor fuels outlet does not include any facility related to petroleum or natural gas trunk pipelines or to any section 1250 property used only to an insubstantial extent in the retail marketing of petroleum or petroleum products.

Effective date.—The provision is effective for property placed in service on or after the date of enactment and to which the amendments made by section 201 of the Tax Reform

Act of 1986 apply (i.e., property subject to the modified Accelerated Cost Recovery System of sec. 168). The taxpayer may elect the application of the provision for property placed in service prior to the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

A taxpayer may elect the application of the provision for qualified property placed in service prior to the date of enactment. The conferees clarify that if a taxpayer has already treated qualified property that was placed in service before the date of enactment as 15-year property, the taxpayer will be deemed to have made the election with respect to such property.

12. TREATMENT OF LEASEHOLD IMPROVEMENTS

(Sec. 1119 of the Senate amendment.)

Present law

A taxpayer generally recovers the adjusted basis of property for purposes of determining gain or loss upon the disposition of the property. Upon the termination of a lease, the adjusted basis of leasehold improvements that were made, but are not retained, by a lessee are taken into account to compute gain or loss by the lessee. The proper treatment of the adjusted basis of improvements made by a lessor upon termination of a lease is less clear. It appears that it is the position of the Internal Revenue Service that leasehold improvements made by a lessor that constitute structural components of a building must be continued to be depreciated in the same manner as the underlying real property, even if such improvements are retired at the end of the lease term. Some lessors, on the other hand, may be taking the position that a leasehold improvement is a property separate and distinct from the underlying building and that an abandonment loss under section 165 is allowable at the end of the lease term for the adjusted basis of the property.

House bill

No provision.

Senate amendment

A lessor of leased property that disposes of a leasehold improvement which was made by the lessor for the lessee of the property may take the adjusted basis of the improvement into account for purposes of determining gain or loss, if the improvement is irrevocably disposed of or abandoned by the lessee at the termination of the lease.

Effective date.—The provision is effective for leasehold improvements disposed of after June 12, 1996. No inference is intended as to the proper treatment of such dispositions before June 13, 1996.

Conference agreement

The conference agreement follows the Senate amendment. The conferees wish to clarify that the provision does not apply to the extent section 280B of present law applies to the demolition of a structure, a portion of which may include leasehold improvements.

13. INCREASE DEDUCTIBILITY OF BUSINESS MEAL EXPENSES OF CERTAIN SEAFOOD PROCESSING FACILITIES

(Sec. 1120 of the Senate amendment.)

Present law

In general, 50 percent of meal and entertainment expenses incurred in connection with a trade or business that are ordinary and necessary (and not lavish or extravagant) are deductive (sec. 274). Food or beverage expenses are fully deductible provided that they are (1) required by Federal law to be provided to crew members of a commercial vessel, (2) provided to crew members of similar commercial vessels not operated on the oceans, or (3) provided on certain oil or gas platforms or drilling rigs.

House bill

No provision.

Senate amendment

The Senate amendment adds remote seafood processing facilities located in the United States north of 53 degrees north latitude to the present-law of entities not subject to the 50 percent limitation on the deductibility of business meals. Consequently, these expenses are fully deductible. A seafood processing facility is remote when there are insufficient eating facilities in the vicinity of the employer's premises.[3]

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Conference agreement

The conference agreement does not include the Senate amendment provision.

14. PROVIDE A LOWER RATE OF TAX ON CERTAIN HARD CIDERS

(Sec. 1121 of the Senate amendment.)

Present law

Distilled spirits are taxed at a rate of $13.50 per proof gallon; beer is taxed at a rate of $18 per barrel (approximately 58 cents per gallon); and still wines of 14 percent alcohol or less are taxed at a rate of $1.07 per wine gallon. Higher rates of tax are applied to wines with great alcohol content and sparking wines.

Certain small wineries may claim a credit against the excise tax on wine of 90 cents per wine gallon on the first 100,000 gallons on wine produced annually. Certain small breweries pay a reduced tax of $7.00 per barrel (approximately 22.6 cents per gallon) on the first 60,000 barrels of beer produced annually.

Apple cider containing alcohol is classified and taxed as wine.

House Bill

No provision.

Senate amendment

The Senate amendment adjusts the tax rate on apple cider having an alcohol content of no more than seven percent to 22.6 cents per gallon.

Effective date.—The provision is effective for apple cider removed after December 31, 1996.

Conference agreement

The conference agreement does not include the Senate amendment.

15. MODIFICATIONS TO SECTION 530 OF THE REVENUE ACT OF 1978

(Sec. 1122 of the Senate amendment.)

Present law

In general

For Federal tax purposes, there are two classifications of workers: a worker is either an employee of the service recipient or an independent contractor. In general, the determination of whether an employer-employee relationship exists for Federal tax purposes is made under a common-law test. Treasury regulations provide that an employer-employee relationship generally exists if the person contracting for services has the right to control not only the result of the services, but also the means by which that result is accomplished.[4]

Section 530

With increased enforcement of the employment tax laws beginning in the late 1960s, controversies developed between the IRS and taxpayers as to whether businesses had correctly classified certain workers as self employed rather than as employees. In response to this problem, the Congress enacted section 530 of the Revenue Act of 1978 (''section 530''). That provision generally allows a taxpayer to treat a worker as not being an employee for employment tax purposes (but not income tax purposes), regardless of the individual's actual status under the common-law test, unless the taxpayer has no reasonable basis for such treatment.

It is the position of the IRS, based on legislative history, that section 530 can only apply after a determination has been made that a worker is an employee under the common-law test.[5] The IRS does not require the taxpayer to concede or agree to a determination that the worker is an employee.[6] However, several courts that have explicitly considered the question have held that section 530 relief is available irrespective of whether there has been an initial determination of worker classification under the common law.[7]

Under section 530, a reasonable basis for treating a worker as an independent contractor is considered to exist if the taxpayer (1) reasonably relied on published rulings or judicial precedent, (2) reasonably relied on past IRS audit practice with respect to the taxpayer, (3) reasonably relief on long-standing recognized practice of a significant segment of the (industry of which the taxpayer is a member, or (4) has any other reasonable basis for treating a worker as an independent contractor. The legislative history states that section 530 is to be ''construed liberally in favor of taxpayers.''[8]

Under section 530, reliance on judicial precedent, published rulings, technical advice with respect to the taxpayer, or a letter ruling to the taxpayer is deemed a reasonable basis for treating a worker as an independent contractor. If a taxpayer relies on this safe harbor, the IRS will look to see whether the facts of the judicial precedent or published ruling are sufficiently similar to the taxpayer's facts.[9]

Under the prior-audit safe harbor, reasonable reliance is generally found to exist if the IRS failed to raise an employment tax issue on audit, even though the audit was not related to employment tax matters. A taxpayer can also rely on a prior audit in which an employment tax issue was raised, but was resolved in favor of the taxpayer. According to the IRS, an ''audit'' must involve an examination of the taxpayer's books and records; mere inquiries from an IRS service center or a ''compliance check'' to determine whether a taxpayer has filed all returns will not suffice.[10] In order to rely on a prior audit, the IRS requires that the taxpayer must have treated the workers at issue

[3] See Treas. Reg. sec. 1.119–1(a)(2)(ii)(c) and 1.119–1(f)(Example 7).

[4] The Internal Revenue Service (''IRS'') has developed a list of 20 factors that may be examined in determining whether an employer-employee relationship exists. Rev. Rul. 87–41, 1987–1, C.B. 296.

[5] Employee or Independent Contractor?, at 3–4 (July 15, 1996)(hereinafter the ''IRS Training Guide'').

[6] IRS Training Guide, at 3–6; TAM 9443002 (December 3, 1993).

[7] See e.g., *Lambert's Nursery and Landscaping, Inc.* v. *U.S.*, 894 F.2d 154 (5th Cir. 1990) (''It is not necessary to determine whether [taxpayer's] workers were independent contractors or employees for employment tax purposes.'') *J & J Cab Service, Inc.* v. *U.S.*, 75 AFTR2d No. 95–618 (W.D. N.C. 1995) (''Section 530 relief may be granted irrespective of whether individuals were incorrectly treated as other than employees''); *Queensgate Dental Family Practice, Inc.* v. *U.S.*, 91–2 USTC No. 50,536 (M.D. Pa. 1991) (disagreeing with the IRS' contention that the court must first determine worker classification before applying section 530).

[8] H. Rept. No. 1748 (95th Cong., 2d Sess., 5 (1978)). The conference agreement to the Revenue Act of 1978 adopted the provisions of the House bill and therefore incorporates this legislative history.

[9] See e.g., TAM 9443002 (December 3, 1993); TAM 9330007 (April 28, 1993).

[10] IRS Training Guide, at 3–19.

as independent contractors during the period covered by the prior audit.[11]

A taxpayer is also treated as having a reasonable basis for treating a worker as an independent contractor under section 530 if the taxpayer reasonably relied on long-standing recognized practice of a significant segment of the industry in which the taxpayer is engaged.

Section 530 does not specify a period of time in order for a practice to be long standing. The IRS Training Guide provides that a practice is presumed to be long standing if it existed for 10 years or more.[12] the IRS Training Guide recognizes that a taxpayer may use the industry practice safe harbor even if it began business after 1978 or the industry came into existence after 1978.[13] However, the IRS Training Guide provides that if the industry practice changed by the time the taxpayer joined the industry, the taxpayer cannot rely on the former practice.

Neither section 530, nor the legislative history, provides a clear standard as to what constitutes a significant segment of a taxpayer's industry. The IRS Training Guide provides that the determination will be based on the facts and circumstances.[14] A few courts have addressed this issue. In one case, the IRS argued that a significant segment of the industry means more than 50 percent of the industry.[15] However, that court held that a significant segment is less than a majority of the firms in an industry. Another court held that 15 out of 84 industry respondents (18 percent) treating workers as independent contractors would constitute a significant segment of an industry.[16]

Even if a taxpayer is unable to rely on one of the three safe harbors described above, a taxpayer may still be entitled to relief under section 530 if the taxpayer has any other reasonable basis for treating a worker as an independent contractor.

The relief under section 530 is available with respect to an individual only if certain additional requirements are satisfied. The taxpayer must not have treated the individual as an employee for any period, and for periods since 1978 all Federal tax returns, including information returns, must have been filed on a basis consistent with treating such individual as an independent contractor. Further, the taxpayer (or a predecessor) must not have treated any individual holding a substantially similar position as an employee for purposes of employment taxes for any period beginning after 1977.

Whether workers are similarly situated is dependent on the facts and circumstances. The IRS Training Guide states that a ''substantially similar position exists if the job functions, duties, and responsibilities are substantially similar and the control and supervision of those duties and responsibilities is substantially similar.''[17]

There have been a few court decisions addressing this issue. For example, in *REAG, Inc.* v. *U.S.*,[18] the court held that the position of appraisers who were owner-officers of the business was not substantially similar to appraisers who were not owners since the owner-officers had managerial responsibilities. By contrast, in *Lowen Corp.* v. *U.S.*,[19] the court found that all workers engaged in the business of selling real estate signs had substantially similar positions even though some were salaried and had to file daily reports while others were paid by commission and did not have to file such reports.

The IRS Training Guide states that the burden of proof is on the taxpayer to demonstrate that it had a reasonable basis for treating a worker as an independent contractor.[20] However, in light of the Congressional instruction in the legislative history to construe section 530 liberally,[21] courts appear to be split as to how stringent a burden to apply.

In *McClellan* v. *U.S.*,[22] the court held that section 530 requires the ''taxpayer to come forward with an explanation and enough evidence to establish prima facie grounds for a finding of reasonableness. . . . [T]his threshold burden is relatively low, and can be met with any reasonableness showing. Once the taxpayer has made this prima facie showing, the burden then shifts to the IRS to verify or refute the taxpayer's explanation.'' By contrast, in *Boles Trucking, Inc.*, v. *U.S.*,[23] the court held that the burden is on the taxpayer to show, based on a preponderance of the evidence, that it had a reasonable basis for treating workers as independent contractors.

Under section 1706 of the Tax Reform Act of 1986, section 530 does not apply in the case of an individual who, pursuant to an arrangement between the taxpayer and another person, provides services for such other person as an engineer; designer, drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work. Thus, the determination of whether such individuals are employees or self employed is made in accordance with the common-law test.

House bill

No provision.

Senate amendment

The Senate amendment makes several clarifications of and modifications to section 530.

First, under the Senate amendment, a worker does not have to otherwise be an employee of the taxpayer in order for section 530 to apply. The provision is intended to reverse the IRS position, as stated in the IRS Training Guide, that there first must be a determination that the worker is an employee under the common law standards before application of section 530.

The Senate amendment modifies the prior audit safe harbor so that taxpayers may not rely on an audit commencing after December 31, 1996, unless such audit included an examination for employment tax purposes of whether the worker involved (or any worker holding a position substantially similar to the position held by the worker involved) should be treated as an employee of the taxpayer. The provision does not affect the ability of taxpayers to rely on prior audits that commenced before January 1, 1997, even though the audit was not related to employment tax matters, as under present law.

Under the Senate amendment, section 530 does not apply with respect to a worker unless the taxpayer and the worker sign a statement (at such time and in such manner as the Secretary may prescribe) which provides that the worker will not be treated as an employee for employment tax purposes. Also, the Senate amendment provides that an officer or employee of the IRS must, at (or before) the commencement of an audit involving worker classification issues, provide the taxpayer with written notice of the provisions of section 530.

The Senate amendment makes a number of changes to the industry practice safe harbor. First, the Senate amendment provides that a significant segment of the taxpayer's industry under the industry practice safe harbor does not require a reasonable showing of the practice of more than 25 percent of an industry (determined without taking into account the taxpayer). The provision is intended to be a safe harbor; a lower percentage may constitute a significant segment of the taxpayer's industry based on the particular facts and circumstances.

The Senate amendment also provides that an industry practice need not have continued for more than 10 years in order for the industry practice to be considered long standing. As with the significant segment safe harbor, this provision is intended to be a safe harbor; an industry practice in existence for a shorter period of time may be considered long standing based on the particular facts and circumstances. In addition, the Senate amendment clarifies that an industry practice will not fail to be treated as long standing merely because such practice began after 1978. Consequently, the provision clarifies that new industries can take advantage of section 530.

The Senate amendment modifies the burden of proof in section 530 cases by providing that if a taxpayer establishes a prima facie case that it was reasonable not to treat a worker as an employee for purposes of section 530,[24] the burden of proof shifts to the IRS with respect to such treatment.[25] In order for the shift in burden of proof to occur, the taxpayer must fully cooperate with reasonable requests by the IRS for information relevant to the taxpayer's treatment of the worker as an independent contractor under section 530. It is intended that a request by the IRS will not be treated as reasonable if complying with the request would be impracticable given the particular circumstances and the relative costs involved. The shift in the burden of proof does not apply for purposes of determining whether the taxpayer had any other reasonable basis for treating the worker as an independent contractor, but does apply to all other aspects of section 530. So, for example, provided the taxpayer establishes its prima facie case and fully cooperates with the IRS' reasonable requests, the burden of proof shifts to the IRS with respect to all other aspects of section 530, including whether the taxpayer had a reasonable basis for treating the worker as an independent contractor under the judicial or administrative precedent, prior audit, or long-standing industry practice safe harbors, whether the taxpayer filed all Federal tax returns on a basis consistent with treating the worker as an independent contractor, and whether the taxpayer treated any worker holding a substantially similar position as an employee. No inference is intended with respect to the application of the burden of proof in section 530

[11] IRS Training Guide, at 3–20.

[12] IRS Training Guide, at 3–24.

[13] IRS Training Guide, at 3–24.

[14] IRS Training Guide, at 3–25.

[15] In re Bentley, 73 AFTR2d No. 94–667 (Bkrtcy. E.D. Tenn. 1994).

[16] *REAG, Inc.* v. *U.S.*, 801 F.Supp. 494 (W.D. Okla. 1992).

[17] IRS Training Guide, at 3–11.

[18] 801 F.Supp. 494 (W.D. Okla. 1992).

[19] 785 F.Supp. 913 (D. Kan. 1992).

[20] IRS Training Guide, at 3–6.

[21] H. Rept. No. 1748 (95th Cong., 2d Sess., 5 (1978)). The conference agreement to the Revenue Act of 1978 adopted the provisions of the House bill and therefore incorporates this legislative history.

[22] 900 F.Supp. 101 (E.D. Mich. 1995). See also *REAG. Inc.* v. *U.S.*, 801 F.Supp. 494 (W.D. Okla. 1992) (a taxpayer need only show a substantial rational basis for its decision to treat the workers as independent contractors).

[23] 77 F.3d 236 (8th Cir. 1996) See also *Springfield* v. *U.S.*, 1996 U.S. App. LEXIS 15879 (9th Cir. 1996) (taxpayer has the burden to show it satisfies the requirements of section 530 by a preponderance of the evidence).

[24] For example, the taxpayer must establish a prima facie case that it reasonably satisfies the requirements of section 530 for not treating the worker as an employee, including the reporting consistency and consistency among workers with substantially similar positions requirements, and the requirement that the taxpayer have a reasonable basis for not treating the worker as an employee.

[25] The provision is generally intended to codify the holding in *McClellan* v. *U.S.*, discussed above, with respect to the burden of proof in section 530 cases.

cases prior to the effective date of this provision.

The Senate amendment also provides that if a taxpayer prospectively changes its treatment of workers from independent contractors to employees for employment tax purposes, such a change will not affect the applicability of section 530 with respect to such workers for prior periods.

Finally, the Senate amendment provides that, in determining whether a worker holds a substantially similar position to another worker, the relationship of the parties must be one of the factors taken into account.

Effective date.—The provisions generally apply to periods after December 31, 1996. The provision regarding the burden of proof applies to disputes with respect to periods after December 31, 1996. In the case of workers engaged to perform services for a taxpayer before January 1, 1997, the provision requiring a written statement that such workers are not employees for employment tax purposes is effective for periods after December 31, 1997 (unless the taxpayer elects to apply the provision earlier). The provision requiring the IRS to notify taxpayers of the provisions of section 530 applies to audits commencing after December 31, 1996.

Conference agreement

The conference agreement follows the Senate amendment, with the following modifications:

The conference agreement deletes the written statement requirement in the Senate amendment.

The conferees wish to clarify the notice that the IRS must provide to taxpayers at (or before) the commencement of an audit inquiry involving worker classification issues. The conferees recognize that, in many cases, the portion of an audit involving worker classification issues will not arise until after the examination of the taxpayer begins. In that case, the notice need only be given at the time the worker classification issue is first raised with the taxpayer.

With respect to the burden of proof in section 530 cases, the conferees intend that a request for information by the IRS will not be treated as reasonable if (1) it does not relate to the particular basis on which the taxpayer relied for establishing its reasonable basis, or (2) complying with the request would be impracticable given the particular circumstances and the relative costs involved.

With respect to the substantially similar position provision, the conferees clarify that consideration of the relationship between a taxpayer and a worker includes consideration of the degree of supervision and control of the worker by the taxpayer.

16. EMPLOYEE HOUSING FOR CERTAIN MEDICAL RESEARCH INSTITUTIONS

(Sec. 1123 of the Senate amendment.)

Present law

Under Code section 119(d), employees of an educational institution described in Code section 170(b)(1)(A)(ii) do not have to include in income the fair market value of campus housing as long as the rent is at least five percent of the appraised value of the housing. If the rent is less than the five-percent safe harbor, there is inclusion into income to the extent that the rent that was charged falls short of the lesser of five percent of the appraised value or the average of rents paid by individuals (other than employees or students of the educational institution) for similar lodging provided by the institution.

House bill

No provision.

Senate amendment

The Senate amendment treats as ‘‘educational institutions’’ for purposes of Code section 119(d) certain medical research institutions (‘‘academic health centers’’) that engage in basic and clinical research, have a regular faculty and teach a curriculum in basic and clinical research to students in attendance at the institution.

Effective date.—The provision is effective for taxable years beginning after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment, with a further modification that treats as ‘‘educational institutions’’ for purposes of Code section 119(d) certain entities (‘‘university systems’’) organized under State law composed of public institutions described in Code section 170(b)(1)(A)(ii). The conferees intend that, for purposes of the present-law requirement of Code section 119(d)(3)(A) that the employee housing be provided on (or in the proximity of) a campus of the employer, a campus of one of the component educational institutions of a university system should be considered to be a campus of the university system.

B. EXTENSION OF CERTAIN EXPIRING PROVISIONS

1. WORK OPPORTUNITY TAX CREDIT

(Sec. 1201 of House bill and the Senate amendment.)

Present law

Prior to January 1, 1995, the targeted jobs tax credit was available on an elective basis for employers hiring individuals from one or more of nine targeted groups. The credit generally was equal to 40 percent of qualified first-year wages (up to $6,000) for maximum credit of $2,400.

House bill

General rules.—The House bill replaces the targeted jobs tax credit with the ‘‘work opportunity tax credit’’. The new credit is available on an elective basis for employers hiring individuals from one or more of seven targeted groups. The credit generally is equal to 35 percent of qualified first-year wages.

Minimum employment period.—Under the House bill, no credit is allowed for wages paid unless the eligible individual is employed by the employer for at least 180 days (20 days in the case of a qualified summer youth employee) or 500 hours (120 hours in the case of a qualified summer youth employee).

Certification of members of targeted groups.—In general, under the House bill, an individual is not treated as a member of a targeted group unless: (1) on or before the day the individual begins work for the employer, the employer, the employer received in writing a certification from the designated local agency that the individual is a member of a specific targeted group, or (2) on or before the day the individual is offered work with the employer, a pre-screening notice is completed with respect to that individual by the employer and within 14 days 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 certification. The pre-screening notice will contain the information provided to the employer by the individual that forms the basis of the employer's belief that the individual is a member of a targeted group.

Effective date.—Wages paid or incurred to a qualified individual who begins work for an employer after June 30, 1996, and before July 1, 1997.

Senate amendment

General rules.—Same as the House bill with the addition of an eighth targeted group, individuals 18 to 24 who are in families that have been receiving food stamps for at least a three-month period ending on the date of hire.

Minimum employment period.—Under the Senate amendment, no credit is allowed for wages paid unless the eligible individual is employed by the employer for at least 180 days (20 in the case of a qualified summer youth employee) or 375 hours (120 hours in the case of a qualified summer youth employee).

Certification of members of targeted groups.—Same as House bill except that it replaces the 14-day rule with a 21-day rule for submission of pre-screening notice.

Effective date.—Wages paid or incurred to a qualified individual who begins work for an employer after September 30, 1996, and before October 1, 1997.

Conference agreement

General rules.—The conference agreement generally follows the Senate amendment with one modification to the food stamps category. Under the modification, members of the eighth targeted group are individuals aged 18–24 who are in families that have been receiving food stamps for at least a six-month (rather than a three-month) period ending on the date of hire. In the case of families that cease to be eligible for food stamps under section 6(o) of the Food Stamp Act of 1977, the six-month requirement is replaced with a requirement that the family has been receiving food stamps for at least three of the five months ending on the date of hire.

Minimum employment period.—Under the conference agreement, no credit is allowed for wages paid unless the eligible individual is employed by the employer for at least 180 days (20 in the case of a qualified summer youth employee) or 400 hours (120 hours in the case of a qualified summer youth employee).

Certification of members of targeted groups.—The conference agreement follows the Senate amendment.

Effective date.—The conference agreement follows the Senate amendment.

2. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE

(Sec. 1202 of the House bill and the Senate amendment.)

Present and prior law

For taxable years beginning before January 1, 1995, an employee's gross income and wages did not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts were paid or incurred pursuant to an educational assistance program that met certain requirements. This exclusion, which expired for taxable years beginning after December 31, 1994, was limited to $5,250 of educational assistance with respect to an individual during a calendar year. The exclusion applied whether or not the education was job related. In the absence of this exclusion, educational assistance is excludable from income only if it is related to the employee's current job.

The provision extends the exclusion for employer-provided educational assistance for taxable years beginning after December 31, 1994, and before January 1, 1997. After December 31, 1995, the exclusion would not apply with respect to graduate education.

To the extent employers have previously filed Forms W–2 reporting the amount of educational assistance provided as taxable wages, present Treasury regulations require the employer to file Forms W–2c (i.e., corrected Forms W–2) with the Internal Revenue Service.[26] It is intended that employers also be required to provide copies of Form W–2c to affected employees.

The Secretary is directed to establish expedited procedures for the refund of any overpayment of taxes paid on excludable educational assistance provided in 1995 and 1996, including procedures for waiving the requirement that an employer obtain an employee's signature if 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.

Because the exclusion is extended, no interest and penalties should be imposed if an employer failed to withhold income and employment taxes on excludable educational assistance or failed to report such educational assistance. Further, it is intended that the Secretary establish expedited procedures for refunding any interest and penalties relating to educational assistance previously paid.

Effective date.—The provision is effective with respect to taxable years beginning after December 31, 1994, and before January 1, 1997.

Senate amendment

The provision is the same as the House bill, except that the exclusion is extended for an additional year, through December 31, 1997, and the Senate amendment does not preclude application of the exclusion to graduate courses.

Effective date.—The provision is effective for taxable years beginning after December 31, 1994, and before January 1, 1998.

Conference agreement

The conference agreement follows the House bill, with the following modifications. The exclusion expires with respect to courses beginning after May 31, 1997. The exclusion for graduate courses applies in 1995. In 1996, the exclusion for graduate courses does not apply to courses beginning after June 30, 1996.

3. PERMANENT EXTENSION OF FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS

(Sec. 1203 of the House bill.)

Present law

Generally, the Federal unemployment tax (''FUTA'') is imposed on farm operators who (1) employ 10 or more agricultural workers for some portion of 20 different days, each beginning in a different calendar week or (2) have a quarterly payroll for agricultural services of at least $20,000. An exclusion from FUTA was provided, however, for labor performed by an alien admitted to the United States to perform agricultural labor under section 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act. This exclusion was effective for labor performed before January 1, 1995.

House bill

The House bill permanently extends the FUTA exemption for alien agricultural workers.

Effective date.—Labor performed on or after January 1, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill provision.

4. RESEARCH AND EXPERIMENTAL TAX CREDIT

(Sec. 1203 of the Senate amendment.)

Present and prior law

General rule

Prior to July 1, 1995, section 41 of the Internal Revenue Code provided for a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenditures for a taxable year exceeded its base amount for that year. The research tax credit expired and does not apply to amounts paid or incurred after June 30, 1995.

A 20-percent research tax credit also applied to the excess of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation. This separate credit computation is commonly referred to as the ''university basic research credit'' (see sec. 41(e)).

Computation of allowable credit

Except for certain university basic research payments made by corporations, the research tax credit applies only to the extent that the taxpayers' qualified research expenditures for the current taxable year exceed its base amount. The base amount for the current year generally is computed by multiplying the taxpayer's ''fixed-base percentage'' by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenditures and had gross receipts during each of at least three years from 1984 through 1988, then its ''fixed-base percentage'' is the ratio that its total qualified research expenditures for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (so-called ''start-up firms'') are assigned a fixed-base percentage of 3 percent.[27]

In computing the credit, a taxpayer's base amount may not be less than 50 percent of its current-year qualified research expenditures.

To prevent artificial increases in research expenditures among commonly controlled or otherwise related entities, research expenditures and gross receipts of the taxpayer are aggregated with research expenditures and gross receipts of certain related persons for purposes of computing any allowable credit (sec. 41(f)(l)). Special rules apply for computing the credit when a major portion of a business changes hands, under which qualified research expenditures and gross receipts for periods prior to the change or ownership of a trade or business are treated as transferred with the trade or business that gave rise to those expenditures and receipts for purposes of recomputing a taxpayer's fixed-base percentage (sec. 41(f)(3)).

Eligible expenditures

Qualified research expenditures eligible for the research tax credit consist of (1) ''in-house'' expenses of the taxpayer for wages and supplies attributable to qualified research; (2) certain time-sharing costs for computer use in qualified research; and (3) 65 percent of amounts paid by the taxpayer for qualified research conducted on the taxpayer's behalf (so-called ''contract research expenses'').

To be eligible for the credit, the research must not only satisfy the requirements of present-law section 174 but must be undertaken for the purpose of discovering information that is technological in nature, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and must pertain to functional aspects, performance, reliability, or quality of a business component. Research does not qualify for the credit if substantially all of the activities relate to style, taste, cosmetic, or seasonal design factors (sec. 41(d)(3)). In addition, research does not qualify for the credit if conducted after the beginning of commercial production of the business component, if related to the adaptation of an existing business component to a particular customer's requirements, if related to the duplication of an existing business component from a physical examination of the component itself or certain other information, or if related to certain efficiency surveys, market research or development, or routine quality control (sec. 41(d)(4)).

Expenditures attributable to research that is conducted outside the United States do not enter into the credit computation. In addition, the credit is not available for research in the social sciences, arts, or humanities, nor is it available for research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).

House bill

No provision.

Senate amendment

The Senate amendment extends the research tax credit for 18 months—i.e., for the period July 1, 1996, through December 31, 1997 (with a special rule for taxpayers who elect the alternative incremental research credit regime, as described below).

The Senate amendment also expand the definition of ''start-up firms'' under section 41(c)(3)(B)(I) to include any firm if the first taxable year in which such firm had both gross receipts and qualified research expenses began after 1983.[28]

In addition, the Senate amendment allow taxpayers to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-base percentage (that is lower than the fixed-base percentage otherwise applicable under present law) and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 1.65 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1 percent (i.e., the base amount equals 1 percent of the taxpayer's average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 2.2 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fix-base percentage of 1.5 percent but do not exceed a base amount computed by using a fixed-base percentage of 2 percent. A credit rate of 2.75 percent applies to the extent that

[26] Treasury regulation section 31.6051–1(c).

[27] The Omnibus Budget Reconciliation Act of 1993 included a special rule designed to gradually recompute a start-up firm's fixed-base percentage based on its actual research experience. Under this special rule, a start-up firm (i.e., any taxpayer that did not have gross receipts in at least three years during the 1984–1988 period) will be assigned a fixed-base percentage of 3 percent for each of its first five taxable years after 1993 in which it incurs qualified research expenditures. In the event that the research credit is extended beyond the scheduled June 30, 1995 expiration date, a start-up firm's fixed-base percentage for its sixth through tenth taxable years after 1993 in which it incurs qualified research expenditures will be a phased-in ratio based on its actual research experience. For all subsequent taxable years, the taxpayer's fixed-base percentage will be its actual ratio of qualified research expenditures to gross receipts for any five years selected by the taxpayer from its fifth through tenth taxable years after 1993 (sec. 41(c)(3)(B)).

[28] In applying the start-up firm rules, the test is whether a taxpayer, in fact, both incurred research expenses (which under the present-law rules would be qualified research expenses) and had gross receipts in a particular year, not whether the taxpayer claimed a research tax credit for that year.

a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 2 percent. An election to be subject to this alternative incremental credit regime may be made only for a taxpayer's first taxable year beginning after June 30, 1996, and such an election applies to that taxable year and all subsequent years unless revoked with the consent of the Secretary of the Treasury. Under the amendment, if a taxpayer elects the alternative incremental credit regime for its first taxable year beginning after June 30, 1996, and before July 1, 1997, then all qualified research expenses paid or incurred during such taxable year and the first six months of the following taxable year are treated as qualified research expenses for purposes of computing the taxpayer's credit under the alternative incremental credit regime.

The Senate amendment also provide for a special rule for payments made to certain nonprofit research consortia. Under this special rule, 75 percent of amounts paid to a research consortium for qualified research is treated as qualified research expenses eligible for the research credit (rather than 65 percent under the present-law section 41(b)(3) rule governing contract research expenses) if (1) such research consortium is a tax-exempt organization that is described in section 501(c)(3) (other than a private foundation) or section 501(c)(6) and is organized and operated primarily to conduct scientific research, and (2) such qualified research is conducted by the consortium on behalf of the taxpayer and one or more persons not related to the taxpayer.

Effective date.—Under the Senate amendment, extension of the research tax credit is effective for expenditures paid or incurred during the period July 1, 1996, through December 31, 1997 (with a special rule for taxpayers who elect the alternative incremental research credit regime). The modification to the definition of ''start-up firms'' is effective for taxable years ending after June 30, 1996. Taxpayers may elect the alternative research credit regime (with lower fixed-base percentages and lower credit rates) for the first taxable year beginning after June 30, 1996, and before July 1, 1997, and the credit is available with respect to all qualified research expenses incurred during such taxable year and during the first six months of the following taxable year. The rule that treats 75 percent of qualified research consortium payments as qualified research expenses is effective for taxable years beginning after June 30, 1996.

Conference agreement

The conference agreement extends the research tax credit for 11 months—i.e., for the period July 1, 1996, through May 31, 1997 (with a special rule for taxpayers who elect the alternative incremental research credit regime, as described below).

The conference agreement includes the provision in the Senate amendment to expand the definition of ''start-up firms'' under section 41(c)(3)(B)(I).

The conference agreement includes the provision in the Senate amendment to allow taxpayers to elect an alternative incremental research credit regime, with the modification that, if a taxpayer elects the alternative incremental credit regime for its first taxable year beginning after June 30, 1996, and before July 1, 1997, then all qualified research expenses paid or incurred during the first 11 months of such taxable year are treated as qualified research expenses for purposes of computing the taxpayers's credit under the alternative incremental credit regime.

The conference agreement includes the special rule of the Senate amendment that treats 75 percent (rather than 65 percent) of payments made to certain nonprofit research consortia as qualified research expenses.

In addition, the conference agreement provides that research credit amounts earned under the conference agreement may not be taken into account in computing estimated tax payments required to be paid for taxable years beginning in 1997.

Effective date.—Under the conference agreement, extension of the research tax credit is effective for expenditures paid or incurred during the period July 1, 1996, through May 31, 1997 with a special rule for taxpayers who elect the alternative incremental research credit regime. The modification to the definition of ''start-up firms'' is effective for taxable years ending after June 30, 1996. Taxpayers may elect the alternative research credit regime (with lower fixed-base percentages and lower credit rates) for the first taxable year beginning after June 30, 1996, and before July 1, 1997, and the credit is available with respect to all qualified research expenses incurred during the first 11 months of such taxable year. The rule that treats 75 percent of qualified research consortium payments as qualified research expenses is effective for taxable years beginning after June 30, 1996.

5. ORPHAN DRUG TAX CREDIT

(Sec. 1204 of the Senate amendment.)

Present and prior law

Prior to January 1, 1995, a 50-percent nonrefundable tax credit was allowed for qualified clinical testing expenses incurred in testing of certain drugs for rare diseases or conditions, generally referred to as ''orphan drugs.'' Qualified testing expenses are costs incurred to test an orphan drug after the drug has been approved for human testing by the Food and Drug Administration (FDA) but before the drug has been approved for sale by the FDA. A rare disease or condition is defined as one that (1) affects less than 200,000 persons in the United States, or (2) affects more than 200,000 persons, but for which there is no reasonable expectation that businesses could recoup the costs of developing a drug for such disease or condition for U.S. sales of the drug. These rare diseases and conditions include Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette's syndrome, and Duchenne's dystrophy (a form of muscular dystrophy).

Under prior law, the orphan drug tax credit could be claimed by a taxpayer only to the extent that its regular tax liability for the year the credit was earned exceeded its tentative minimum tax for the year, after regular tax was reduced by nonrefundable personal credits and the foreign tax credit.[29] Unused credits could not be carried back or carried forward to reduce taxes in other years.

The orphan drug tax credit expired after December 31, 1994.

House bill

No provision.

Senate amendment

The Senate amendment extends the orphan drug tax credit for 18 months—i.e., for the period July 1, 1996, through December 31, 1997.

In addition, the Senate amendment allows taxpayers to carry back unused credits to three years preceding the year the credit is earned and to carry forward unused credits to 15 years following the year the credit is earned.

Effective date.—The Senate amendment applies to qualified clinical testing expenses paid or incurred during the period July 1, 1996, through December 31, 1997. The provision allowing for the carry back and carry forward of unused credits is effective for taxable years ending after June 30, 1996. No portion of the unused business credit that is attributable to the orphan drug credit could be carried back under section 39 to a taxable year ending before July 1, 1996.

Conference agreement

The conference agreement extends the orphan drug tax credit for 11 months—i.e., for the period July 1, 1996, through May 31, 1997.

In addition, the conference agreement includes the provision of the Senate amendment that allows taxpayers to carry back unused credits to three years preceding the year the credit is earned and to carry forward unused credits to 15 years following the year the credit is earned.

Effective date.—The conference agreement applies to qualified clinical testing expenses paid or incurred during the period July 1, 1996, through May 31, 1997. The provision allowing for the carry back and carry forward of unused credits is effective for taxable years ending after June 30, 1996. No portion of the unused business credit that is attributable to the orphan drug credit could be carried back under section 39 to a taxable year ending before July 1, 1996.

6. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS

(Sec. 1205 of the Senate amendment.)

Present and prior law

In computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct the fair market value of property contributed to a charitable organization.[30] However, in the case of a charitable contribution of short-term gain, inventory, or other ordinary income property, the amount of the deduction generally is limited to the taxpayer's basis in the property. In the case of a charitable contribution of tangible personal property, the deduction is limited to the taxpayer's basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose.[31]

In cases involving contributions to a private foundation (other than certain private operating foundations), the amount of the deduction is limited to the taxpayer's basis in the property. However, under a special rule contained in section 170(e)(5), taxpayers were allowed a deduction equal to the fair market value of ''qualified appreciated stock'' contributed to a private foundation prior to January 1, 1995. Qualified appreciated stock was defined as publicly traded stock which is capital gain property. The fair-market-value deduction for qualified appreciated stock donations applied only to the extent that total donations made by the donor to private foundations of stock in a particular corporation did not exceed 10 percent of the outstanding stock of that corporation. For this purpose, an individual was

[29] To the extent that the orphan drug tax credit could not be used by reason of the minimum tax limitation, the taxpayer's minimum tax credit was increased (sec. 53(d)(1)(B)(iii)).

[30] The amount of the deduction allowable for a taxable year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer (sec. 170(b) and 170(e)).

[31] As part of the Omnibus Budget Reconciliation Act of 1993, Congress eliminated the treatment of contributions of appreciated property (real, personal, and intangible) as a tax preference for alternative minimum tax (AMT) purposes. Thus, if a taxpayer makes a gift to charity of property (other than short-term gain, inventory, or other ordinary income property, or gifts to private foundations) that is real property, intangible property, or tangible personal property the use of which is related to the donee's tax-exempt purpose, the taxpayer is allowed to claim the same fair-market-value deduction for both regular tax and AMT purposes (subject to present-law percentage limitations).

treated as making all contributions that were made by any member of the individual's family. This special rule contained in section 170(e)(5) expired after December 31, 1994.

House bill

No provision.

Senate amendment

The Senate amendment extends the special rule contained in section 170(e)(5) for 18 months—i.e., for contributions of qualified appreciated stock made to private foundations during the period July 1, 1996, through December 31, 1997.

Effective date.—The provision is effective for contributions of qualified appreciated stock to private foundations made during the period July 1, 1996, through December 31, 1997.

Conference agreement

The conference agreement extends the special rule contained in section 170(e)(5) for 11 months—i.e., for contributions of qualified appreciated stock made to private foundations during the period July 1, 1996, through May 31, 1997.[32]

Effective date.—The provision is effective for contributions of qualified appreciated stock to private foundations made during the period July 1, 1996, through May 31, 1997.

7. TAX CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE

(Sec. 1206 of the Senate amendment.)

Present law

Certain fuels produced from ''nonconventional sources'' and sold to unrelated parties are eligible for an income tax credit equal to $3 (generally adjusted for inflation) per barrel or BTU oil barrel equivalent (sec. 29). Qualified fuels must be produced within the United States.

Qualified fuels include: (1) oil produced from shale and tar sands; (2) gas produced from geopressured brine, Devonian shale, coal seams, tight formations (''tight sands''), or biomass; and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite).

In general, the credit is available only with respect to fuels produced from wells drilled or facilities placed in service after December 31, 1979, and before January 1, 1993. An exception extends the January 1, 1993 expiration date for facilities producing gas from biomass and synthetic fuel from coal if the facility producing the fuel is placed in service before January 1, 1997, pursuant to a binding contract entered into before January 1, 1996.

The credit may be claimed for qualified fuels produced and sold before January 1, 2003 (in the case of nonconventional sources subject to the January 1, 1993 expiration date) or January 1, 2008 (in the case of biomass gas and synthetic fuel facilities eligible for the extension period).

House bill

No provision.

Senate amendment

The Senate amendment extends the binding contract date for facilities producing synthetic fuels from coal and gas from biomass until the date which is six months after the date of the provision's enactment, and the placed in service date for two years. The present sunset on producing qualifying for the credit is not changed.

Therefore, under the provision, synthetic fuels from coal and gas from biomass produced from a facility placed in service before January 1, 1999, pursuant to a binding contract entered into before the date which is six months after the date of the provision's enactment, will be eligible for the tax credit if produced before January 1, 2008.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment with two modifications. First, the conference agreement extends the binding contract date for facilities producing synthetic fuels from coal and gas from biomass through December 31, 1996, rather than for six months after the date of enactment as would have been provided in the Senate amendment. Second, the conference agreement extends the placed in service date for eighteen months, rather than for two years as would have been provided in the Senate amendment. The conference agreement does not change the present-law sunset on production qualifying for the credit.

Therefore, under the conference agreement, synthetic fuels from coal and gas from biomass produced from a facility placed in service before July 1, 1998, pursuant to a binding contract entered into before January 1, 1997, will be eligible for the tax credit if produced before January 1, 2008.

Effective date.—The provision is effective on the date of enactment.

8. SUSPEND IMPOSITION OF DIESEL FUEL TAX ON RECREATIONAL MOTORBOATS

(Sec. 1207 of the Senate amendment.)

Present law

Diesel fuel used in recreational motorboats is subject to a 24.4 cents-per-gallon excise tax through December 31, 1999. This tax was enacted by the Omnibus Budget Reconciliation Act of 1993 as a revenue offset for repeal of the excise tax on certain luxury boats. Revenues from this tax are retained in the General Fund.

The diesel fuel tax is imposed on removal of the fuel from a registered terminal facility (i.e., at the ''terminal rack''). Present law provides that tax is imposed on all diesel fuel removed from terminal facilities unless the fuel is destined for a nontaxable use and is indelibly dyed pursuant to Treasury Department regulations. If fuel on which tax is paid at the terminal rack (i.e., undyed diesel fuel) ultimately is used in a nontaxable use, a refund is allowed. Depending on the aggregate amount of tax to be refunded, this refund may be claimed either by a direct filing with the Internal Revenue Service or as a credit against income tax.

Dyed diesel fuel (fuel on which no tax is paid) may not be used in a taxable use. Present law imposes a penalty equal to the greater of $10 per gallon or $1,000 on persons found to be violating this prohibition.

House bill

No provision.

Senate amendment

The Senate amendment provides that no tax will be imposed on diesel fuel used in recreational motorboats during the period beginning seven days after the date of enactment through December 31, 1997.

In addition, the Senate Finance Committee requested that the Treasury Department study possible alternatives to the current collection regime for motoboat diesel fuel that will provide comparable compliance with the law, and report to the House Committee on Ways and Means and the Senate Committee on Finance no later than April 1, 1997.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

9. EXTENSION OF TRANSITION RULE FOR CERTAIN PUBLICLY TRADED PARTNERSHIPS

(Sec. 1208 of the Senate amendment.)

Present law

Present law provides that, in general, a publicly traded partnership is treated as a corporation for Federal income tax purposes. An exception is provided for certain partnerships, 90 percent or more of whose gross income is passive-type income (as defined for purposes of the provision). A publicly traded partnership is any partnership if (1) partnership interests are traded on an established securities market, or (2) partnership interests are readily tradable on a secondary market (or the substantial equivalent). This provision was added by the Omnibus Budget Reconciliation Act of 1987 (the ''1987 Act''), and applied generally to taxable years beginning after December 31, 1987.

The 1987 Act provided a 10-year grandfather rule for certain existing partnerships. Thus, the provision becomes effective for such existing partnerships for taxable years beginning after December 31, 1997. The 1987 Act provides that an existing partnership is one: (1) which was a publicly traded partnership on December 17, 1987; (2) with respect to which a registration statement indicating that such partnership was to be a publicly traded partnership was filed with the Securities and Exchange commission on or before December 17, 1987, or (3) with respect to which an application was filed with a State regulatory commission on or before December 17, 1987 seeking permission to restructure a portion of a corporation as a publicly traded partnership. A partnership ceases to be treated as an existing partnership if it adds a substantial new line of business after December 17,1987.

House bill

No provision.

Senate amendment

The Senate amendment provides a two-year extension of the ten-year grandfather rule for existing partnerships. Thus, under the Senate amendment, the present-law provision treating publicly traded partnerships as corporations applies to existing partnerships for taxable years beginning after December 31, 1999.

Effective date.—The provision takes effect as if included in the 1987 Act.

Conference agreement

The conference agreement does not include the Senate amendment provision.

C. PROVISIONS RELATING TO S. CORPORATIONS

1. S CORPORATIONS PERMITTED TO HAVE 75 SHAREHOLDERS

(Sec. 1301 of the House bill and the Senate amendment.)

Present law

The taxable income or loss of an S corporation is taken into account by the corporation's shareholders, rather than by the entity, whether or not such income is distributed. A small business corporation may elect to be treated as an S corporation. A ''small business corporation'' is defined as a domestic corporation which is not an ineligible corporation and which does not have (1) more than 35 shareholders, (2) as a shareholder, a person (other than certain trusts or estates) who is not an individual, (3) a nonresident alien as a shareholder, and (4) more than one class of stock. For purposes of the 35-shareholder limitation, a husband and wife are treated as one shareholder.

House bill

The House bill increases maximum number of eligible shareholders from 35 to 75.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

[32] If, during this period, a taxpayer contributes qualified appreciated stock as defined in section 170(e)(5) and the amount of such contribution exceeds the percentage limitation under section 170(b)(1)(D), the excess may be carried over to succeeding taxable years. See, e.g., LTR 9444029, LTR 9424020.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. ELECTING SMALL BUSINESS TRUSTS

(Sec. 1302 of the House bill and the Senate amendment.)

Present law

Under present law, trusts other than grantor trusts, voting trusts, certain testamentary trusts and ''qualified subchapter S trusts'' may not be shareholders in an S corporation. A ''qualified subchapter S trust'' is a trust which, under its terms, (1) is required to have only one current income beneficiary (for life), (2) any corpus distributed during the life of the beneficiary must be distributed to the beneficiary, (3) the beneficiary's income interest must terminate at the earlier of the beneficiary's death or the termination of the trust, and (4) if the trust terminates during the beneficiary's life, the trust assets must be distributed to the beneficiary. All the income (as defined for local law purposes) must be currently distributed to that beneficiary. The beneficiary is treated as the owner of the portion of the trust consisting of the stock in the S corporation.

House bill

In general

The House bill allows stock in an S corporation to be held by certain trusts (''electing small business trusts''). In order to qualify for this treatment, all beneficiaries of the trust must be individuals or estates eligible to be S corporation shareholders, except that charitable organizations may hold contingent remainder interests. No interest in the trust may be acquired by purchase. For this purpose, ''purchase'' means any acquisition of property with a cost basis (determined under sec. 1012). Thus, interests in the trust must be acquired by reason of gift, bequest, etc. A trust must elect to be treated as an electing small business trust.

Each potential current beneficiary of the trust is counted as a shareholder for purposes of the proposed 75 shareholder limitation (or if there were no potential current beneficiaries, the trust would be treated as the shareholder). A potential current income beneficiary means any person, with respect to the applicable period, who is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust.

Treatment of items relating to S corporation stock

The portion of the trust which consists of stock in one or more S corporations is treated as a separate trust for purposes of computing the income tax attributable to the S corporation stock held by the trust. The trust is taxed at the highest individual rate (currently, 39.6 percent on ordinary income and 28 percent on net capital gain) on this portion of the trust's income. The taxable income attributable to this portion includes (1) the items of income, loss, or deduction allocated to it as an S corporation shareholder under the rules of subchapter S, (2) gain or loss from the sale of the S corporation stock, and (3) to the extent provided in regulations, any state or local income taxes and administrative expenses of the trust properly allocable to the S corporation stock. Otherwise allowable capital losses are allowed only to the extent of capital gains.

In computing the trust's income tax on this portion of the trust, no deduction is allowed for amounts distributed to beneficiaries, and no deduction or credit is allowed for any item other than the items described above. This income is not included in the distributable net income of the trust, and thus is not included in the beneficiaries' income. No item relating to the S corporation stock could be apportioned to any beneficiary.

On the termination of all or any portion of an electing small business trust the loss carryovers or excess deductions referred to in section 642(h) is taken into account by the entire trust, subject to the usual rules on termination of the entire trust.

Treatment of remainder of items held by trust

In determining the tax liability with regard to the remaining portion of the trust, the items taken into account by the subchapter S portion of the trust are disregarded. Although distributions from the trust are deductible in computing the taxable income on this portion of the trust, under the usual rules of subchapter J, the trust's distributable net income does not include any income attributable to the S corporation stock.

Termination of trust and conforming amendment applicable to all trusts

Where the trust terminates before the end of the S corporation's taxable year, the trust takes into account its pro rata share of S corporation items for its final year. The bill makes a conforming amendment applicable to all trusts and estates clarifying that this is the present-law treatment of trusts and estates that terminate before the end of the S corporation's taxable year.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. EXPANSION OF POST-DEATH QUALIFICATION FOR CERTAIN TRUSTS

(Sec. 1303 of the House bill and the Senate amendment.)

Present law

Under present law, trusts other than grantor trusts, voting trusts, certain testamentary trusts and ''qualified subchapter S trusts'' may not be shareholders in a S corporation. A grantor trust may remain an S corporation shareholder for 60 days after the death of the grantor. The 60-day period is extended to two years if the entire corpus of the trust is includable in the gross estate of the deemed owner. In addition, a trust may be an S corporation shareholder for 60 days after the transfer of S corporation pursuant to a will.

House bill

The House bill expands the post-death holding period to two years for all testamentary trusts.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

4. FINANCIAL INSTITUTIONS PERMITTED TO HOLD SAFE HARBOR DEBT

(Sec. 1304 of the House bill and the Senate amendment.)

Present law

A small business corporation eligible to be an S corporation may not have more than one class of stock. Certain debt (''straight debt'') is not treated as a second class of stock so long as such debt is an unconditional promise to pay on demand or on a specified date a sum certain in money if: (1) the interest rate (and interest payment dates) are not contingent on profits, the borrower's discretion, or similar factors; (2) there is no convertibility (directly or indirectly) into stock, and (3) the creditor is an individual (other than a nonresident alien), an estate, or certain qualified trusts.

House bill

The definition of ''straight debt'' is expanded to include debt held by creditors, other than individuals, that are actively and regularly engaged in the business of lending money.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

5. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS

(Sec. 1305 of the House bill and the Senate amendment.)

Present law

Under present law, if the Internal Revenue Service (''IRS'') determines that a corporation's Subchapter S election is inadvertently terminated, the IRS can waive the effect of the terminating event for any period if the corporation timely corrects the event and if the corporation and shareholders agree to be treated as if the election had been in effect for that period. Such waivers generally are obtained through the issuance of a private letter ruling. Present law does not grant the IRS the ability to waive the effect of an inadvertent invalid Subchapter S election.

In addition, under present law, a small business corporation must elect to be an S corporation no later than the 15th day of the third month of the taxable year for which the election is effective. The IRS may not validate a late election.

House bill

Under the House bill, the authority of the IRS to waive the effect of an inadvertent termination is extended to allow the Service to waive the effect of an invalid election caused by an inadvertent failure to qualify as a small business corporation or to obtain the required shareholder consents (including elections regarding qualified subchapter S trusts), or both. The House bill also allows the IRS to treat a late Subchapter S election as timely where the Service determines that there was reasonable cause for the failure to make the election timely. It is intended that the IRS be reasonable in exercising this authority and apply standards that are similar to those applied under present law to inadvertent subchapter S terminations and other late or invalid elections.

Effective date.—The provision applies to taxable years beginning after December 31, 1982.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment. The conferees wish to clarify that in exercising the authority provided under the provision, the IRS may consider relevant information provided by any affected shareholder (including a person who became a shareholder in a subsequent year) before determining the validity of the S election for the taxable year in question.

6. AGREEMENT TO TERMINATE YEAR

(Sec. 1306 of the House bill and the Senate amendment.)

Present law

In general, each item of S corporation income, deduction and loss is allocated to shareholders on a per-share, per-day basis. However, if any shareholder terminates his or her interest in an S corporation during a taxable year, the S corporation, with the consent of all its shareholders, may elect to allocate S corporation items by closing its books as of the date of such termination rather than apply the per-share, per-day rule.

House bill

The House bill provides that, under regulations to be prescribed by the Secretary of the Treasury, the election to close the books of the S corporation upon the termination of a shareholder's interest is made by all affected shareholders and the corporation, rather than by all shareholders. The closing of the books applies only to the affected shareholders. For this purpose, ''affected shareholders'' means any shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the year. If a shareholder transferred shares to the corporation, ''affected shareholders'' includes all persons who were shareholders during the year.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

7. EXPANSION OF POST-TERMINATION TRANSITION PERIOD

(Sec. 1307 of the House bill and the Senate amendment.)

Present law

Distributions made by a former S corporation during its post-termination period are treated in the same manner as if the distributions were made by an S corporation (e.g., treated by shareholders as nontaxable distributions to the extent of the accumulated adjustment account). Distributions made after the post-termination period are generally treated as made by a C corporation (i.e., treated by shareholders as taxable dividends to the extent of earnings and profits).

The ''post-termination period'' is the period beginning on the day after the last day of the last taxable year of the S corporation and ending on the later of: (1) a date that is one year later, or (2) the due date for filing the return for the last taxable year and the 120-day period beginning on the date of a determination that the corporation's S corporation election had terminated for a previous taxable year.

In addition, the audit procedures adopted by the Tax Equity and Fiscal Responsibility Act of 1982 (''TEFRA'') with respect to partnerships also apply to S corporations. Thus, the tax treatment of items is determined at the corporate, rather than individual level.

House bill

The present-law definition of post-termination period is expanded to include the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer that follows the termination of the S corporation's election and that adjusts a subchapter S item of income, loss or deduction of the S corporation during the S period. In addition, the definition of ''determination'' is expanded to include a final disposition of the Secretary of the Treasury of a claim for refund and, under regulations, certain agreements between the Secretary and any person, relating to the tax liability of the person.

In addition, the House bill repeals the TEFRA audit provisions applicable to S corporations and would provide other rules to require consistency between the returns of the S corporation and its shareholders.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

8. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES

(Sec. 1308 of the House bill and the Senate amendment.)

Present law

A small business corporation may not be a member of an affiliated group of corporations (other than by reason of ownership in certain inactive corporations). Thus, an S corporation may not own 80 percent or more of the stock of another corporation (whether an S corporation or a C corporation).

In addition, a small business corporation may not have as a shareholder another corporation (whether an S corporation or a C corporation).

House bill

An S corporation is allowed to own 80 percent or more of the stock of a C corporation. The C corporation subsidiary could elect to join in the filing of a consolidated return with its affiliated C corporations. An S corporation is not allowed to join in such election. Dividends received by an S corporation from a C corporation in which the S corporation has an 80 percent or greater ownership stake is not treated as passive investment income for purposes of sections 1362 and 1375 to the extent the dividends are attributable to the earnings and profits of the C corporation derived from the active conduct of a trade or business.

In addition, an S corporation is allowed to own a qualified subchapter S subsidiary. The term ''qualified subchapter S subsidiary'' means a domestic corporation that is not an ineligible corporation (i.e., a corporation that would be eligible to be an S corporation if the stock of the corporation were held directly by the shareholders of its parent S corporation) if (1) 100 percent of the stock of the subsidiary were held by its S corporation parent and (2) for which the parent elects to treat as a qualified subchapter S subsidiary. Under the election, the qualified subchapter S subsidiary is not treated as a separate corporation and all the assets, liabilities, and items of income, deduction, and credit of the subsidiary are treated as the assets, liabilities, and items of income, deduction, and credit of the parent S corporation.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

9. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS

(Sec. 1309 of the House bill and the Senate amendment.)

Present law

Under present law, the amount of loss an S corporation shareholder may take into account for a taxable year cannot exceed the sum of the shareholder's adjusted basis in his or her stock of the corporation and the adjusted basis in any indebtedness of the corporation to the shareholder. Any excess loss is carried forward.

Any distribution to a shareholder by an S corporation generally is tax-free to the shareholder to the extent of the shareholder's adjusted basis of his or her stock. The shareholder's adjusted basis is reduced by the tax-free amount of the distribution. Any distribution in excess of the shareholder's adjusted basis is treated as gain from the sale or exchange of property.

Under present law, income (whether or not taxable) and expenses (whether or not deductible) serve, respectively, to increase and decrease an S corporation shareholder's basis in the stock of the corporation. These rules require that the adjustments to basis for items of both income and loss for any taxable year apply before the adjustment for distributions applies.

These rules limiting losses and allowing tax-free distributions up to the amount of the shareholder's adjusted basis are similar in certain respects to the rules governing the treatment of losses and cash distributions by partnerships. Under the partnership rules (unlike the S corporation rules), for any taxable year, a partner's basis is first increased by items of income, then decreased by distributions, and finally is decreased by losses for that year.

In addition, if the S corporation has accumulated earnings and profits, any distribution in excess of the amount in an ''accumulated adjustments account'' will be treated as a dividend (to the extent of the accumulated earnings and profits). A dividend distribution does not reduce the adjusted basis of the shareholder's stock. The ''accumulated adjustments account'' generally is the amount of the accumulated undistributed post-1982 gross income less deductions.

House bill

The House bill provides that the adjustments for distributions made by an S corporation during a taxable year are taken into account before applying the loss limitation for the year. Thus, distributions during a year reduce the adjusted basis for purposes of determining the allowable loss for the year, but the loss for a year does not reduce the adjusted basis for purposes of determining the tax status of the distributions made during that year.

The House bill also provides that in determining the amount in the accumulated adjustment account for purposes of determining the tax treatment of distributions made during a taxable year by an S corporation having accumulated earnings and profits, net negative adjustments (i.e., the excess of losses and deductions over income) for that taxable year are disregarded.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

10. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C

(Sec. 1310 of the House bill and the Senate amendment.)

Present law

Present law contains several provisions relating to the treatment of S corporations as corporations generally for purpose of the Internal Revenue Code.

First, under present law, the taxable income of an S corporation is computed in the same manner as in the case of an individual (sec. 1363(b)). Under this rule, the provisions of the Code governing the computation of taxable income which are applicable only to corporations, such as the dividends received deduction, do not apply to S corporations.

Second, except as otherwise provided by the Internal Revenue Code and except to the extent inconsistent with subchapter S, subchapter C (i.e., the rules relating to corporate distributions and adjustments) applies to an S corporation and its shareholders (sec. 1371(a)(1)). Under this second rule, provisions such as the corporate reorganization provisions apply to S corporations. Thus, a C corporation may merge into an S corporation tax-free.

Finally, an S corporation in its capacity as a shareholder of another corporation is treated as an individual for purposes of subchapter C (sec. 1371(a)(2)). In 1988, the Internal Revenue Service took the position that this rule prevents the tax-free liquidation of a C corporation into an S corporation because a C corporation cannot liquidate tax-free when owned by an individual shareholder.[33] In 1992, the Internal Revenue Service reversed its position, stating that the prior ruling was incorrect.[34]

House bill

The House bill repeals the rule that treats an S corporation in its capacity as a shareholder of another corporation as an individual. Thus, the provision clarifies that the liquidation of a C corporation into an S corporation will be governed by the generally applicable subchapter C rules, including the provisions of sections 332 and 337 allowing the tax-free liquidation of a corporation into its parent corporation. Following a tax-free liquidation, the built-in gains of the liquidating corporation may later be subject to tax under section 1374 upon a subsequent disposition. An S corporation also will be eligible to make a section 338 election (assuming all the requirements are otherwise met), resulting in immediate recognition of all the acquired C corporation's gains and losses (and the resulting imposition of a tax).

The repeal of this rule does not change the general rule governing the computation of income of an S corporation. For example, it does not allow an S corporation, or its shareholders, to claim a dividends received deduction with respect to dividends received by the S corporation, or to treat any item of income or deduction in a manner inconsistent with the treatment accorded to individual taxpayers.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

11. ELIMINATION OF CERTAIN EARNINGS AND PROFITS

(Sec. 1311 of the House bill and the Senate amendment.)

Present law

Under present law, the accumulated earnings and profits of a corporation are not increased for any year in which an election to be treated as an S corporation is in effect. However, under the subchapter S rules in effect before revision in 1982, a corporation electing subchapter S for a taxable year increased its accumulated earnings and profits if its earnings and profits for the year exceeded both its taxable income for the year and its distributions out of that year's earnings and profits. As a result of this rule, a shareholder may later be required to include in his or her income the accumulated earnings and profits when it is distributed by the corporation. The 1982 revision to subchapter S repealed this rule for earnings attributable to taxable years beginning after 1982 but did not do so for previously accumulated S corporation earnings and profits.

House bill

The House bill provides that if a corporation is an S corporation for its first taxable year beginning after December 31, 1995, the accumulated earnings and profits of the corporation as of the beginning of that year is reduced by the accumulated earnings and profits (if any) accumulated in any taxable year beginning before January 1, 1983, for which the corporation was an electing small business corporation under subchapter S. Thus, such a corporation's accumulated earnings and profits are solely attributable to taxable years for which an S election was not in effect. This rule is generally consistent with the change adopted in 1982 limiting the S shareholder's taxable income attributable to S corporation earnings to his or her share of the taxable income of the S corporation.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

12. CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER THE AT-RISK RULES

(Sec. 1312 of the House bill and the Senate amendment.)

Present law

Under section 1366, the amount of loss an S corporation shareholder may take into account cannot exceed the sum of the shareholder's adjusted basis in his or her stock of the corporation and the unadjusted basis in any indebtedness of the corporation to the shareholder. Any disallowed loss is carried forward to the next taxable year. Any loss that is disallowed for the last taxable year of the S corporation may be carried forward to the post-termination period. The ''post-termination period'' is the period beginning on the day after the last day of the last taxable year of the S corporation and ending on the later of: (1) a date that is one year later, or (2) the due date for filing the return for the last taxable year and the 120-day period beginning on the date of a determination that the corporation's S corporation election had terminated for a previous taxable year.

In addition, under section 465, a shareholder of an S corporation may not deduct losses that are flowed through from the corporation to the extent the shareholder is not ''at-risk'' with respect to the loss. Any loss not deductible in one taxable year because of the at-risk rules is carried forward to the next taxable year.

House bill

Losses of an S corporation that are suspended under the at-risk rules of section 465 are carried forward to the S corporation's post-termination period.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

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

(Sec. 1313 of the house bill and the Senate amendment.)

Present law

Income in respect to a decedent (''IRD'') generally consists of items of gross income that accrued during the decedent's lifetime but were not includible in the decedent's income before his or her death under his or her method of accounting. IRD is includible in the income of the person acquiring the right to receive such item. A deduction for the estate tax attributable to an item of IRD is allowed to such person (sec. 681(c)). The cost or basis of property acquired from a decedent is its fair market value at the date of death (or alternate valuation date if that date is elected for estate tax purposes). This basis is often referred to as ''stepped-up basis.'' Property that constitutes a right to receive IRD does not receive a stepped-up basis.

The basis of a partnership interest or corporate stock acquired from a decedent generally is stepped-up at death. Under Treasury regulations, the basis of a partnership interest acquired from a decedent is reduced to the extent that its value is attributable to items constituting IRD (Treas. reg. sec. 1.742–1). This rule insures that the items of IRD held by a partnership are not later offset by a loss arising from a stepped-up basis. Although S corporation income is taxed to its shareholders in a manner similar to the taxation of a partnership and its partners, no comparable regulation require a reduction in the basis of stock in an S corporation acquired from a decedent where the S corporation holds items of IRD.

House bill

The House bill provides that a person acquiring stock in an S corporation from a decedent would treat as IRD his or her pro rata share of any item of income of the corporation that would have been IRD if that item had been acquired directly from the decedent. Where an item is treated as IRD, a deduction for the estate tax attributable to the item generally will be allowed under the provisions of section 691(c). The stepped-up basis in the stock in an S corporation acquired from a decedent is reduced by the extent to which the value of the stock is attributable to items consisting of IRD. This basis rule is comparable to the present-law partnership rule.

Effective date.—The provision applies with respect to decedent dying after the date of enactment.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

14. S CORPORATION ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERTY SUBDIVIDED FOR SALE BY NONCORPORATE TAXPAYERS

(Sec. 1314 of the House bill and the Senate amendment.)

Present law

Under present-law section 1237, a lot or parcel of land held by a taxpayer other than a corporation generally is not treated as ordinary income property solely by reason of the land being subdivided if: (1) such parcel had not previously been held as ordinary income property and if in the year of sale, the taxpayer did not hold other real property; (2) no substantial improvement has been made on the land by the taxpayer, a related party, a lessee, or a government; and (3) the land has been held by the taxpayer for five years.

House bill

The House bill allows the present-law capital gains presumption in the case of land held by an S corporation. It is expected that rules similar to the attribution rules for partnerships will apply to S corporation (Treas. reg. sec. 1. 1237–1(b)(3)).

[33] PLR 8818049, (Feb. 10, 1988).

[34] PLR 9245004, (July 28, 1992).

Effective date.—The provision is effective for sales in taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

15. CERTAIN FINANCIAL INSTITUTIONS AS ELIGIBLE CORPORATIONS

(Sec. 1315 of the Senate amendment.)

Present law

A small business corporation may elect to be treated as an S corporation. A ''small business corporation'' is defined as a domestic corporation which is not an ineligible corporation and which meets certain other requirements. An ''ineligible corporation'' means any corporation which is a member of an affiliated group, certain depository financial institutions (i.e., banks, domestic savings and loan associations, mutual savings banks, and certain cooperative banks), certain insurance companies, a section 936 corporation, or a DISC or former DISC.

House bill

No provision.

Senate amendment

A bank (as defined in sec. 581) is allowed to be an eligible small business corporation unless such institution uses a reserve method of accounting for bad debts.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Conference agreement

The conference agreement follows the Senate amendment.

16. CERTAIN TAX-EXEMPT ENTITIES ALLOWED TO BE SHAREHOLDERS

(Sec. 1316 of the Senate amendment.)

Present law

A tax-exempt organization described in section 401(a) (relating to qualified retirement plan trusts) or section 501(c)(3) (relating to certain charitable organizations) cannot be a shareholder in an S corporation.

House bill

No provision.

Senate amendment

Tax-exempt organizations described in Code sections 401(a) and 501(c)(3) (''qualified tax-exempt shareholders'') are allowed to be shareholders in S corporations. For purposes of determining the number of shareholders of an S corporation, a qualified tax-exempt shareholder will count as one shareholder.

Items of income or loss of an S corporation will flow-through to qualified tax-exempt shareholders as unrelated business taxable income (''UBTI''), regardless of the source or nature of such income (e.g., passive income of an S corporation will flow through to the qualified tax-exempt shareholders as UBTI.) In addition, gain or loss on the sale or other disposition of stock of an S corporation by a qualified tax-exempt shareholder will be treated as UBTI.

In addition, certain special tax rules relating to employee stock ownership plans (''ESOPs'') will not apply with respect to S corporation stock held by the ESOP.

Effective date.—The provision applies to taxable years beginning after December 31, 1997.

Conference agreement

The conference agreement generally follows the Senate amendment. In addition, the conference agreement provides that if a qualified tax-exempt shareholder acquired, by purchase, stock in an S corporation (whether such stock was acquired when the corporation was a C or an S corporation) and receives a dividend distribution with respect to such S corporation stock (i.e., a distribution of subchapter C earnings and profits), except as provided in regulations the shareholder must reduce its basis in the stock by the amount of the dividend. Regulations may provide that the basis reduction only would apply to the extent the dividend is deemed to be allocable to subchapter C earnings and profits that accrued on or before the date of acquisition.

17. REELECTING SUBCHAPTER S STATUS

(Sec. 1315(b) of the House bill and sec. 1317(b) of the Senate amendment.)

Present law

A small business corporation that terminates its subchapter S election (whether by revocation or otherwise) may not make another election to be an S corporation for five taxable years unless the Secretary of the Treasury consents to such election.

House bill

For purposes of the five-year rule, any termination of subchapter S status in effect immediately before the date of enactment of the proposal is not be taken into account. Thus, any small business corporation that had terminated its S corporation election within the five-year period before the date of enactment may re-elect subchapter S status upon enactment of the bill without the consent of the Secretary of the Treasury.

Effective date.—The provision is effective for terminations occurring in a taxable year beginning before January 1, 1997.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

II. PENSION SIMPLIFICATION PROVISIONS

A. SIMPLIFIED DISTRIBUTION RULES

(Secs. 1401–1404 of the House bill and the Senate amendment.)

Present law

In general, a distribution of benefits from a tax-favored retirement arrangement (i.e., a qualified plan, a qualified annuity plan, and a tax-sheltered annuity contract (sec. 403(b) annuity)) generally is includable in gross income in the year it is paid or distributed under the rules relating to the taxation of annuities.

Lump-sum distributions

Lump-sum distributions from qualified plans and qualified annuity plans are eligible for special 5-year forward averaging. In general, a lump-sum distribution is a distribution within one taxable year of the balance to the credit of an employee that becomes payable to the recipient first, on account of the death of the employee, second, after the employee attains age 59½, third, on account of the employee's separation from service, or fourth, in the case of self-employed individuals, on account of disability. Lump-sum treatment is not available for distributions from a tax-sheltered annuity.

A taxpayer is permitted to make an election with respect to a lump-sum distribution received on or after the employee attains age 59½ to use 5-year forward income averaging under the tax rates in effect for the taxable year in which the distribution is made. In general, this election allows the taxpayer to pay a separate tax on the lump-sum distribution that approximates the tax that would be due if the lump-sum distribution were received in 5 equal installments. If the election is made, the taxpayer is entitled to deduct the amount of the lump-sum distribution from gross income. Only one such election on or after 59½ may be made with respect to any employee.

Under the Tax Reform Act of 1986 (the ''1986 Act''), individuals who attained age 50 by January 1, 1986, can elect to use 10-year averaging (under the rates in effect prior to the 1986 Act) in lieu of 50 year averaging. In addition, such individuals may elect to retain capital gains treatment with respect to the pre-1974 portion of a lump sum distribution.

Exclusion of $5,000 for employer-provided death benefits

Under present law, the beneficiary or estate of a deceased employee generally can exclude up to $5,000 in benefits paid by or on behalf of an employer by reason of the employee's death (sec. 101(b)).

Recovery of basis

Amounts received as an annuity under a qualified plan generally are includable in income in the year received, except to the extent they represent the return of the recipient's investment in the contract (i.e., basis). Under present law, a pro-rata basis recovery rule generally applies, so that the portion of any annuity payment that represents nontaxable return of basis is determined by applying an exclusion ratio equal to the employee's total investment in the contract divided by the total expected payments over the term of the annuity.

Under a simplified alternative method provided by the IRS, the taxable portion of qualifying annuity payments is determined under a simplified exclusion ratio method.

In no event can the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

Required distributions

Present law provides uniform minimum distribution rules generally applicable to all types of tax-favored retirement vehicles, including qualified plans and annuities, IRAs, and tax-sheltered annuities.

Under present law, a qualified plan is required to provide that the entire interest of each participant will be distributed beginning no later than the participant's required beginning date (sec. 401(a)(9)). The required beginning date is generally April 1 of the calendar year following the calendar year in which the plan participant or IRA owner attains age 70½. In the case of a governmental plan or a church plan, the required beginning date is the later of first, such April 1, or second, the April 1 of the year following the year in which the participant retires.

House bill

Lump-sum distributions

The House bill repeals 5-year averaging for lump-sum distributions from qualified plans. Thus, the House bill repeals the separate tax paid on a lump-sum distribution and also repeals the deduction from gross income for taxpayers who elect to pay the separate tax on a lump-sum distribution.

Effective date.—The provision is effective for taxable years beginning after December 31, 1998. The House bill preserves the ability of certain individuals to elect 10-year averaging and capital gains treatment as provided under the Tax Reform Act of 1986.

Exclusion of $5,000 for employer-provided death benefits

The House bill repeals the $5,000 exclusion for employer-provided death benefits.

Effective date.—The provision applies with respect to decedents dying after date of enactment.

Recovery of basis

The House bill provides that basis recovery on payments from qualified plans generally is determined under a method similar to the present-law simplified alternative method provided by the IRS. The portion of each annuity payment that represents a return of basis equals to the employee's total basis as of the annuity starting date, divided by the number of anticipated payments under the following table:

Age	*Number of payments:*
Not more than 55	360
56–60	310
61–65	260
66–70	210
More than 70	160

Effective date.—The provision is effective with respect to annuity starting dates beginning 90 days after the date of enactment.

Required distributions

The House bill modifies the rule that requires all participants in qualified plans to commence distributions by age 70½ without regard to whether the participant is still employed by the employer and generally replaces it with the rule in effect prior to the Tax Reform Act of 1986. Under the House bill, distributions generally are required to begin by April 1 of the calendar year following the later of first, the calendar year in which the employee attains age 70½ or second, the calendar year in which the employee retires. However, in the case of a 5-percent owner of the employer, distributions are required to begin no later than the April 1 of the calendar year following the year in which the 5-percent owner attains age 70½.

In addition, in the case of an employee (other than a 5-percent owner) who retires in a calendar year after attaining age 70½, the House bill generally requires the employee's accrued benefit to be actuarially increased to take into account the period after age 70½ in which the employee was not receiving benefits under the plan. Thus, under the House bill, the employee's accrued benefit is required to reflect the value of benefits that the employee would have received if the employee had retired at age 70½ and had begun receiving benefits at that time.

The actuarial adjustment rule and the rule requiring 5-percent owners to begin distributions after attainment of age 70½ does not apply, under the House bill, in the case of a governmental plan or church plan.

Effective date.—The provision is effective for years beginning after December 31, 1996. If a participant is currently receiving distributions, but does not have to under the provision, it is intended that a plan (or annuity contract) could (but would not be required to) permit the participant, with his or her consent, with his or her consent to stop receiving distributions until such distributions are required under the provision.

Senate amendment

Lump-sum distributions

The Senate amendment is the same as the House bill.

Effective date.—The provision is effective for taxable years beginning after December 31, 1999.

Exclusion of $5,000 for employer-provided death benefits

The Senate amendment is the same as the House bill.

Recovery of basis

The Senate amendment is the same as the House bill.

Required distributions

The Senate amendment is the same as the House bill.

Conference agreement

Lump-sum distributions

The conference agreement follows the Senate amendment.

Exclusion of $5,000 for employer-provided death benefits

The conference agreement follows the Senate amendment.

Recovery of basis

The conference agreement follows the Senate amendment.

Required distributions

The conference agreement follows the House bill and the Senate amendment. The conferees intend that the actuarial adjustment rule does not apply in the case of a defined contribution plan.

B. INCREASED ACCESS TO RETIREMENT SAVINGS PLANS

1. ESTABLISH SIMPLE RETIREMENT PLANS FOR EMPLOYEES OF SMALL EMPLOYERS

(Secs. 1421–1422 of the House bill and the Senate amendment.)

Present law

Present law does not contain rules relating to SIMPLE retirement plans. However, present law does provide a number of ways in which individuals can save for retirement on a tax-favored basis. These include employer-sponsored retirement plans that meet the requirements of the Internal Revenue Code (a ''qualified plan'') and individual retirement arrangements (''IRAs''). Employees can earn significant retirement benefits under employer-sponsored retirement plans. However, in order to receive tax-favored treatment, such plans must comply with a variety of rules, including complex nondiscrimination and administrative rules (including top-heavy rules). Such plans are also subject to certain requirements under the labor law provisions of the Employee Retirement Income Security Act of 1974 (''ERISA'').

Contributions to an IRA can also be made by an employer at the election of an employee under a salary reduction simplified employee pension (''SARSEP''). Under SARSEPs, which are not qualified plans, employees can elect to have contributions made to the SARSEP or to receive the contributions in cash. The amount elects to have contributed to the SARSEP is not currently includible in income.

House bill

In general

The House bill creates a simplified retirement plan for small business called the savings incentive match plan for employees (''SIMPLE'') retirement plan. SIMPLE plans can be adopted by employers who employ 100 or fewer employees on any day during the year and who do not maintain another employer-sponsor retirement plan. A SIMPLE plan can be either an IRA for each employee or part of a qualified cash or deferred arrangement (''401(k) plan''). If established in IRA form, a SIMPLE plan is not subject to the nondiscrimination rules generally applicable to qualified plans (including the top-heavy rules) and simplified reporting requirements apply. Within limits, contributions to a SIMPLE plan are not taxable until withdrawn.

A SIMPLE plan can also be adopted as part of a 401(k) plan. In that case, the plan does not have to satisfy the special nondiscrimination tests applicable to 401(k) plans and is not subject to the top-heavy rules. The other qualified plan rules continue to apply.

SIMPLE retirement plans in IRA form.

In general.—A SIMPLE retirement plan allows employees to make elective contributions to an IRA. Employee contributions have to be expressed as a percentage of the employee's compensation, and cannot exceed $6,000 per year. The $6,000 dollar limit is indexed for inflation in $500 increments.

Under the House bill, the employer is required to satisfy one of two contribution formulas. Under the matching contribution formula, the employer generally is required to match employee elective contributions on a dollar-for-dollar basis up to 3 percent of the employee's compensation. Under a special rule, the employer can elect a lower percentage matching contribution for all employees (but not less than 1 percent of each employee's compensation). A lower percentage cannot be elected for more than 2 out of any 5 years.

Alternatively, for any year, in lieu of making matching contributions, an employer may elect to make a 2 percent of compensation nonelective contribution on behalf of each eligible employee with at least $5,000 in compensation for such year. No contributions other than employee elective contributions and required employer matching contributions (or, alternatively, required employer nonelective contributions) can be made to a SIMPLE account.

Each employee of the employer who received at least $5,000 in compensation from the employer during any 2 prior years and who is reasonably expected to receive at least $5,000 in compensation during the year generally must be eligible to participate in the SIMPLE plan. Self-employed individuals can participate in a SIMPLE plan.

All contributions to an employee's SIMPLE account have to be fully vested.

Tax treatment of SIMPLE accounts, contributions, and distributions.—Contributions to a SIMPLE account generally are deductible by the employer. In the case of matching contributions, the employer is allowed a deduction for a year only if the contributions are made by the due date (including extensions) for the employer's tax return. Contributions to a SIMPLE account are excludable from the employee's income. SIMPLE accounts, like IRAs, are not subject to tax. Distributions from a SIMPLE retirement account generally are taxed under the rules applicable to IRAs. Thus, they are includable in income when withdrawn. Tax-free rollovers can be made from one SIMPLE account to another. A SIMPLE account can be rolled over to an IRA on a tax-free basis after a two-year period has expired since the individual first participated in the SIMPLE plan. To the extent an employee is no longer participating in a SIMPLE plan (e.g., the employee has terminated employment) and 2 years have expired since the employee first participated in the SIMPLE plan, the employee's SIMPLE account is treated as an IRA.

Early withdrawals from a SIMPLE account generally are subject to the 10-percent early withdrawal tax applicable to IRAs. However, withdrawals of contributions during the 2-year period beginning on the date the employee first participated in the SIMPLE plan are subject to a 25-percent early withdrawal tax (rather than 10 percent).

Employer matching or nonelective contributions to a SIMPLE account are not treated as wages for employment tax purposes.

Administrative requirements.—Each eligible employee can elect, with the 30-day period before the beginning of any year (or the 30-day period before first becoming eligible to participate), to participate in the SIMPLE plan (i.e., to make elective deferrals), and to modify any previous elections regarding the amount of contributions. An employer is required to contribute employees' elective deferrals to the employee's SIMPLE account within 30 days after the end of the month to which the contributions relate. Employees must be allowed to terminate participation in the SIMPLE plan at any time during the year (i.e., to stop making contributions). The plan can provide that an employee who terminates participation cannot resume participation until the following year. A plan can permit (but is not required to permit) an individual to make other changes to his or her salary reduction contribution election during the year (e.g., reduce contributions). It is intended that an employer is permitted to designate a SIMPLE account trustee to which contributions on behalf of eligible employees are made.

Definitions.—For purposes of the rules relating to SIMPLE plans, compensation means compensation required to be reported by the employer on Form W–2, plus any elective deferrals of the employee. In the case of a self-employed individual, compensation means net earnings from self-employment. The term employer includes the employer and related employers. Related employers include trades or businesses under common control (whether incorporated or not), controlled groups of corporations, and affiliated service groups. In addition, the leased employee rules apply.

SIMPLE 401(k) plans

In general, under the House bill, a cash or deferred arrangement (i.e., 401(k) plan), is deemed to satisfy the special nondiscrimination tests applicable to employee elective deferrals and employer matching contributions if the plan satisfies the contribution requirements applicable to SIMPLE plans. In addition, the plan is not subject to the top-heavy rules for any year for which this safe harbor is satisfied. The plan is subject to the other qualified plan rules.

The safe harbor is satisfied if, for the year, the employer does not maintain another qualified plan and (1) employees' elective deferrals are limited to no more than $6,000, (2) the employer matches employees' elective deferrals up to 3 percent of compensation (or, alternatively, makes a 2 percent of compensation nonelective contribution on behalf of all eligible employees with at least $5,000 in compensation), and (3) no other contributions are made to the arrangement. Contributions under the safe harbor have to be 100 percent vested. The employer cannot reduce the matching percentage below 3 percent of compensation.

Repeal of SARSEPs

Under the House bill, SARSEPs are repealed.

Effective date

The provision relating to SIMPLE plans are effective for years beginning after December 31, 1996. The repeal of SARSEPs applies to years beginning after December 31, 1996, unless the SARSEP was established before January 1, 1997. Consequently, an employer is not permitted to establish a SARSEP after December 31, 1996. SARSEPs established before January 1, 1997, can continue to receive contributions under present-law rules, and new employees of the employer hired after December 31, 1996, can participate in the SARSEP in accordance with such rules.

Senate amendment

The Senate amendment is the same as the House bill, except for the following modifications.

Under the Senate amendment, a SIMPLE plan can be adopted by employers who employed 100 employees or less with at least $5,000 in compensation for the preceding year. Employers who no longer qualify are given a 2-year grace period to continue to maintain the plan.

Under the Senate amendment, eligible employees are given 60 days before the beginning of any year (or the 60-day period before first beginning eligible to participate in the plan) to elect to participate in the SIMPLE plan.

For purposes of the 2 percent of compensation nonelective contribution formula, no more than $150,000 of compensation can be taken into account in any year with respect to any eligible employee.

The Senate amendment clarifies that an employer is permitted to designate a SIMPLE account trustee to which contributions on behalf of eligible employees are made. The Senate amendment also amends title I of ERISA to provide that only simplified reporting requirements apply to SIMPLE plans and so that the employer (and any other plan fiduciary) will not be subject to fiduciary liability resulting from the employee (or beneficiary) exercising control over the assets in the SIMPLE account. For this purpose, an employee (or beneficiary) is treated as exercising control over the assets in his or her account upon the earlier of (1) an affirmative election with respect to the initial investment of any contributions, (2) a rollover contribution (including a trustee-to-trustee transfer) to another SIMPLE account or IRA, or (3) one year after the SIMPLE account is established.

Conference agreement

The conference agreement follows the Senate amendment.

2. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(K)

(Sec. 1426 of the House bill and the Senate amendment.)

Present law

Under present law, tax-exempt and State and local government organizations are generally prohibited from establishing qualified cash or deferred arrangements (sec. 401(k) plans. Qualified cash or deferred arrangements (1) or rural cooperatives, (2) adopted by State and local governments before May 6, 1986, or (3) adopted by tax-exempt organizations before July 2, 1986, are not subject to this prohibition.

House bill

The House bill allows tax-exempt organizations (including, for this purpose, Indian tribal governments, a subdivision of an Indian tribal government, 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 such entities) to maintain qualified cash or deferred arrangements. The House bill retains the present-law prohibition against the maintenance of cash or deferred arrangements by State and local governments except to the extent it may apply to Indian tribal governments.

Effective date.—The provision is effective for plan years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill, except that the legislative history to the Senate amendment provides that no inference is intended with respect to whether Indian tribal governments are permitted to maintain qualified cash or deferred arrangements under present law.

Conference agreement

The conference agreement follows the Senate amendment. Thus, under the conference agreement, no inference is intended with respect to whether Indian tribal governments are permitted to maintain qualified cash or deferred arrangements under present law.

3. SPOUSAL IRAS

(Sec. 1427 of the Senate amendment.)

Present law

Within limits, an individual is allowed a deduction for contributions to an individual retirement account or an individual retirement annuity (an ''IRA''). An individual generally is not subject to income tax on amounts held on an IRA, including earnings on contributions, until the amounts are withdrawn from the IRA.

Under present law, the maximum deductible contribution that can be made to an IRA generally is the lesser $2,000 or 100 percent of an individual's compensation (earned income in the case of a self-employed individual). In the case of a married individual whose spouse has no compensation (or elects to be treated as having no compensation), the $2,000 maximum limit on IRA contributions is increased to $2,250.

House bill

No provision.

Senate amendment.

The Senate amendment permits deductible IRA contributions of up to $2,000 to be made for each spouse (including, for example, a homemaker who does not work outside the home) if the combined compensation of both spouses is at least equal to the contributed amount.

Effective date.—The provision is effective for taxable years beginning after December 31, 1996.

Conference agreement

The conference agreement follows the Senate amendment.

C. NONDISCRIMINATION PROVISIONS

1. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES AND REPEAL OF FAMILY AGGREGATION RULES

(Sec. 1431 of the House bill and the Senate amendment.)

Present law

Definition of highly compensated employee

An employee, including a self-employed individual, is treated as highly compensated if, at any time during the year or the preceding year, the employee (1) was a 5-percent owner of the employer, (2) received more than $100,000 (for 1996) in annual compensation from the employer, (3) received more than $66,000 (for 1996) in annual compensation from the employer and was one of the top-paid 20 percent of employees during the same year, or (4) was an officer of the employer who received compensation in excess of $60,000 (for 1996). If, for any year, no officer has compensation in excess of the threshold, then the highest paid officer of the employer is treated as a highly compensated employee.

Family aggregation rules

A special rule applies with respect to the treatment of family members of certain highly compensated employees for purposes of the nondiscrimination rules applicable to qualified plans. Under the special rule, if an employee is a family member of either a 5-percent owner or 1 of the top-10 highly compensated employees by compensation, then any compensation paid to such family member and any contribution or benefit under the plan on behalf of such family member is aggregated with the compensation paid and contributions or benefits on behalf of the 5-percent owner or the highly compensated employee in the top-10 employees by compensation.

Similar family aggregation rules apply with respect to the $150,000 (for 1996) limit on compensation that may be taken into account under a qualified plan (sec. 401(a)(17)) and for deduction purposes (sec. 404(1)).

House bill

Definition of highly compensated employee

Under the House bill, an employee is treated as highly compensated if the employee (1) was a 5-percent owner of the employer at any tie during the year or the preceding year or (2) had compensation for the preceding year in excess of $80,000 (indexed for inflation) and the employee was in the top 20 percent employees by compensation for such year. The House bill also repeals the rule requiring the highest paid officer to be treated as a highly compensated employee.

Effective date.—The provision is effective for years beginning after December 31, 1996.

Family aggregation rules

The House bill repeals the family aggregation rules.

Effective date.—The provision is effective for years beginning after December 31, 1996.

Senate amendment

Definition of highly compensated employee

The Senate amendment is the same as the House bill, except an employee who had compensation for the preceding year in excess of $80,000 is treated as highly compensated without regard to whether the employee was in the top 20 percent of employees by compensation.

Family aggregation rules

The Senate amendment is the same as the House bill.

Conference agreement

Definition of highly compensated employee

The conference agreement follows the House bill and the Senate amendment. Thus, under the conference agreement, a plan may elect for a plan year to use either the definition of highly compensated employee in the House bill or the Senate amendment.

Family aggregation rules

The conference agreement follows the House bill and the Senate amendment.

2. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS

(Sec. 1432 of the House bill and the Senate amendment.)

Present law

Under present law, a plan is not a qualified plan unless it benefits no fewer than the lesser of (a) 50 employees of the employer or (b) 40 percent of all employees of the employer (sec. 401(a)(26)). This requirement may not be satisfied by aggregating comparable plans, but may be applied separately to different lines of business of the employer. A line of business of the employer does not qualify as a separate line of business unless it has at least 50 employees.

House bill

The House bill provides that the minimum participation rule applies only to defined benefit pension plans. In addition, the House bill provides that a defined benefit pension plan does not satisfy the rule unless it benefits no fewer than the lesser of (1) 50 employees or (2) the greater of (a) 40 percent of all employees of the employer or (b) 2 employees (1 employee if there is only 1 employee).

The House bill provides that the requirement that a line of business has at least 50 employees does not apply in determining whether a plan satisfies the minimum participation rule on a separate line of business basis.

Effective date.—The provision is effective for years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

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

(Sec. 1433 of the House bill and the Senate amendment.)

Present law

Under present law, a special nondiscrimination test applies to qualified cash or deferred arrangements (sec. 401(k) plans). The special nondiscrimination test is satisfied if the actual deferral percentage (''ADP'') for eligible highly compensated employees for a plan year is equal to or less than either (1) 125 percent of the ADP of all nonhighly compensated employees eligible to defer under the arrangement or (2) the lesser of 200 percent of the ADP of all eligible nonhighly compensated employees or such ADP plus 2 percentage points.

Employer matching contributions and after-tax employee contributions under qualified defined contribution plans are subject to a special nondiscrimination test (the actual contribution percentage (''ACP'') test) similar to the special nondiscrimination test applicable to qualified cash or deferred arrangements. Employer matching contributions that satisfy certain requirements can be used to satisfy the ADP test, but, to the extent so used, such contributions cannot be considered when calculating the ACP test.

A plan that would otherwise fail to meet the special nondiscrimination test for qualified cash or deferred arrangements is not treated as failing such test if excess contributions (with allocable income) are distributed to the employee or, in accordance with Treasury regulations, recharacterized as after-tax employee contributions. For purposes of this rule, in determining the amount of excess contributions and the employees to whom they are allocated, the elective deferrals of highly compensated employees are reduced in the order of their actual deferral percentage beginning with those highly compensated employees with the highest actual deferral percentages. A similar rule applies to employer matching contributions.

House bill

Prior-year data

The House bill modifies the special nondiscrimination tests applicable to elective deferrals and employer matching and after-tax employee contributions to provide that the maximum permitted actual deferral percentage (and actual contribution percentage) for highly compensated employees for the year is determined by reference to the actual deferral percentage (and actual contribution percentage) for nonhighly compensated employees for the preceding, rather than the current, year. A special rule applies for the first plan year.

Alternatively, under the House bill, an employer is allowed to elect to use the current year actual deferral percentage (and actual contribution percentage). Such an election can be revoked only as provided by the Secretary.

Safe harbor for cash or deferred arrangements

The House bill provides that a cash or deferred arrangement satisfies the special nondiscrimination tests if the plan satisfies one of two contribution requirements and satisfies a notice requirement.

A plan satisfies the contribution requirements under the safe harbor rule for qualified cash or deferred arrangements if the plan either first, satisfies a matching contribution requirement or second, the employer makes a nonelective contribution to a defined contribution plan of at least 3 percent of an employee's compensation on behalf of each nonhighly compensated employee who is eligible to participate in the arrangement without regard to whether the employee makes elective contributions under the arrangement.

A plan satisfies the matching contribution requirement if, under the arrangement: first, the employer makes a matching contribution on behalf of each nonhighly compensated employee that is equal to (a) 100 percent of the employee's elective contributions up to 3 percent of compensation and (b) 50 percent of the employee's elective contributions from 3 to 5 percent of compensation; and second, the rate of match with respect to any elective contribution for highly compensated employees is not greater than the rate of match for nonhighly compensated employees.

Alternatively, if the rate of matching contribution with respect to any rate of elective contribution requirement is not equal to the percentages described in the preceding paragraph, the matching contribution requirement will be deemed to be satisfied if first, the rate of an employer's matching contribution does not increase as an employer's rate of elective contribution increases and second, the aggregate amount of matching contributions at such rate of elective contribution at least equals the aggregate amount of matching contributions that would be made if matching contributions satisfied the above percentage requirements.

Employer matching and nonelective contributions used to satisfy the contribution requirements of the safe harbor rules are required to be nonforfeitable and are subject to the restrictions on withdrawals that apply to an employee's elective deferrals under a qualified cash or deferred arrangement (sec. 401(k)(2)(B) and (C)). It is intended that employer matching and nonelective contributions used to satisfy the contribution requirements of the safe harbor rules can be used to satisfy other qualified retirement plan nondiscrimination rules (except the special nondiscrimination test applicable to employer matching contributions (the ACP test)). So, for example, a cross-tested defined contribution plan that includes a qualified cash or deferred arrangement can consider such employer matching and nonelective contributions in testing.

The notice requirement is satisfied if each employee eligible to participate in the arrangement is given written notice, within a reasonable period before any year, of the employee's rights and obligations under the arrangement.

Alternative method of satisfying special nondiscrimination test for matching contributions

The House bill provides a safe harbor method of satisfying the special nondiscrimination test applicable to employer matching contributions (the ACP test). Under this safe harbor, a plan is treated as meeting the special nondiscrimination test if first, the plan meets the contribution and notice requirements applicable under the safe harbor method of satisfying the special nondiscrimination requirement for qualified cash or deferred arrangements, and second, the plan satisfies a special limitation on matching contributions.

The limitation on matching contributions is satisfied if: first, the employer matching contributions on behalf of any employee may not be made with respect to employee contributions or elective deferrals in excess of 6 percent of compensation; second, the rate of an employer's matching contribution does not increase as the rate of an employee's contributions or elective deferrals increases; and third, the matching contribution with respect to any highly compensated employee at any rate of employee contribution or elective deferral is not greater than that with respect to an employee who is not highly compensated.

Any after-tax employee contributions made under the qualified cash or deferred arrangement will continue to be tested under the ACP test. Employer matching and nonelective contributions used to satisfy the safe harbor rules for qualified cash or deferred arrangements cannot be considered in calculating such test. However, employer matching and nonelective contributions in excess of the amount required to satisfy the safe harbor rules for qualified cash or deferred arrangements can be taken into account in calculating such test.

Distribution of excess contributions and excess aggressive contributions

The House bill provides that the total amount of excess contributions (and excess aggregate contributions) is determined as under present law, but the distribution of excess contributions (and excess aggregate contributions) are required to be made on the basis of the amount of contribution by, or on behalf of, each highly compensated employee. Thus, excess contributions (and excess aggregate contributions) are deemed attributable first to those highly compensated employees who have the greatest dollar amount of elective deferrals.

Effective date

The provisions relating to use of prior-year data and the distribution of excess contributions and excess aggregate contributions are effective for years beginning after December 31, 1996. The provisions providing for a safe harbor for qualified cash or deferred arrangements and the alternative method of satisfying the special nondiscrimination test for matching contributions are effective for years beginning after December 31, 1988.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

4. DEFINITION OF COMPENSATION FOR PURPOSES OF THE LIMITS ON CONTRIBUTIONS AND BENEFITS

(Sec. 1434 of the House bill and the Senate amendment.)

Present law

Present law imposes limits on contributions and benefits under qualified plans based on the type of plan. For purposes of these limits, present law provides that the definition of compensation generally does not include elective employee contributions to certain employee benefit plans.

House bill

The House bill provides that elective deferrals to section 401(k) plans and similar arrangements, elective contributions to nonqualified deferred compensation plans of tax-exempt employers and State and local governments (sec. 457 plans), and salary reduction contributions to a cafeteria plan are considered compensation for purposes of the limits on contributions and benefits.

Effective date.—The provision is effective for years beginning after December 31, 1997.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

D. MISCELLANEOUS PENSION SIMPLIFICATION

1. PLAN COVERING SELF-EMPLOYED INDIVIDUALS

(Sec. 1441 of the House bill and the Senate amendment.)

PRESENT LAW

Under present law, certain special aggregation rules apply to plans maintained by owner employees of unincorporated businesses that do not apply to other qualified plans (sec. 401(d)(1) and (2)).

House bill

The House bill eliminates the special aggregation rules that apply to plans maintained by self-employed individuals that do not apply to other qualified plans.

Effective date.—The provision is effective for years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS

(Sec. 1442 of the House bill and the Senate amendment.)

Present law

Under present law, except in the case of multiemployer plans, a plan is not a qualified plan unless a participant's employer-provided benefit vests at least as rapidly as under one of two alternative minimum vesting schedules. A plan satisfies the first schedule if a participant acquires a nonforfeitable right to 100 percent of the participant's accrued benefit derived from employer contributions upon the participant's completion of 5 years of service. A plan satisfies the second schedule if a participant has a nonforfeitable right to at least 10 percent of the participant's accrued benefit derived from employer contributions after 3 years of service, 40 percent at the end of 4 years of service, 60 percent at the end of 5 years of service, 80 percent at the end of 6 years of service, and 100 percent at the end of 7 years of service.

In the case of a multiemployer plan, a participant's accrued benefit derived from employer contributions is required to be 100-percent vested no later than upon the participant's completion of 10 years of service. This special rule applies only to employees covered by the plan pursuant to a collective bargaining agreement.

House bill

The House bill conforms the vesting rules for multiemployer plans to the rules applicable to other qualified plans.

Effective date.—The provision is effective for plan years beginning on or after the earlier of (1) the later of January 1, 1997, or the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates, or (2) January 1, 1999, with respect to participants with an hour of service after the effective date.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS

(Sec. 1443 of the House bill and the Senate amendment.)

Present law

A qualified cash or deferred arrangement can permit withdrawals of employee elective deferrals only after the earlier of (1) the participant's separation from service, death, or disability, (2) termination of the arrangement, or (3) in the case of a profit-sharing or stock bonus plan, the attainment of age 59½ or the occurrence of a hardship of the participant. In the case of a money purchase pension plan, including a rural cooperative plan, withdrawals by participants cannot occur upon attainment of age 59½ or upon hardship.

House bill

The House bill provides that a rural cooperative plan that includes a cash or deferred arrangement may permit distributions to plan participants after the attainment of age 59½ or on account of hardship. In addition, the definition of a rural cooperative is expanded to include certain public utility districts.

Effective date.—The provision generally is effective for distributions after the date of enactment. The modifications to the definition of a rural cooperative apply to plan years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

4. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415

(Sec. 1444 of the House bill and the Senate amendment.)

Present law

Present law imposes limits on contributions and benefits under qualified plans based on the type of plan (sec. 415). Certain special rules apply to State and local governmental plans under which such plans may provide benefits greater than those permitted by the limits on benefits applicable to plans maintained by private employers.

In the case of defined benefit pension plans, the limit on the annual retirement benefit is the lesser of (1) 100 percent of compensation or (2) $120,000 (indexed for inflation). The dollar limit is reduced in the case of early retirement or if the employee has less than 10 years of plan participation.

House bill

The House bill makes the following modifications to the limits on contributions and benefits as applied to governmental plans: (1) the 100 percent of compensation limitation on defined benefit pension plan benefits would not apply; and (2) the early retirement reduction and the 10-year phase-in of the defined benefit pension plan dollar limit would not apply to certain disability and survivor benefits.

The House bill also permits State and local government employers to maintain excess benefit plans without regard to the limits on unfunded deferred compensation arrangements of State and local government employers (sec. 457).

Effective date—The provision is effective for years beginning after December 31, 1994. No inference is intended with respect to whether a governmental plan complies with the requirements of section 415 with respect to years beginning before January 1, 1995. With respect to such years, the Secretary is directed to enforce the requirements of section 415 consistent with the provision.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

5. UNIFORM RETIREMENT AGE

(Sec. 1445 of the House bill and the Senate amendment.)

Present law

A qualified plan generally must provide that payment of benefits under the plan must begin no later than 60 days after the end of the plan year in which the participant reaches age 65. Also, for purpose of the vesting and benefit accrual rules, normal retirement age generally can be no later than age 65. For purposes of applying the limits on contributions and benefits (sec. 415), Social Security retirement age is generally used as retirement age. The Social Security retirement age as used for such purposed is presently age 65, but is scheduled to gradually increase.

House bill

The House bill provides that for purposes of the general nondiscrimination rules (sec. 401(a)(4)) the Social Security retirement age (as defined in sec. 415) is a uniform retirement age and that subsidized early retirement benefits and joint and survivor annuities are not treated as not being available to employees on the same terms merely because they are based on an employee's Social Security retirement age (as defined in sec. 415).

Effective date.—The provision is effective for years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

6. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES

(Sec. 1446 of the House bill and the Senate amendment.)

Present law

Under present law, an employer may elect to continue deductible contributions to a defined contribution plan on behalf of an employee who is permanently and totally disabled. For purposes of the limit on annual additions (sec. 415(c)), the compensation of a disabled employee is deemed to be equal to the annualized compensation of the employee prior to the employee's becoming disabled. Contributions are not permitted on behalf of disabled employees who were officer, owners, or highly compensated before they become disabled.

House bill

The House bill provides that the special rule for contributions on behalf of disabled employees is applicable without an employer election and to highly compensated employees if the defined contribution plan provides for the continuation of contributions on behalf of all participants who are permanently and totally disabled.

Effective date.—The provision is effective for years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

7. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS

(Sec. 1447 of the House bill and the Senate amendment.)

Present law

Under an unfunded deferred compensation plan of a State or local government or a tax-exempt organization (a ''sec. 457 plan''), an employee who elects to defer the receipt of current compensation is taxed on the amounts deferred when such amounts are paid or made available. The maximum annual deferral under such a plan is the lesser of (1) $7,500 or (2) 33⅓ percent of compensation (net of the deferral).

Amounts deferred under a section 457 plan may not be made available to an employee before the earliest of (1) the calendar year in which the participant attains age 70½, (2) when the participant is separated from the service with the employer, or (3) when the participant is faced with an unforeseeable emergency.

Benefits under a section 357 plan are not treated as made available if the participant may elect to receive a lump sum payable after separation from service and within 60 days of the election. This exception is available only if the total amount payable to the participant under the plan does not exceed $3,500 and no additional amounts may be deferred under the plan with respect to the participant.

House bill

The House bill makes three changes to the rules governing section 457 plans.

The House bill: (1) permits in-service distributions of accounts that do not exceed $3,500 under certain circumstances; (2) increases the number of elections that can be made with respect to the time distributions must begin under the plan; and (3) provides for indexing (in $500 increments) of the dollar limit on deferrals.

Effective date.—The provision is effective for taxable years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

8. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS

(Sec. 1448 of the House bill and the Senate amendment.)

Present law

Until deferrals under an unfunded deferred compensation plan of a State or local government or a tax-exempt organization (a ''sec. 457 plan'') are made available to a plan participant, the amounts deferred, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights must remain solely the property and rights of the employer, subject only to the claims of the employer's general creditors.

House bill

Under the House bill, all amounts deferred under a section 457 plan maintained by a State and local governmental employer have to be held in trust (or custodial account or annuity contract) for the exclusive benefit of employees. The trust (or custodial account or annuity contract) is provided tax-exempt status. Amounts are not considered made available merely because they are held in a trust, custodial account, or annuity contract.

Effective date.—The provision generally is effective with respect to amounts held on or after the date of enactment. In the case of amounts deferred before the date of enactment (and income thereon), the trust requirement does not have to be satisfied until January 1, 1999.

Senate amendment

The Senate amendment is the same as the House bill.

Effective date.—The Senate amendment is the same as the House bill, except that in the case of plans in existence on the date of enactment, the trust requirement does not have to be satisfied until January 1, 1999. Thus, deferrals prior to and after the date of enactment (and earnings thereon) do not have to be held in trust (or custodial account or annuity contract) until January 1, 1999.

Conference agreement

The conference agreement follows the House bill and the Senate amendment. The conference agreement clarifies that amounts held in trust (or custodial account or annuity contract), may be loaned to plan participants (or beneficiaries) pursuant to rules applicable to loans from qualified plans (sec. 72(p)).[35] A section 457 plan is not required to permit loans. The conferees intend that the income inclusion rules in the Code (secs. 83 and 402(b), do not apply to amounts deferred under the section 457 plan (and income thereon) merely because such amounts are contributed to the trust (or custodial account or annuity contract).

Effective date.—The conference agreement follows the House bill and the Senate amendment. Under the conference agreement, in the case of plans in existence on the date of enactment, the trust requirement does not have to be satisfied until January 1, 1999. Thus, deferrals prior to and after the date of enactment (and earnings thereon) do not have to be held in trust (or custodial account or annuity contract) until January 1, 1999.

9. CORRECTION OF GATT INTEREST AND MORTALITY RATE PROVISIONS IN THE RETIREMENT PROTECTION ACT

(Sec. 1449 of the House bill and the Senate amendment.)

Present law

The Retirement Protection Act of 1994, enacted as part of the implementing legislation for the General Agreement on Tariffs and Trade (''GATT''), modified the acturial assumptions that must be used in adjusting benefits and limitations. In general, in adjusting a benefit that is payable in a form other than a straight life annuity and in adjusting the dollar limitation if benefits begin before age 62, the interest rate to be used cannot be less than the greater of 5 percent or the rate specified in the plan. Under GATT, if the benefit is payable in a form subject to the requirements of section 417(e)(3), then the interest rate on 30-year Treasury securities is substituted for 5 percent. Also under GATT, for purposes of adjusting any limit or benefit, the mortality table prescribed by the Secretary must be used.

This provision of GATT is generally effective as of the first day of the first limitation year beginning in 1995.

GATT made similar changes to the interest rate and mortality assumptions used to calculate the value of lump-sum distributions for purposes of the rule permitting involuntary dispositions of certain accrued benefits. In the case of a plan adopted and in effect before December 8, 1995, those provisions do not apply before the earlier of (1) the date a plan amendment applying the new assumption is adopted or made effective (whichever is later), or (2) the first day of the first plan year beginning after December 31, 1999.

House bill

The House bill conforms the effective date of the new interest rate and mortality assumptions that must be used under section 415 to calculate the limits on benefits and contributions to the effective date of the provision relating to the calculation of lump-sum distributions. This rule applies only in the case of plans that were adopted and in effect before the date of enactment of GATT (December 8, 1994). To the extent plans have already been amended to reflect the new assumptions, plan sponsors are permitted within 1 year of the date of enactment to amend the plan to reverse retroactively such amendment.

The House bill also repeals the GATT provision which requires that if the benefit is

[35] Under section 72(p), a loan from a plan is treated as a distribution unless the loan generally (1) does not exceed certain limits (generally, the lesser of $50,000 or one-half of the participant's vested plan benefit; (2) must be repaid within 5 years; and (3) must be amortized on a substantially level basis with payments at least quarterly.

payable before age 62 in a form subject to the requirements of section 417(e)(3) (e.g., lump sum), then the interest rate to be used to reduce the dollar limit on benefits under section 415 cannot be less than the greater of the rate on 30-year Treasury securities or the rate specified in the plan. Consequently, regardless of the form of benefit, the interest rate to be used cannot be less than the greater of 5 percent or the rate specified in the plan.

Effective date.—The provision is effective as if included in GATT.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

10. MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED UNDER SECTION 403(B)

(Sec. 1450(a) of the House bill and the Senate amendment.)

Present law

Under Treasury regulations, a participant in a tax-sheltered annuity plan (sec. 403(b)) is not permitted to enter into more than one salary reduction agreement in any taxable year.

These restrictions do not apply to other elective deferral arrangements such as a qualified cash or deferred arrangement (sec. 401(k)).

House bill

Under the House bill, for participants in a tax-sheltered annuity plan, the frequency that a salary reduction agreement may be entered into the compensation to which such agreement applies, and the ability to revoke such agreement shall be determined under the rules applicable to qualified cash or deferred arrangements.

Effective date.—The provision is effective for taxable years beginning after December 31, 1995.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

11. TREATMENT OF INDIAN TRIBAL GOVERNMENTS UNDER SECTION 403(B)

(Sec. 1450(b) of the House bill and the Senate amendment.)

Present law

Under present law, certain tax-exempt employers and certain State and local government educational organizations are permitted to maintain tax-sheltered annuity plans (sec. 403(b)). Indian tribal governments are treated as States for this purpose, so certain educational organizations associated with a tribal government are eligible to maintain tax-sheltered annuity plans.

House bill

The House bill provides that any section 403(b) annuity contract purchased in a plan year beginning before January 1, 1995, by an Indian tribal government will be treated as purchased by an entity permitted to maintain a tax-sheltered annuity plan. The House bill also provides that such contracts may be rolled over into a section 401(k) plan maintained by the Indian tribal government.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment provides that any section 403(b) annuity contract purchased in a plan year beginning before January 1, 1997, by an Indian tribal government will be treated as purchased by an entity permitted to maintain a tax-sheltered annuity plan. The Senate amendment also provides that such contracts may be rolled over into a section 401(k) plan maintained by the Indian tribal government.

In addition, beginning January 1, 1997, Indian tribal governments are permitted to maintain tax-sheltered annuity plans.

Effective date.—The provision generally is effective on the date of enactment, except that the provision permitting Indian tribal governments to maintain tax-sheltered annuity plans is effective for taxable years beginning after December 31, 1996.

Conference agreement

The conference agreement follows the House bill.

12. APPLICATION OF ELECTIVE DEFERRAL LIMIT TO SECTION 403(B) CONTRACTS

(Sec. 1450(c) of the House bill and the Senate amendment.)

Present law

A tax-sheltered annuity plan must provide that elective deferrals made under the plan on behalf of an employee may not exceed the annual limit on elective deferrals ($9,500 for 1996). Plans that do not comply with this requirement may lose their tax-favored status.

House bill

Under the House bill, each tax-sheltered annuity contract, not the tax-sheltered annuity plan, must provide that elective deferrals made under the contract may not exceed the annual limit on elective deferrals. It is intended that the contract terms be given effect in order for this requirement to be satisfied.

Effective date.—The provision is effective for years beginning after December 31, 1995, except that an annuity contract is not required to meet any change in any requirement by reason of the provision before the 90th day after the date of enactment. No inference is intended as to whether the exclusion of elective deferrals from gross income by employees who have not exceeded the annual limit on elective deferrals is affected to the extent other employees exceed the annual limit prior to the effective date of this provision.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

13. WAIVER OF MINIMUM WAITING PERIOD FOR QUALIFIED PLAN DISTRIBUTIONS

(Sec. 1451 of the House bill.)

Present law

Under present law, in the case of a qualified joint and survivor annuity (''QJSA''), a written explanation of the form of benefit must generally be provided to participants no less than 30 days and no more than 90 days before the annuity starting date. Temporary Treasury regulations provide that a plan may permit a participant to elect (with any applicable spousal consent) a distribution with an annuity starting date before 30 days have elapsed since the explanation was provided, as long as the distribution commences more than seven days after the explanation was provided.

House bill

The House bill provides that the minimum period between the date the explanation of the qualified joint and survivor annuity is provided and the annuity starting date does not apply if it is waived by the participant and, if applicable, the participant's spouse.

Effective date.—The provision is effective with respect to plan years beginning after December 31, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement codifies the provision in the temporary Treasury regulations which provides that a plan may permit a participant to elect (with any applicable spousal consent) a distribution with an annuity starting date before 30 days have elapsed since the explanation was provided, as long as the distribution commences more than seven days after the explanation was provided. The conference agreement also provides that a plan is permitted to provide the explanation after the annuity starting date if the distribution commences at least 30 days after such explanation was provided, subject to the same waiver of the 30-day minimum waiting period as described above. This is intended to allow retroactive payments of benefits which are attributable to the period before the explanation was provided.

14. EXPANSION OF PBGC MISSING PARTICIPANT PROGRAM

(Sec. 1451 of the Senate amendment.)

Present law

The Retirement Protection Act (''RPA''), enacted as part of the legislation implementing the General Agreement on Tariffs and Trade (''GATT'') in 1994, provided special rules for the payment of benefits with respect to missing participants under a terminating single-employer defined benefit plan covered by the Pension Benefit Guaranty Corporation (''PBFC''). These rules generally required the plan administrator to (1) transfer the missing participant's designated benefit to the PBGC or purchase an annuity from an insurer to satisfy the benefit liability, and (2) provide the PBGC with such information and certifications with respect to the benefits or annuity as the PBGC may specify. The missing participant program does not apply to multiemployer defined benefit plans, defined contribution plans, and defined benefit plans not covered by the PBGC (generally governmental plans, church plans, and plans sponsored by professional service employers with less than 25 employees).

House bill

No provision.

Senate amendment

The missing participant program is generally expanded to be available to multiemployer defined benefit plans, defined contribution plans, and defend benefit plans not covered by the PBGC (other than governmental and church plans). Under the Senate amendment, the present law missing participant program applicable to single-employer defined benefits plans applies to a terminating muiltiemployer defined benefit plan under rules prescribed by the PBGC.

In the case of a terminating defined contribution plan or a terminating defined benefit plan not covered by the PBGC, the missing participant program does not apply unless the plan elects to transfer a missing participant's benefits to the PBGC. To the extent provided in regulations issued by the PBGC, the administrator of the plan making such an election is required to provide the PBGC with information with respect to the benefits of a missing participant. Upon location of the missing participant, the missing participant's benefits would be paid by the PBGC in a lump sum or in such other form as specified in regulations.

Effective date.—The provisions is effective with respect to distribution made on or after the date final regulations implementing the provision are issued by the PBGC.

Conference agreement

The conference agreement does not include the Senate amendment provision.

15. REPEAL OF COMBINED PLAN LIMIT

(Sec. 1452 of the House bill and the Senate amendment.)

Present law

Combined plan limit

Present law provides limits on contributions and benefits under qualified retirement plans based on the type of plan (i.e., based on whether the plan is a defined contribution plan or a defined benefit pension plan). In the case of a defined contribution plan, annual contributions are generally limited to the lesser of $30,000 (for 1996) and 25 percent of compensation. In the case of a defined benefit pension plan, the annual benefit is generally limited to the lesser of $120,000 (for 1996) and 100 percent of the participant's average compensation for the highest 3 years. An overall limit applies if an individual is a participant in both a defined benefit pension plan and a defined contribution plan (called the combined plan limit).

Excess distribution tax

Present law imposes a 15-percent excise tax on excess distributions from qualified retirement plans, tax-sheltered annuities, and IRAs. Excess distributions are generally the aggregate amount of retirement distributions from such plans during any calendar year in excess of $150,000 (or $750,000 in the case of a lump-sum distribution). An additional 15-percent estate tax is also imposed on an individual's excess retirement accumulation.

House bill

Combined plan limit

The House bill repeals the combined plan limit.

Effective date.—The provision repealing the combined plan limit is effective with respect to limitation years beginning after December 31, 1998.

Excess distribution tax

Until the repeal of the combined plan limit is effective, the House bill suspends the excise tax on excess distributions. The additional estate tax on excess accumulations continues to apply.

Effective date.—The provision relating to the excise tax on excess distributions is effective with respect to distributions received in 1996, 1997, and 1998.

Senate amendment

Combined plan limit

The Senate amendment is the same as the House bill.

Effective date.—The provision repealing the combined plan limit is effective with respect to limitation years beginning after December 31, 1999.

Excess distribution tax

The Senate amendment is the same as the House bill.

Effective date.—The provision relating to the excise tax on excess distribution is effective with respect to distributions received in 1997, 1998, and 1999.

Conference agreement

Combined plan limit

The conference agreement follows the Senate amendment.

Excess distribution tax

The conference agreement follows the Senate amendment.

16. TAX ON PROHIBITED TRANSACTIONS

(Sec. 1453 of the House bill and the Senate amendment.)

Present law

Present law prohibits certain transactions (prohibited transactions) between a qualified plan and a disqualified person in order to prevent with a close relationship to the qualified plan from using that relationship to the detriment of plan participants and beneficiaries. A two-tier excise tax is imposed on prohibited transactions. The initial level tax is equal to 5 percent of the amount involved with respect to the transaction. If the transaction is not corrected within a certain period, a tax equal to 100 percent of the amount involved may be imposed.

House bill

The House bill increases the initial-level prohibited transaction tax from 5 percent to 10 percent.

Effective date.—The provision is effective with respect to prohibited transactions occuring after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

17. TREATMENT OF LEASED EMPLOYEES

(Sec. 1454 of the House bill and the Senate amendment.)

Present law

An individual (a leased employee) who performs services for another person (the recipient) may be required to be treated as the recipient's employee for various employee benefit provisions, if the services are performed pursuant to an agreement between the recipient and any other person (the leasing organization) who is otherwise treated as the individual's employer (sec. 414(n)). The individual is to be treated as the recipient's employee only if the individual has performed services for the recipient on a substantially full-time basis for a year, and the services are of a type historically performed by employees in the recipient's business field.

An individual who otherwise would be treated as a recipient's leased employee will not be treated as such an employee if the individual participates in a safe harbor plan maintained by the leasing organization meeting certain requirements. Each leased employee is to be treated as an employee of the recipient, regardless of the existence of a safe harbor plan, if more than 20 percent of an employer's nonhighly compensated workforce are leased.

House bill

Under the House bill, the present-law ''historically performed'' test is replaced with a new test under which an individual is not considered a leased employee unless the individual's services are performed under primary direction or control by the service recipient. As under present law, the determination of whether someone is a leased employee is made after determining whether the individual is a common-law employee of the recipient. Thus, an individual who is not a common-law employee of the service recipient could nevertheless be a leased employee of the service recipient. Similarly, the fact that a person is or is not found to perform services under primary direction or control of the recipient for purposes of the employee leasing rules is not determinative of whether the person is or is not a common-law employee of the recipient.

Whether services are performed by an individual under primary direction or control by the service recipient depends on the facts and circumstances. In general, primary direction and control means that the service recipient exercises the majority of direction and control over the individual. Factors that are relevant in determining whether primary direction or control exists include whether the individual is required to comply with instructions of the service recipient about when, where, and how he or she is to perform the services, whether the services must be performed by a particular person, whether the individual is subject to the supervision of the service recipient, and whether the individual must perform services in the order or sequence set by the service recipient. Factors that generally are not relevant in determining whether such direction or control exists include whether the service recipient has the right to hire or fire the individual and whether the individual works for others.

For example, an individual who works under the direct supervision of the service recipient would be considered to be subject to primary direction or control of the service recipient even if another company hired and trained the individual, had the ultimate (but unexercised) legal right to control the individual, paid his wages, withheld his employment and income taxes, and had the exclusive right to fire him. Thus, for example, temporary secretaries, receptionists, word processing personnel and similar office personnel who are subject to the day-to-day control of the employer in essentially the same manner as a common law employee are treated as leased employees if the period of service threshold is reached.

On the other hand, an individual who is a common-law employee of Company A who performs services for Company B on the business premises of Company B under the supervision of Company A would generally not be considered to be under primary direction or control of Company B. The supervision by Company A must be more than nominal, however, and not merely a mechanism to avoid the literal language of the direction or control test.

An example of the situation in the preceding paragraph might be a work crew that comes into a factory to install, repair, maintain, or modify equipment or machinery at the factory. The work crew includes a supervisor who is an employee of the equipment (or equipment repair) company and who has the authority to direct and control the crew, and who actually does exercise such direction and control. In this situation, the supervisor and his or her crew are required to comply with the safety and environmental precautions of the manufacturer, and the supervisor is in frequent communication with the employees of the manufacturer. As another example, certain professionals (e.g., attorneys, accountants, actuaries, doctors, computer programmers, systems analysts, and engineers) who regularly make use of their own judgment and discretion on matters of importance in the performance of their services and are guided by professional, legal, or industry standards, are not leased employees even though the common law employer does not closely supervise the professional on a continuing basis, and the service recipient requires the services to be performed on site and according to certain stages, techniques, and timetables. In addition to the example above, outside professionals who maintain their own businesses (e.g., attorneys, accountants, actuaries, doctors, computer programmers, systems analysts, and engineers) generally would not be considered to be subject to such primary direction or control.

Under the direction or control test, clerical and similar support staff (e.g., secretaries and nurses in a doctor's office), generally would be considered to be subject to primary direction or control of the service recipient and would be leased employees provided the other requirements of section 414(n) are met.

In many cases, the ''historically performed'' test is overly broad, and results in the unintended treatment of individuals as leased employees. One of the principal purposes for changing the leased employee rules is to relieve the unnecessary hardship and uncertainty created for employers in these circumstances. However, it is not intended that the direction or control test enable employers to engage in abusive practices. Thus, it is intended that the Secretary interpret and apply the leased employee rules in a manner so as to prevent abuses. This ability to prevent abuses under the leasing rules is in addition to the present-law authority of the Secretary under section 414(o). For example, one potentially abusive situation exists where the benefit arrangements of the service recipient overwhelmingly favor its highly compensated employees, the employer has no or very few nonhighly compensated common-law employees, yet the employer makes substantial use of the services of nonhighly compensated individuals who are not its common-law employees.

Effective date.—The provision is effective for years beginning after December 31, 1996, except that the House bill would not apply to relationships that have been previously determined by an IRS ruling not to involve leased employees. In applying the leased employee rules to years beginning before the effective date, it is intended that the Secretary use a reasonable interpretation of the statute to apply the leasing rules to prevent abuse.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

18. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS

(Sec. 1455 of the House bill and the Senate amendment.)

Present law

Any person who fails to file an information report with the IRS on or before the prescribed filing date is subject to penalties for each failure. A different, flat-amount penalty applies for each failure to provide information reports to the IRS or statements to payees relating to pension payments.

House bill

The House bill incorporates into the general penalty structure the penalties for failure to provide information reports relating to pension payments to the IRS and to recipients.

Effective date.—The provision is effective with respect to returns and statements the due date for which is after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

19. RETIREMENT BENEFITS OF MINISTERS NOT SUBJECT TO TAX ON NET EARNINGS FROM SELF-EMPLOYMENT

(Sec. 1456 of the House bill and the Senate amendment.)

Present law

Under present law, certain benefits provided to ministers after they retire are subject to self-employment tax.

House bill

The House bill provides that retirement benefits received from a church plan after a minister retires, and the rental value or allowance of a parsonage (including utilities) furnished to a minister after retirement, are not subject to self-employment taxes.

Effective date.—The provision is effective for years beginning before, on, or after December 31, 1994.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

20. TREASURY TO PROVIDE MODEL FORMS FOR SPOUSAL CONSENT AND QUALIFIED DOMESTIC RELATIONS ORDERS

(Sec. 1457 of the Senate amendment.)

Present law

Present law contains a number of rules designed to provide income to the surviving spouse of a deceased employee. Under these spousal protection rules, defined benefit pension plans and money purchase pension plans are required to provide that vested retirement benefits with a present value in excess of $3,500 are payable in the form of a qualified joint and survivor annuity (''QJSA'') or, in the case of a participant who dies before the annuity starting date, a qualified preretirement survivor annuity (''QPSA''). Benefits from a plan subject to the survivor benefit rules may be paid in a form other than a QJSA or QPSA if the participant waives the QJSA or QPSA (or both) and the applicable notice, election, and spousal consent requirements are satisfied.

Also, under present law, benefits under a qualified retirement plan are subject to prohibitions against assignment or alienation of benefits. An exception to this rule generally applies in the case of plan benefits paid to a former spouse pursuant to a qualified domestic relations order (''QDRO'').

House bill

No provision.

Senate amendment

Model spousal consent form

The Secretary is required to develop a model spousal consent from, no later than January 1, 1997, waving the QJSA and QPSA forms of benefit. Such form must be written in a manner calculated to be understood by the average person, and must disclose in plain form whether the waiver is irrevocable and that it may be revoked by a QDRO.

Model QDRO

The Secretary is required to develop a model QDRO, no later than January 1, 1997, which satisfies the requirements of a QDRO under present law, and the provisions of which focus attention on the need to consider the treatment of any lump sum payment, QJSA, or QPSA.

Effective date

The provisions are effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, except that instead of developing a model spousal consent form and a model QDRO, the Secretary must develop sample language for inclusion in a spousal consent form and QDRO.

21. TREATMENT OF LENGTH OF SERVICE AWARDS FOR CERTAIN VOLUNTEERS UNDER SECTION 457

(Sec. 1458 of the Senate amendment.)

Present law

Compensation deferred under an eligible deferred compensation plan of a tax-exempt or governmental employer that meets certain requirements (a ''sec. 457 plan'') is not includible in gross income until paid or made available. One of the requirements for a section 457 plan is that the maximum annual amount that can be deferred is the lesser of $7,500 or 33⅓ percent of the individual's taxable compensation.

Amounts deferred under plans of tax-exempt and governmental employers that do not meet the requirements of section 457 (other than amounts deferred under tax-qualified retirement plans, section 403(b) annuities and certain other plans) are includible in gross income in the first year in which there is no substantial risk of forfeiture of such amounts.

House bill

No provision.

Senate amendment

Under the Senate amendment, the requirements of section 457 do not apply to any plan paying solely length of service awards to bona fide volunteers (or their beneficiaries) on account of fire fighting and prevention, emergency medical, and ambulance services performed by such volunteers. An individual is considered a ''bona fide volunteer'' if the only compensation received by such individual for performing such services is reimbursement (or a reasonable allowance) for expenses incurred in the performance of such services, or reasonable benefits (including length of service awards) and nominal fees for such services customarily paid by tax-exempt or governmental employers in connection with the performance of such services by volunteers. Under the Senate amendment, a length of service award plan will not qualify for this special treatment under section 457 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.

In addition, any amounts exempt from the requirements of section 457 under the Senate amendment are not considered wages for purposes of the Federal Insurance Contribution Act (''FICA'') taxes.

Effective date.—The provision applies to accruals of length of service awards after December 31, 1996.

Conference agreement

The conference agreement follows the Senate amendment.

22. ALTERNATIVE NONDISCRIMINATION RULES FOR CERTAIN PLANS THAT PROVIDE FOR EARLY PARTICIPATION

(Sec. 1459 of the Senate amendment.)

Present law

Under present law, a special nondiscrimination test applies to qualified cash or deferred arrangements (sec. 401(k) plans). The special nondiscrimination test is satisfied if the actual deferral percentage (''ADP'') for eligible highly compensated employees for a plan year is equal to or less than either (1) 125 percent of the ADP of all nonhighly compensated employees eligible to defer under the arrangement or (2) the lesser of 200 percent of the ADP of all eligible nonhighly compensated employees or such ADP plus 2 percentage points. Employer matching contributions and after-tax employee contributions under qualified defined contribution plans are subject to a special nondiscrimination test (the actual contribution percentage (''ACP'') test) similar to the special nondiscrimination test applicable to qualified cash or deferred arrangements.

In general, a plan need not permit employees to enter a plan prior to the attainment of age 21 and the completion of 1 year service. For purposes of the nondiscrimination rules (including the ADP and ACP tests), an employer that chooses less restrictive entry conditions (e.g., age 18 rather than age 21) may choose ''separate testing'' under which all employees who have not met the statutory age and service entry maximums are disregarded, provided that the plan satisfies the nondiscrimination rules taking into account only those employees whose age and service are less than the statutory age and service maximums. Thus, for example, such a plan would apply one ADP test for employees who are over age 21 with 1 year of service, under which the plan would disregard elective contributions for other employees, and a second ADP test looking solely at elective contribution for employees under age 21 or who have not completed 1 year of service.

House bill

No provision.

Senate amendment

Under the Senate amendment, for purposes of the ADP test, a section 401(k) plan may elect to disregard employees (other than highly compensated employees) eligible to participate before they have completed 1 year of service and reached age 21, provided the plan separately satisfies the minimum coverage rules (sec. 410(b)) taking into account only those employees who have not completed 1 year of service or are under age 21. Instead of applying two separate ADP tests, such a plan could apply a single ADP test that compares the ADP for all highly compensated employees who are eligible to make elective contributions with the ADP for those nonhighly compensated employees who are eligible to make elective contributions and who have completed one year of service and reached age 21. A similar rule applies for purposes of the ACP test.

Effective date.—The provision is effective for plan years beginning after December 31, 1998.

Conference agreement

The conference agreement follows the Senate amendment.

23. MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS

(Sec. 1460 of the Senate amendment.)

Present law

Present law contains a number of rules designed to provide income to the surviving spouse of a deceased employee. These rules are in both the Internal Revenue Code and title I of the Employee Retirement Income Security Act of 1974, as amended.

Under the spousal protection rules, defined benefit pension plans and money purchase pension plans are required to provide that vested retirement benefits with a present value in excess of $3,500 are payable in the form of a qualified joint and survivor annuity (''QJSA'') or, in the case of a participant who dies before the annuity starting date, a qualified preretirement survivor annuity (''QPSA''). A QJSA is generally defined as an annuity for the life of the participant with a survivor annuity for the life of the spouse which is not less than 50 percent of (and not greater than 100 percent of) the amount of the participant's annuity, and which is the actuarial equivalent of a single life annuity for the life of the participant. A QPSA is generally defined as an annuity for the life of the surviving spouse of the participant, the payments of which are not less than the amount which would be payable as a survivor annuity under the plan's QJSA.

The survivor benefit rules do not apply to defined contribution plans other than money purchase pension plans if (1) the plan provides that, upon the death of the participant, the participant's accrued benefit is payable to the participant's surviving spouse, (2) the participant does not elect payment of benefits in the form of an annuity, and (3) the plan is not a transferee plan of a plan subject to the joint and survivor rules.

Benefits from a plan subject to the survivor benefit rules may be paid in a form other than a QJSA or QPSA if the participant waives the QJSA or QPSA and the applicable notice, election, and spousal consent requirements are satisfied. Similarly, under a defined contribution plan not subject to the survivor benefit rules, the spouse can consent to have benefits paid to another beneficiary.

House bill

No provision.

Senate amendment

Under the Senate amendment, if a plan provides as its QJSA a benefit which provides a survivor annuity for the life of the spouse which is not equal to 66⅔ percent of the amount of the participant's annuity, the plan is required to provide the participant with an election to receive an annuity for the life of the participant with a survivor annuity for the life of the spouse which is 66⅔ percent of the amount of the participant's annuity.[36] If the participant makes such an election the benefit received is treated as a QJSA for purposes of the qualified plan requirements; however the fact that such an election is offered does not affect how the QPSA is calculated. In other words, the QPSA continues to be based on the regular QJSA provided under the plan.

Effective date.—The provision is effective for plan years beginning after December 31, 1996. However, plans in existence on the date of enactment do not have to comply with the requirements of the amendment before the plan year immediately following the first plan year in which any amendment to the plan that is otherwise made becomes effective.

Conference agreement

The conference agreement does not include the Senate amendment provision.

24. CLARIFICATION OF APPLICATION OF ERISA TO INSURANCE COMPANY GENERAL ACCOUNTS

(Sec. 1461 of the Senate amendment.)

Present law

The Employee Retirement Income Security Act of 1974 (''ERISA'') imposes certain fiduciary requirements (including restrictions on certain prohibited transactions) with respect to the assets of an employee benefit plan (''plan assets''). The Internal Revenue Code of 1986 (the ''Code'') imposes an excise tax in the case of certain prohibited transactions involving plan assets.

In 1975, the Department of Labor issued guidance providing that if an insurance company issues a contract or policy of insurance to an employee benefit plan and places the consideration for such contract or policy in its general asset account, the assets in such account are not considered to be plan assets.[37] In 1993, the Supreme Court[38] ruled that certain assets held in an insurance company's general account should be considered plan assets.

House bill

No provision.

Senate amendment

Under the Senate amendment, not later than December 31, 1996, the Secretary of Labor is required to issue proposed regulations providing guidance for the purpose of determining, in cases where an insurer issues 1 or more policies (supported by the assets of the insurer's general account) to or for the benefit of an employee benefit plan, which assets of the insurer (other than plan assets held in its separate account) constitute plan assets for purposes of the fiduciary rules of ERISA and the prohibited transaction provisions of the Code. Such proposed regulations must be subject to public notice and comment until March 31, 1997, and the Secretary of Labor is required to issue final regulations by June 30, 1997. Any regulations issued by the Secretary of Labor in accordance with the Senate amendment generally could not take effect before the date on which such regulations became final.

In issuing regulations, the Secretary of Labor would have to ensure that such regulations are administratively feasible and are designed to protect the interests and rights of the plan and of the plans participants and beneficiaries. In issuing regulations, the Secretary of Labor may exclude any assets of the insurer with respect to its operations, products, or services from treatment as plan assets. Further, the regulations would have to provide that plan assets do not include assets which are not treated as plan assets under present law because they are (1) assets of an investment company registered under the Investment Company Act of 1940, or (2) assets of an insurer with respect to a guaranteed benefit policy issued by such insurer.

Under the Senate amendment, no person is liable under ERISA or the Code for conduct which occurred prior to the date which is 18 months following the effective date of the final regulations on the basis of a claim that the assets of the insurer (other than plan assets held in a separate account) constituted plan assets, except as otherwise provided by the Secretary of Labor in order to prevent avoidance of the guidance in the regulations or as provided in an action brought by the Secretary of Labor under ERISA's enforcement provisions for a breach of fiduciary responsibility which would also constitute a violation of Federal criminal law or constitute a felony under applicable State law.[39]

The Senate amendment does not preclude the application of any Federal criminal law.

Effective date.—The provision generally would be effective on January 1, 1975. However, the provision would not apply to any civil action commenced before January 7, 1995.

Conference agreement

The conference agreement follows the Senate amendment with the following modifications.

Proposed regulations need not be issued by the Secretary of Labor until June 30, 1997. Such proposed regulations will be subject to public notice and comment until September 30, 1997. Final regulations need not be issued until December 31, 1997.

Such regulations will only apply with respect to a policy issued by an insurer on or before December 31, 1998. In the case of such a policy, the regulations will take effect at the end of the 18 month period following the date such regulations become final. New policies issued after December 31, 1998, will be subject to the fiduciary obligations under ERISA.

In issuing regulations, the Secretary of Labor must ensure that such regulations protect the interests and rights of the plan and of its participants and beneficiaries as opposed to ensuring that such regulations are designed to protect the interests and rights of the plan and of its participants and beneficiaries.

Under the conference agreement, in connection with any policy (other than a guaranteed benefit policy) issued by an insurer to

[36] As with the QJSA, this benefit would be the actuarial equivalent of a single life annuity for the life of the participant.

[37] Interpretive Bulletin 1975–2, 29 CFR section 2509.75–2(b) (1992). The term ''general account'' refers to all assets of an insurance company which are not legally segregated and allocated to separate accounts. The assets in a general account are derived from all classes of business and support the insurer's obligations on an unsegregated basis, with no particular assets being specifically committed to meet the obligations under any particular contract or policy.

[38] *John Hancock Mutual Life Insurance Company* v. *Harris Trust and Savings Bank*, 510 U.S. 86 (1993).

[39] The Senate amendment provides that the term policy includes a contract.

or for the benefit of an employee benefit plan, the regulations issued by the Secretary of Labor must require (1) that a plan fiduciary totally independent of the insurer authorize the purchase of such policy (unless it is the purchase of a life insurance, health insurance, or annuity contract exempt from ERISA's prohibited transaction rules); (2) that after the date final regulations are issued the insurer provide periodic reports to the policyholder disclosing the method by which any income or expenses of the insurer's general account are allocated to the policy and disclosing the actual return to the plan under the policy and such other financial information the Secretary may deem appropriate; and (3) that the insurer disclose to the plan fiduciary the extent to which alternative arrangements supported by assets of separate accounts of the insurer are available, whether there is a right under the policy to transfer funds to a separate account and the terms governing any such right, and the extent to which support by assets of the insurer's general account and support by assets of separate accounts of the insurer might pose differing risks to the plan; and (4) that the insurer must manage general account assets with the level of care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, taking into account all obligations supported by such enterprise.

Under the Conference agreement, compliance by the insurer with all the requirements of the regulations issued by the Secretary of Labor will be deemed compliance by such insurer with ERISA's fiduciary duties, prohibited transactions, and limitations on holding employer securities and employer real property provisions (ERISA secs. 404, 406, and 407).

25. CHURCH PENSION PLAN SIMPLIFICATION

(Secs. 1462–1464 of the Senate amendment.)

Present law

In general, a church plan is a plan established and maintained for employees (or their beneficiaries) by a church or a church convention or association of churches that is exempt from tax (sec. 414(e)). Church plans include plans maintained by an organization, whether a corporation or otherwise, that has as its principal purpose or function the administration or funding of a plan or program for providing retirement or welfare benefits for the employees of the church or convention or association of churches. Employees of a church include any minister, regardless of the source of his or her compensation, and an employee of an organization which is exempt from tax and which is controlled by or associated with a church or a convention or association of churches.[40]

Plans maintained by churches and certain church-controlled organizations are exempt from certain of the requirements applicable to pension plans under the Code pursuant to the Employee Retirement Income Security Act of 1974 (as amended) (''ERISA''). For example, such plans are not subject to ERISA's vesting, coverage, and funding requirements. In some cases, such plans are subject to provisions in effect before the enactment of ERISA. Under the rules in effect before ERISA, a plan cannot discriminate in favor of officers, shareholder, persons whose principal duties consist in supervising the work of other employees, or highly compensated employees. Church plans may elect to waive the exemption from the qualification rules (sec. 410(d)). Electing plans become subject to all the tax Code (sec. 401(a)) qualification requirements, Title I of ERISA, the excise tax on prohibited transactions, and participation in the pension plan termination insurance program administered by the Pension Benefit Guaranty Corporation.

Certain eligible employers may maintain tax-sheltered annuity plans (sec. 403(b)). These plans provide tax-deferred retirement savings for employees of public education institutions and employees of certain tax-exempt organizations (including churches and certain organizations associated with churches). In addition to tax-sheltered annuities, alternative funding mechanisms that provide similar tax benefits include church-maintained retirement income accounts (sec. 403(b)(9)).

For purposes of determining an employee's investment in the contract under the rules relating to taxation of annuities, amounts contributed by the employer are included as investment in the contract, but only to the extent that such amounts were includible in the gross income of the employee or, if such amounts had been paid directly to the employee, would not have been includible in income. However, amounts contributed by the employer which, if they had been paid directly to the employee, would have been excludable under section 911 are not treated as investment in the contract, except to the extent attributable to services performed before January 1, 1963.

House bill

No provision.

Senate amendment

The Senate amendment allows self-employed ministers to participate in a church plan. For purposes of the definition of a church plan, a self-employed minister is treated as his or her own employer and as if the employer were a tax-exempt organization under section 501(c)(3). The earned income of the self-employed minister is treated as his or her compensation. Self-employed ministers are able to deduct their contributions.

In addition, ministers employed by an organization other than a church are treated as if employed by a church. Thus, such ministers can also participate in a church plan.

The Senate amendment provides that if a minister is employed by an employer that is not eligible to maintain a church plan, the minister is not taken into account by that employer in applying nondiscrimination rules.

The Senate amendment permits retirement income accounts to be established for self-employed minister.

The Senate amendment provides that church plans subject to the pre-ERISA nondiscrimination rules are to apply the same definition of highly compensated employee as other pension plans, rather than the pre-ERISA rule relating to employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees or highly compensated employees.

The Senate amendment provides that the Secretary of the Treasury may develop safe harbor rules for church plans under the applicable coverage and nondiscrimination rules.

The Senate amendment provides that, in the case of foreign missionaries, amounts contributed to a plan by the employer are investment in the contract even though the amounts, if paid directly to the employee would have been excludable under section 911.

Effective date.—The provision is effective for years beginning after December 31, 1996.

Conference agreement

The conference agreement follows the Senate amendment with technical modifications.

26. INCREASE IN MULTIEMPLOYER PLAN BENEFITS GUARANTEED

(Sec. 1465 of the Senate amendment.)

Present law

The Pension Benefit Guaranty Corporation (''PBGC'') guarantees benefits of workers under multiemployer plans. The monthly guarantee is equal to the participant's years of service multiplied by the sum of (1) 100 percent of the first $5 of the monthly benefit accrual rate, and (2) 75 percent of the next $15 of the accrual rate.

House bill

No provision.

Senate amendment

The Senate amendment generally adjusts the amount guaranteed under multiemployer plans to account for changes in the Social Security wage index since 1980. Under the Senate amendment, the monthly benefit guaranteed by the PBGC is generally increased to the participant's years of service multiplied by the sum of (1) 100 percent of the first $11 of the monthly benefit accrual rate, and (2) 75 percent of the next $33 of the accrual rate. The maximum annual guarantee for a retiree with 30 years of service is generally increased to $12,870.

The increase in guaranteed multiemployer plan benefits only applies in the case of multiemployer plans which first receive financial assistance from the PBGC during the applicable period. The applicable period is the period beginning on the date of enactment and ending on the last day of the first fiscal year in which the surplus in the PBGC's multiemployer insurance program is less than half of the surplus for the fiscal year ending September 30, 1995, as reflected in the Statement of Financial Condition in the PBGC's 1995 Annual Report. In determining the surplus in the multiemployer insurance program in any fiscal year, the PBGC is required to use the same actuarial assumptions that it used in determining the surplus for the fiscal year ending September 30, 1995. If the PBGC surplus declines by more than 50 percent, benefits of participants in multiemployer plans that first received financial assistance from the PBGC during the applicable period would continue to be guaranteed at the increased level; however, other benefits would be guaranteed at the present-law levels. The guaranteed benefit level would not automatically increase if the surplus increases.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment provision.

27. WAIVER OF EXCISE TAX ON FAILURE TO PAY LIQUIDITY SHORTFALL

(Sec. 1466 of the Senate amendment.)

Present law

A provision in the Retirement Protection Act of 1994, enacted as part of the implementing legislation for the General Agreement on Tariffs and Trade (''GATT''), generally requires certain underfunded single-employer defined benefit plans to make quarterly contributions sufficient to maintain liquid plan assets, i.e., cash and marketable securities, at an amount approximately equal to three times the total trust disbursements for the preceding 12-month period. This liquidity requirement only applies to underfunded single-employer defined benefit

[40] With respect to certain provisions (e.g., the exemption for church plans from nondiscrimination requirements applicable to tax-sheltered annuities), the more limited definition of church under the employment tax rules applies (secs. 3121(w)(3)(A) and (B)).

plans (other than small plans)[41] that (1) are required to make quarterly installments of their estimated minimum funding contribution for the plan year, and (2) have a liquidity shortfall for any quarter during the plan year.

A plan has a liquidity shortfall if its liquid assets as of the last day of the quarter are less than the base amount for the quarter. Liquid assets are cash, marketable securities and such other assets as specified by the Secretary. The base amount for the quarter is an amount equal to the product of three times the adjusted disbursements from the plan for the 12 months ending on the last day of the last month preceding the quarterly installment due date. If the base amount exceeds the product of two times the sum of adjusted disbursements for the 36 months ending on the last day of the last month preceding the quarterly installment due date, and an enrolled actuary certifies to the satisfaction of the Secretary that the excess is the result of nonrecurring circumstances, such nonrecurring circumstances are not included in the base amount. For purposes of determining the base amount, adjusted disbursements mean the amount of all disbursements from the plan's trust, including purchases of annuities, payments of single sums, other benefit payments, and administrative expenses reduced by the product of the plan's funded current liability percentage for the plan year and the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary provides in regulations.

The amount of the required quarterly installment for defined benefit plans that have a liquidity shortfall for any quarter is the greater of the quarterly installment or the liquidity shortfall. The amount of the liquidity shortfall must be paid in the form of liquid assets. It may not be paid by the application of credit balances in the funding standard account. The amount of any liquidity shortfall payment when added to prior installments for the plan year cannot exceed the amount necessary to increase the funded current liability percentage of the plan to 100 percent taking into account the expected increase in current liability due to benefits accruing during the plan year.

If a liquidity shortfall payment is not made, then the plan sponsor is subject to a nondeductible excise tax equal to 10 percent of the amount of the outstanding liquidity shortfall. A liquidity shortfall payment is no longer considered outstanding on the earlier of (1) the last day of a later quarter for which the plan does not have a liquidity shortfall or (2) the date on which the liquidity shortfall for a later quarter is timely paid. If the liquidity shortfall remains outstanding after four quarters, the excise tax increases to 100 percent.

House bill

No provision.

Senate amendment

The Senate amendment gives the Secretary authority to waive all or part of the excise tax imposed for a failure to make a liquidity shortfall payment if the plan sponsor establishes to the satisfaction of the Secretary that the liquidity shortfall was due to reasonable cause and not willful neglect and reasonable steps have been taken to remedy such shortfall.

Effective date.—The provision is effective as if included in GATT.

Conference agreement

The conference agreement follows the Senate amendment.

[41] A plan is a small plan if it had 100 or fewer participants on each day during the plan year (as determined in Code sec. 412(l)(6)).

28. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415

(Sec. 1467 of the Senate amendment.)

Present law

Present law imposes limits on contributions and benefits under qualified plans based on the type of plan. In the case of defined benefit pension plans, the limit on the annual retirement benefit is the lesser of (1) 100 percent of compensation or (2) $120,000 (indexed for inflation). The dollar limit is reduced in the case of early retirement or if the employee has less than 10 years of plan participation.

House bill

No provision.

Senate amendment

The Senate amendment makes the following modifications to the limits on contributions and benefits as applied to multiemployer plans:

(1) the 100 percent of compensation limitation on defined benefit pension plan benefits does not apply; and

(2) the early retirement reduction and the 10-year phase-in of the defined benefit pension plan dollar limit does not apply to certain disability and survivor benefits.

Effective date.—The provision applies to multiemployer plans for years beginning after December 31, 1996.

Conference agreement

The conference agreement does not include the Senate amendment provision.

29. PAYMENT OF LUMP-SUM CREDIT FOR FORMER SPOUSES OF FEDERAL EMPLOYEES

(Sec. 1468 of the Senate amendment.)

Present law

When a Federal employee or former Federal employee dies, any contribution to his or her credit in the Civil Service Retirement and Disability Fund must be paid to whomever the employee designated to receive that contribution. If no designation was made, there is a statutory order of precedence beginning with the surviving spouse. There is no provision in law that permits a domestic relations order to interfere with these arrangements. Thus, if an employee agreed in a divorce settlement to designate a former spouse to receive these funds, and later designated another individual, present law would require payment of the funds to the other individual. By contrast, under present law, an employee's annuity and survivor benefits are subject to the provisions of a domestic relations order.

House bill

No provision.

Senate amendment

The payment of contributions to the employee's credit in the Civil Service Retirement and Disability Fund is subject to the provisions of a domestic relations order, in the same way as the employee's annuity and survivor benefits. Thus, a domestic relations order on file with the Office of Personnel Management supersedes any designation of beneficiary by the employee.

Effective date.—The provision is effective with respect to deaths occurring after the 90th day after the date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

30. DATE FOR ADOPTION OF PLAN AMENDMENTS

(Sec. 1459 of the House bill and sec. 1469 of the Senate amendment.)

Present law

Plan amendments to reflect amendments to the law generally must be made by the time prescribed by law for filing the income tax return of the employer for the employer's taxable year in which the change in law occurs.

House bill

The House bill generally provides that any amendments to a plan or annuity contract required by the pension simplification amendments would not be required to be made before the first plan year beginning on or after January 1, 1997. The date for amendments is extended to the first plan year beginning on or after January 1, 1999, in the case of a governmental plan.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

Under the conference agreement, any amendments to a plan or annuity contract required by the pension simplification amendments would not be required to be made before the first plan year beginning on or after January 1, 1998. The date for amendments is extended to the first plan year beginning on or after January 1, 2000, in the case of a governmental plan.

Effective date.—The provision is effective on the date of enactment.

IV. FOREIGN SIMPLIFICATION PROVISION

1. REPEAL OF EXCESS PASSIVE ASSETS PROVISION

(Sec. 1501 of the House bill.)

Present law

Under the rules of subpart F (secs. 951–964), certain 10-percent U.S. shareholders of a controlled foreign corporation (CFC) are required to include in income currently for U.S. tax purposes certain earnings of the CFC, whether or not such earnings are actually distributed currently to the shareholders. The 10-percent U.S. shareholders of a CFC are subject to current U.S. tax on their shares of certain income earned by the CFC (referred to as ''subpart F income''). The 10-percent U.S. shareholders are also subject to current U.S. tax on their shares of the CFC's earnings to the extent such earnings are invested by the CFC in certain U.S. property.

In addition to these current inclusion rules, the Omnibus Budget Reconciliation Act of 1993 enacted section 956A, which applies another current inclusion rule to U.S. shareholders of a CFC. Section 956A requires the 10-percent U.S. shareholder of a CFC to include in income currently their shares of the CFC's earnings to the extent such earnings are invested by the CFC in excess passive assets. A CFC generally is treated as having excess passive assets if the average of the amounts of its passive assets exceeds 25 percent of the average of the amounts of its total assets; this calculation requires a quarterly determination of the CFC's passive assets and total assets.

House bill

The House bill repeals section 956A.

Effective date.—The provision applies to taxable years of foreign corporations beginning after December 31, 1996, and taxable years of U.S. shareholders with or within which such taxable years of foreign corporations end.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

V. OTHER PROVISIONS

1. EXEMPT ALASKA FROM DIESEL DYEING REQUIREMENT WHILE ALASKA IS EXEMPT FROM SIMILAR CLEAN AIR ACT DYEING REQUIREMENT

(Sec. 1801 of the Senate amendment.)

Present law

An excise tax totaling 24.3 cents per gallon is imposed on diesel fuel. In the case of fuel used in highway transportation, 20 cents per gallon is dedicated to the Highway Trust Fund. The remaining portion of this tax is imposed on transportation generally and is retained in the General Fund.

The diesel fuel tax is imposed on removal of the fuel from a pipeline or barge terminal facility (i.e., at the ''terminal rack''). Present law provides that tax is imposed on all diesel fuel removed from terminal facilities unless the fuel is destined for a nontaxable use and is indelibly dyed pursuant to Treasury Department regulations.

In general, the diesel fuel tax does not apply to non-transportation uses of the fuel. A specific exemption is provided for off-highway business uses (e.g., use as fuel powering off-highway equipment). Use as heating oil also is exempt. (Most fuel commonly referred to a heating oil is diesel fuel.) The tax also does not apply to fuel used on a farm for farming purposes or by State and local governments, to exported fuels, and to fuel used in commercial shipping. Fuel used by intercity buses and trains is partially exempt from the diesel fuel tax.

A similar dyeing regime exists for diesel fuel under the Clean Air Act. That Act prohibits the use on highways, of diesel fuel with a sulfur content exceeding prescribed levels. This ''high sulfur'' diesel fuel is required to be dyed by the EPA. The State of Alaska generally was exempted from the Clean Air Act, but not the excise tax, dyeing regime for three years (until October 1, 1996) (urban areas) or permanently (remote areas).

House bill

No provision

Senate amendment

The Senate amendment provides that diesel fuel sold in the State of Alaska will be exempt from the diesel dyeing requirement during the period when that State is exempt from the Clean Air Act dyeing requirements. Thus, subject to a certification procedure to be developed by the Treasury Department, undyed diesel fuel which is destined for a nontaxable use may be removed from terminals without payment of tax through September 30, 1996 (urban areas, unless extended by the Environmental Protection Agency) or permanently (remote areas).

Effective date.—Effective beginning with the first calendar quarter after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment

2. APPLICATION OF COMMON PAYMASTER RULES TO CERTAIN AGENCY ACCOUNTS AT STATE UNIVERSITIES

(Sec. 1802 of the Senate amendment.)

Present law

In general, the OASDI portion of FICA taxes are payable with respect to employee remuneration not in excess of a contribution base. If an employee works for more than one employer during a year, these taxes are payable for each employer up to the contribution base. Under the common paymaster rule if an individual works for two or more related corporations, the remuneration may be treated as being from one employer and therefore taxable for one contribution base.

Section 125 of Social Security Amendments of 1983 provided a common paymaster rule for certain State universities that employ health care professionals as faculty members at a medical school and at a tax-exempt faculty practice plan. This rule does not explicitly apply to situations where compensation is made through a university agency account and not directly by a medical school faculty practice plan.

House bill

No provision.

Senate amendment

The Senate amendment establishes a common paymaster rule in cases where: (1) a State or State university provides remuneration pursuant to a single contract of employment to certain health care professionals as members of its medical school faculty; and (2) as agency account at such institution also provides remuneration to such health care professionals. The agency account must receive funds for the remuneration from a faculty practice plan described in section 501(c)(3) of the Code. The payments may only be distributed by the agency account to faculty members who render patient care at the medical school. The faculty members receiving payments must comprise at least 30 percent of the membership of the faculty practice plan.

Effective date.—Remuneration paid after December 31, 1996. It is intended that, with respect to years before the effective date, the Secretary apply present law in a manner consistent with the proposal.

Conference agreement

The conference agreement includes the Senate amendment provision.

3. MODIFICATIONS TO EXCISE TAX ON OZONE-DEPLETING CHEMICALS

a. Exempt imported recycled halons from the excise tax on ozone-depleting chemicals

(Sec. 1803(a) of the bill.)

Present law

An excise tax is imposed on the sale or use by the manufacturer or importer of certain ozone-depleting chemicals (Code sec. 4681). The amount of tax generally is determined by multiplying the base tax amount applicable for the calendar year by an ozone-depleting factor assigned to each taxable chemical. The base tax amount is $5.80 per pound in 1996 and will increase by 45 cents per pound per year thereafter. The ozone-depleting factors for taxable halons are 3 for halon-1211, 10 for halon-1301, and 6 for halon-2402.

Taxable chemicals that are recovered and recycled within the United States are exempt from tax.

House bill

No provision.

Senate amendment

The Senate amendment extends the exemption from tax for domestically recovered and recycled ozone-depleting chemicals to imported recycled halons. The exemption for imported recycled halons applies only to such chemicals imported from countries that are signatories to the Montreal Protocol on Substances that Deplete the Ozone Layer.

Effective date.—The provision is effective for chemicals imported after December 31, 1996.

Conference agreement

The conference agreement follows the Senate amendment with a modification to the effective date.

Effective date.—The provision is effective for halon-1301 and halon-2402 imported after December 31, 1996, and for halon-1211 imported after December 31, 1997.

b. Exempt chemicals used in metered-dose inhalers from the excise tax on ozone-depleting chemicals

(Sec. 1803(b) of the bill.)

Present law

An excise tax is imposed on the sale or use by the manufacturer or importer of certain ozone-depleting chemicals (Code sec. 4681). The amount of tax generally is determined by multiplying the base tax amount applicable for the calendar year by an ozone-depleting factor assigned to each taxable chemical. The base tax amount is $5.80 per pound in 1996 and will increase by 45 cents per pound per year thereafter.

A reduced rate of tax of $1.67 per pound applies to chemicals used as propellants in metered-dose inhalers (sec. 4682(g)(4)).

House bill

No provision.

Senate amendment

The Senate amendment exempts chemicals used as propellants in metered-dose inhalers from the excise tax on ozone-depleting chemicals.

Effective date.—The provision is effective for chemicals sold or used seven days after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

4. TAX-EXEMPT BONDS FOR THE SALE OF THE ALASKA POWER ADMINISTRATION FACILITY

(Sec. 1804 of the Senate amendment.)

Present law

Interest on State and local government bonds to provide financing to private parties (private activity bonds) is taxable unless an exception is provided in the Internal Revenue Code. One such exception relates to the financing of facilities for the furnishing of electricity and gas.

Most private activity bonds are subject to annual State volume limits of the greater of $50 per resident of the State or $150 million. Additionally, persons acquiring existing property financed with most private activity bonds must satisfy a rehabilitation requirement as a condition of the financing.

House bill

No provision.

Senate amendment

Provides an exception from the general rehabilitation requirement for private activity bonds used to acquire existing property for certain bonds to finance the acquisition of the Snettisham hydroelectric project for the Alaska Power Administration pursuant to legislation that has been enacted authorizing that transaction. These bonds are subject to the State of Alaska's private activity bond volume limit.

Effective date.—Bonds issued after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

5. ALLOW BANK COMMON TRUST FUNDS TO TRANSFER ASSETS TO REGULATED INVESTMENT COMPANIES WITHOUT TAXATION

(Sec. 1805 of the Senate amendment.)

Present law

Common trust funds

A common trust fund is a fund maintained by a bank exclusively for the collective investment and reinvestment of monies contributed by the bank in its capacity as a trustee, executor, administrator, guardian, or custodian of certain accounts and in conformity with rules and regulations of the Board of Governors of the Federal Reserve System or the Comptroller of the Currency pertaining to the collective investment of trust funds by national banks (sec. 584(a)).

The common trust fund is not subject to tax and is not treated as a corporation (sec. 584(b)). Each participant in a common trust fund includes his proportional share of common trust fund income, whether or not the income is distributed or distributable (sec. 584(c)).

No gain or loss is realized by the fund upon admission or withdrawal of a participant. Participants generally treat their admission to the fund as the purchase of an interest. Withdrawals from the fund generally are treated as the sale of an interest by the participant (sec. 584(e)).

Regulated investment companies (''RICs'')

A RIC also is treated as a conduit for Federal income tax purposes. Conduit treatment is accorded by allowing the RIC a deduction for dividend distributions to its shareholders. Present law is unclear as to the tax consequences when a common trust fund transfers its assets to one or more RICs.

House bill

No provision.

Senate amendment

In general, the Senate amendment permits a common trust fund to transfer substantially all of its assets to one or more RICs without gain or loss being recognized by the fund or its participants. The fund must transfer its assets to the RICs solely in exchange for shares of the RICs, and the fund must then distribute the RIC shares to the fund's participants in exchange for the participants' interests in the fund.

The basis of any asset received by a RIC will be the basis of the asset in the hands of the fund prior to transfer (increased by the amount of gain recognized by reason of the rule regarding the assumption of liabilities). In addition, the basis of any RIC shares that are received by a fund participant will be an allocable portion of the participant's basis in the interests exchanged. If stock in more than one RIC is received in exchange for assets of a common trust fund, the basis of the shares in each RIC shall be determined by allocating the basis of common fund assets used in the exchange among the shares of each RIC received in the exchange on the basis of the respective fair market values of the RICs.

The tax-free transfer is not available to a common trust fund with assets that are not diversified under the requirements of section 368(a)(2)(F)(ii), except that the diversification test is modified so that Government securities are not to be included as securities of an issuer and are to be included in determining total assets for purposes of the 25- and 50-percent tests.

Effective date.—The provision is effective for transfers after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment. In order to qualify for the provision, the transfer by the common trust fund to the RIC must occur after December 31, 1995. The conferees intend that there is no requirement for qualification that the transfer of assets by the common trust fund to one or more RICs and the distribution of RIC shares to participants in the common trust fund be made contemporaneously or pursuant to a single plan.

6. TREATMENT OF QUALIFIED STATE TUITION PROGRAMS

(Sec. 1806 of the Senate amendment.)

Present law

In *Michigan* v. *United States,* 40 F.3d 817 (6th Cir. 1994), the Sixth Circuit held that the Michigan Education Trust, an entity created by the State of Michigan to operate a prepaid tuition payment program, is an integral part of the State, and, thus, the investment income realized by the Trust is not currently subject to Federal income tax. The Trust was established to receive advance payments of college tuition, invest the money, and ultimately make disbursements under a program that allows beneficiaries to attend any of the State's public colleges or universities without further tuition costs for a year or more (depending on the terms of the contract).

Section 115 of the Code provides that gross income does not include income derived from any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia.

Section 2501 imposes a Federal gift tax on certain transfers of property by gift. Section 2503(e) specifically excludes from gifts subject to tax under section 2501 any ''qualified transfer,'' which includes any amount paid on behalf of an individual as tuition to an educational institution (as described in sec. 170(b)(1)(A)(ii)) for the education or training of such individual.

On June 11, 1996, the Treasury Department issued final regulations under the original issue discount (''OID'') provisions of the Code (secs. 163(e) and 1271 through 1275), including regulations relating to debt instruments that provide for contingent payments (see TD 8674). These regulations specifically provide that they do not apply to contracts issued pursuant to State-sponsored prepaid tuition programs, whether or not the contracts are debt instruments. In addition, the IRS announced in Rev. Proc. 96–34 that it will not issue advance rulings or determination letters regarding State-sponsored prepaid tuition plans because issues that arise under such plans are being studied.

House bill

No provision.

Senate amendment

The Senate amendment provides tax-exempt status to ''qualified State tuition programs,'' meaning programs established and maintained by a State (or agency or instrumentality thereof) under which persons may (1) purchase tuition credits or certificates on behalf of a designated beneficiary that entitle the beneficiary to a waiver or payment of qualified higher education expenses of the beneficiary, or (2) make contributions to an account that is established for the sole purpose of meeting qualified higher education expenses of the designated beneficiary of the account. ''Qualified higher education expenses'' are defined at tuition, fees, books, and equipment required for enrollment or attendance at a college or university (or certain vocational schools). The Senate amendment specifically provides that, although a qualified State tuition program generally is exempt from Federal income tax, such a program is subject to the unrelated business income tax (UBIT).[42]

A qualified State tuition program is required to provide that purchases or contributions only be made in cash. Contributors and beneficiaries are not allowed to direct any investments made on their behalf by the program. The program is required to maintain a separate accounting for each designated beneficiary. A specified individual must be designated as the beneficiary at the commencement of participation in a qualified State tuition program (i.e., when contributions are first made to purchase an interest in such a program[43]), unless interests in such a program are purchased by a State or local government or a tax-exempt charity described in section 501(c)(3) as part of a scholarship program operated by such government or charity under which beneficiaries to be named in the future will receive such interests as scholarships. A transfer of credits (or other amounts) from one account benefiting one designated beneficiary to another account benefiting a different beneficiary will be considered a distribution (as will a change in the designated beneficiary of an interest in a qualified State tuition program) unless the beneficiaries are members of the same family.[44] Earnings on an account may be refunded to a contributor or beneficiary, but the State or instrumentality must impose a more than de minimis monetary penalty unless the refund is (1) used for qualified higher education expenses of the beneficiary, (2) made on account of the death or disability of the beneficiary,[45] or (3) made on account of a scholarship received by the designated beneficiary to the extent the amount refunded does not exceed the amount of the scholarship used for higher education expenses. A qualified State tuition program may not allow any interest in the program or any portion thereof to be used as security for a loan.

In addition, the Senate amendment provides that no amount shall be included in the gross income of a contributor to, or beneficiary of, a qualified State tuition program with respect to any distribution from, or earnings under, such program, except that (1) amounts distributed or educational benefits provided to a beneficiary (e.g., when the beneficiary attends college) will be included in the beneficiary's gross income (unless excludable under another Code section) to the extent such amount or the value of the educational benefits exceeds contributions made on behalf of the beneficiary, and (2) amounts distributed to a contributor (e.g., when a parent or other relative receives a refund) will be included in the contributor's gross income to the extent such amounts exceed contributions made by that person.[46]

The Senate amendment further provides that, for purposes of present-law section 2503(e), contributions made by an individual to a qualified State tuition program are treated as a qualified transfer and, thus, not subject to Federal gift tax.

Effective date.—The provision is effective for taxable years ending after the date of enactment. The bill also includes a transition rule providing that if (1) a State maintains (on the date of enactment) a program under which persons may purchase tuition credits on behalf of, or make contributions for educational expenses of, a designated beneficiary, and (2) such program meets the requirements of a qualified State tuition program before the later of (a) one year after the date of enactment, or (b) the first day of the first calendar quarter after the close of

[42] The bill specifically provides that an interest in a qualified State tuition program will not be treated as debt for purposes of the UBIT debt-financed property rules (sec. 514). Consequently, a qualified State tuition program's investment income will not constitute debt-financed property income subject to the UBIT merely because the program accepts contributions and is obligated to pay out (or refund) such contributions and certain earnings thereon to designated beneficiaries or to contributors. However, investment income of a qualified State tuition program could be subject to the UBIT as debt-financed property income to the extent the program acquires indebtedness when investing the contributions made on behalf of designated beneficiaries.

[43] The bill allows for a change in designated beneficiaries, so long as the new beneficiary is a member of the family of the old beneficiary.

[44] For this purpose, the term ''member of the family'' is defined under present-law section 2032A(e)(2).

[45] Thus, a State need not impose a monetary penalty when a refund is made from a qualified State tuition program in order to cover medical expenses incurred by (or on behalf of) a designated beneficiary who suffers a disabling illness (and who could be any member of the same family of the originally designated beneficiary).

[46] Specifically, the bill provides that 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 present-law section 72 to the extent not excluded from gross income under any other provision of the Code.

the first regular session of the State legislature that begins after the date of enactment, then the provisions of the bill will apply to contributions (and earnings allocable thereto) made before the date the program meets the requirements of a qualified State tuition program, without regard to whether the requirements of a qualified State tuition program are satisfied with respect to such contributions and earnings (e.g., even if the interest in the tuition or educational savings program covers not only qualified higher education expenses but also room and board expenses).

Conference agreement

The conference agreement generally follows the Senate amendment, with the following modifications:

(1) A program will not be treated as a qualified State tuition program unless it provides adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary.

(2) Contributions made to a qualified State tuition program will be treated as incomplete gifts for Federal gift tax purposes. Thus, any Federal gift tax consequences will be determined at the time that a distribution is made from an account under the program.

(3) The waiver (or payment) of qualified higher education expenses of a designated beneficiary by (or to) an educational institution under a qualified State tuition program will be treated as a qualified transfer for purposes of present-law section 2503(e).[47]

(4) Amounts contributed to a qualified State tuition program (and earnings thereon) will be included in the contributor's estate for Federal estate tax purposes in the event that the contributor dies before such amounts are distributed under the program.

The conference agreement provides that any distribution under a qualified State tuition program shall be includible in the gross income of the distributee in the manner as provided under section 72 to the extent not excluded from gross income under any other provision of the Internal Revenue Code. Thus, the conferees understand that if matching-grant amounts are distributed to (or on behalf of) a beneficiary as part of a qualified State tuition program, then such matching-grant amounts still may be excluded from the gross income of the beneficiary as a scholarship under present-law section 117.

Effective date.—The conference agreement follows the Senate amendment.

7. ADOPTION ASSISTANCE

(Sec. 101 of H.R. 3286.)

Present law

Present law does not provide a tax credit for adoption expenses. Also, present law does not provide an exclusion from gross income for employer-provided adoption assistance. The Federal Adoption Assistance program (a Federal outlay program) provides financial assistance for the adoption of certain special needs children. In general, a special needs child is defined as a child who (1) according to a State determination, could not or should not be returned to the home of the birth parents and (2) on account of a specific factor or condition (such as ethnic background, age, membership in a minority or sibling group, medical condition, or physical, mental or emotional handicap), could not reasonably be expected to be adopted unless adoption assistance is provided. Specifically, the program provides assistance for adoption expenses for those special needs children receiving Federally assisted adoption assistance payments as well as special needs children in private and State-funded programs. The maximum Federal reimbursement is $1,000 per special needs child. Reimbursable expenses include those nonrecurring costs directly associated with the adoption process such as legal costs, social service review, and transportation costs.

House bill

Tax credit

No provision. However, H.R. 3286 provides taxpayers with a maximum nonrefundable credit against income tax liability of $5,000 per child for qualified adoption expenses paid or incurred by the taxpayer. Any unused adoption credit may be carried forward by the taxpayer for up to five years. Qualified adoption expenses are reasonable and necessary adoption fees, court costs, attorneys' fees and other expenses that are directly related to the legal adoption of an eligible child. In the case of an international adoption, the credit is not available unless the adoption is finalized. An eligible child is an individual (1) who has not attained age 18 as of the time of the adoption, or (2) who is physically or mentally incapable of caring for himself or herself. No credit is allowed for expenses incurred (1) in violation of State or Federal law, (2) in carrying out any surrogate parenting arrangement, or (3) in connection with the adoption of a child of the taxpayer's spouse. The credit is phased out ratably for taxpayers with modified adjusted gross income (AGI) above $75,000, and is fully phased out at $115,000 of modified AGI.

The credit is not allowed for any expenses for which a grant is received under any Federal, State, or local program. This limit, however, does not apply in the case of special needs adoptions.

Exclusion from income

The proposal provides a maximum $5,000 exclusion from the gross income of an employee for specified certain adoption expenses paid by the employer. The $5,000 limit is a per child limit, not an annual limitation. The exclusion is phased out ratably for taxpayers with modified AGI above $75,000 and is fully phased out at $115,000 of modified AGI.

No credit is allowed for adoption expenses paid or reimbursed under an adoption assistance program.

Effective date

The House bill is effective for taxable years beginning after December 31, 1996.

Senate amendment

Tax credit

The Senate amendment to H.R. 3286 is the same as the House bill, with three changes:

(1) The maximum credit is increased from $5,000 to $6,000 in the case of special needs adoptions.

(2) The credit for non-special needs adoptions is repealed for expenses paid or incurred after December 31, 2000.

(3) No credit is allowed in the case of special needs adoptions for expenses for which a grant is received under any Federal, State or local program.

Exclusion from income

The Senate amendment to H.R. 3286 is the same as the House bill except:

(1) The maximum exclusion is increased from $5,000 to $6,000 in the case of special needs adoptions.

(2) The exclusion is repealed after December 31, 2000.

Effective date

The Senate amendment to H.R. 3286 is the same as the House bill.

Conference agreement

Tax credit

The conference agreement follows the Senate amendment provision of H.R. 3286 with four modifications:

(1) The repeal of the credit for non-special needs adoptions is delayed for one year. Therefore, the credit for non-special needs adoptions is not available for expenses paid or incurred after December 31, 2001.

(2) Special needs foreign adoptions are limited to a maximum credit of $5,000 (rather than $6,000) for qualified adoption expenses until December 31, 2001, at which time the credit for special needs foreign adoptions is also repealed.

(3) The taxpayer is required to provide available information about the name, age, and taxpayer identification number of each adopted child.

(4) Otherwise, qualified adoption expenses paid in one taxable year are not taken into account for purposes of the credit until the next taxable year unless the expenses are incurred in the year the adoption becomes final.

Exclusion from income

The conference agreement follows the Senate amendment provision of H.R. 3286 with three modifications;

(1) The repeal of the exclusion is delayed for one year. Therefore, the exclusion is not available for expenses paid or incurred after December 31, 2001.

(2) Special needs foreign adoptions are limited to a maximum exclusion of $5,000 (rather than $6,000) for qualified adoption expenses until December 31, 2001, at which time the exclusion is repealed.

(3) The taxpayer is required to provide available information about the name, age, and taxpayer identification number of each adopted child.

Taxpayer identification numbers

The conference committee is concerned that problems may arise in processing tax returns of adopting parents because of unavoidable delays involved in obtaining a social security number of a child who is being adopted. The conference understands that the Internal Revenue Service recognizes these concerns and is committed to working with the Congress to develop as soon as possible an administrative solution that minimizes the burdens imposed on adopting parents while balancing processing and potential compliance considerations.

Effective date

The conference agreement follows the House bill and the Senate amendment.

The conferees wish to clarify the operation of the effective date by way of an example. Suppose that, in the course of attempting to adopt a child, a taxpayer incurs $1,000 in qualified adoption expenses in November, 1996, and an additional $3,000 in qualified adoption expenses in February, 1997, when the adoption becomes final. The taxpayer is entitled to claim a credit for tax year 1997 only with respect to the $3,000 of qualified adoption expenses in February, 1997. The taxpayer is never entitled to claim a credit with respect to the $1,000 in qualified adoption expenses in November, 1996, because those expenses were incurred prior to the effective date of this provision.

8. SIX-MONTH DELAY IN IMPLEMENTATION OF ELECTRONIC FUND TRANSFER SYSTEM FOR COLLECTION OF CERTAIN TAXES

Present law

Employers are required to withhold income taxes and FICA taxes from wages paid to

[47] In this regard, the conferees intend that if a qualified State tuition program issues a check in the names of both the designated beneficiary and an educational institution at which the beneficiary incurs (or will incur) qualified higher education expenses, then the issuance of the check will be considered a payment of qualified higher education expenses to an educational institution if the check (after endorsement by the beneficiary) is deposited in the institution's bank account.

their employees. Employers also are liable for their portion of FICA taxes, excise taxes, and estimated payments of their corporate income tax liability.

The Code requires the development and implementation of an electronic fund transfer system to remit these taxes and convey deposit information directly to the Treasury (Code sec. 6302(h)). The Electronic Federal Tax Payment System (''EFTPS'') was developed by Treasury in response to this requirement.[48] Employers must enroll with one of two private contractors hired by the Treasury. After enrollment, employers generally initiate deposits either by telephone or by computer.

The new system is phased in over a period of years by increasing each year the percentage of total taxes subject to the new EFTPS system. For fiscal year 1994, 3 percent of the total taxes are required to be made by electronic fund transfer. These percentages increased gradually for fiscal years 1995 and 1996. For fiscal year 1996, the percentage was 20.1 percent (30 percent for excise taxes and corporate estimated tax payments). For fiscal year 1997, these percentages increased significantly, to 58.3 percent (60 percent for excise taxes and corporate estimated tax payments). The specific implementation method required to achieve the target percentages is set forth in Treasury regulations. Implementation began with the largest depositors. Treasury has implemented the 1997 percentages by requiring that all employers who deposit more than $50,000 in 1995 must begin using EFTPS by January 1, 1997.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conferees are concerned that the initial mailing by IRS to employers that informed them of the 1997 requirements confused many of these employers. The conferees believe that it is necessary to provide additional time prior to implementation of the 1997 requirements so that employers may be better informed about their responsibilities. Accordingly, the conference agreement provides that the increase in the required percentages for fiscal year 1997 (which, pursuant to Treasury regulations, was to take effect on January 1, 1997) shall not take effect until July 1, 1997.

Effective date.—The provision is effective on the date of enactment.

VI. REVENUE OFFSETS

1. MODIFICATIONS OF THE PUERTO RICO AND POSSESSION TAX CREDIT

(Sec. 1601 of the bill and the Senate amendment.)

Present law

Certain domestic corporations with business operations in the U.S. possessions (including, for this purpose, Puerto Rico and the U.S. Virgin Islands) may elect the Puerto Rico and possession tax credit which generally eliminates the U.S. tax on certain income related to their operations in the possessions. In contrast to the foreign tax credit, the Puerto Rico and possession tax credit is a ''tax sparing'' credit. That is, the credit is granted whether or not the electing corporation pays income tax to the possession. Income eligible for the credit under this provision falls into two broad categories: (1) possession business income, which is derived from the active conduct of a trade or business within a U.S. possession or from the sale or exchange of substantially all of the assets that were used in such a trade or business; and (2) qualified possession source investment income (''QPSII''), which is attributable to the investment in the possession or in certain Caribbean Basin countries of funds derived from the active conduct of a possession business.

In order to qualify for the Puerto Rico and possession tax credit for a taxable year, a domestic corporation must satisfy two conditions. First, the corporation must derive at least 80 percent of it gross income for the three-year period immediately preceding the close of the taxable year from sources within a possession. Second, the corporation must derive at least 75 percent of its gross income for that same period from the active conduct of a possession business.

A domestic corporation that has elected the Puerto Rico and possession tax credit and that satisfies these two conditions for a taxable year generally is entitled to a credit based on the U.S. tax attributable to the sum of the taxpayer's possession business income and its QPSII. However, the amount of the credit attributable to possession business income is subject to the limitations enacted by the Omnibus Budget Reconciliation Act of 1993. Under the economic activity limit, the amount of the credit with respect to such income cannot exceed an amount equal to the sum of (i) 60 percent of the taxpayer's qualifying wage and fringe benefit expenses, (ii) specified percentages of the taxpayer's depreciation allowances with respect to qualifying tangible property, and (iii) in certain cases, the taxpayer's qualifying possession income taxes. The credit calculated under the economic activity limit is referred to herein as the ''wage credit.'' In the alternative, the taxpayer may elect to apply a limit equal to the applicable percentage of the credit that would otherwise be allowable with respect to possession business income; the applicable percentage is phased down to 50 percent for 1995, 45 percent for 1997, and 40 percent for 1998 and thereafter. The credit calculated under the applicable percentage limit is referred to herein as the ''income credit.'' The amount of the Puerto Rico and possession tax

House bill

In general.—The House bill generally repeals the Puerto Rico and possession tax credit for taxable years beginning after December 31, 1995. However, the House bill provides grandfather rules under which a corporation that is an existing credit claimant would be eligible to claim credits for a transition period. A special transition rule applies to the credit attributable to operations in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

For taxable years beginning after December 31, 1995, the Puerto Rico and possession tax credit applies only to a corporation that qualifies as an existing credit claimant (as defined below). The determination of whether a corporation is an existing credit claimant is made separately for each possession. A corporation that is an existing credit claimant with respect to a possession is entitled to the credit for income from such possession for taxable years beginning after December 31, 1995, subject to the limitations described below. The credit, subject to such limitations, is computed separately for each possession with respect to which the corporation is an existing credit claimant.

The Puerto Rico and possession tax credit attributable to QPSII is eliminated for taxable years beginning after December 31, 1995. For taxable years beginning after December 31, 1995, the Puerto Rico and possession tax credit is available only with respect to possession business income. The computation of the Puerto Rico and possession tax credit attributable to possession business income during the grandfather period depends upon whether the corporation is using the economic activity limit or the applicable percentage limit.

Wage credit.—For corporations that are existing credit claimants with respect to a possession and that use the wage credit method, the possession tax credit attributable to business income from the possession (determined under the wage credit method) continues to be determined as under present law for taxable years beginning after December 31, 1995 and before January 1, 2002. For taxable years beginning after December 31, 2001 and before January 1, 2006, the corporation's possession business income that is eligible for the wage credit is subject to a cap computed as described below. For taxable years beginning in 2006 and thereafter, the credit attributable to possession business income (determined under the wage credit method) is eliminated.

The House bill adds to the Code a new section which provides a credit determined under the wage credit method for business income from Puerto Rico. Such credit is computed under the rules described above with respect to the possession tax credit determined under the wage credit method. Such section applies for taxable years beginning after December 31, 1995 and before January 1, 2006.

Income credit.—For corporations that are existing credit claimants with respect to a possession and that elected to use the income credit method and not to use the wage credit method, the Puerto Rico and possession tax credit attributable to business income from the possession continues to be determined as under present law for taxable years beginning after December 31, 1995 and before January 1, 1998. For taxable years beginning after December 31, 1997 and before January 1, 2006, the corporation's possession business income tax is eligible for the credit is subject to a cap computed as described below. For taxable years beginning in 2006 and thereafter, the credit attributable to possession business income (determined under the income credit method) is eliminated.

A corporation that had elected to use the income credit method is permitted to revoke that election under present law. Under the House bill, such a revocation is required to be made not later than with respect to the first taxable year beginning after December 31, 1996; such revocation, if made, applies to such taxable year and to all subsequent taxable years. Accordingly, a corporation that had an election in effect to use the income credit method could revoke such election effective for its taxable year beginning in 1997 and thereafter; such corporation would continue to use the income credit method for its taxable year beginning in 1996 and would use the wage credit method for its taxable year beginning in 1997 and thereafter.

Computation of income cap.—The cap on a corporation's possession business income that is eligible for the Puerto Rico and possession tax credit is computed based on the corporation's possession business income for the base period years (''average adjusted base period possession business income''). Average adjusted base period possession business income is the average of the adjusted possession business income for each of the corporation's base period years. For the purpose of this computation, the corporation's possession business income for a base period year is adjusted by an inflation factor that reflects inflation from such year to 1995.

[48] Treasury had earlier developed TAXLINK as the prototype for EFTPS. TAXLINK has been operational for several years; EFTPS is currently becoming operational. Employers currently using TAXLINK will ultimately be required to participate in EFTPS.

In addition, as a proxy for real growth in income throughout the base period, the inflation factor is increased by 5 percentage points compounded for each year from such year to the corporation's first taxable year beginning on or after October 14, 1995.

The corporation's base period years generally are three of the corporation's five most recent years ending before October 14, 1995, determined by disregarding the taxable years in which the adjusted possession business incomes were highest and lowest. For purposes of this computation, only years in which the corporation had significant possession business income are taken into account. A corporation is considered to have significant possession business income for a taxable year if such income exceeds two percent of the corporation's possession business income for the each of the six taxable years ending with the first taxable year ending on or after October 14, 1995. If the corporation has significant possession business income for only four of the five most recent taxable years ending before October 14, 1995, the base period years are determined by disregarding the year in which the corporation's possession business income was lowest. If the corporation has significant possession business income for three years or fewer of such five years, then the base period years are all such years. If there is no year of such five taxable years in which the corporation has significant possession business income, then the corporation is permitted to use as its base period its first taxable year ending on or after October 14, 1995; for this purpose, the amount of possession business income taken into account is the annualized amount of such income for the portion of the year ended September 30, 1995.

As one alternative, the corporation may elect to use its taxable year ending in 1992 as its base period (with the adjusted possession business income for such year constituting its cap). As another alternative, the corporation may elect to use as its cap the annualized amount of its possession business income for the first ten months of calendar year 1995, calculated by excluding any extraordinary items (as determined under generally accepted accounting principles) for such period. For this purpose, it is intended that transactions with a related party that are not in the ordinary course of business will be considered to be extraordinary items.

If a corporation's possession business income in a year for which the cap is applicable exceeds the cap, then the corporation's possession business income for purposes of computing its Puerto Rico and possession tax credit for the year is an amount equal to the cap. The corporation's credit continues to be subject to either the economic activity limit or the applicable percentage limit, with such limit applied to the corporation's possession business income as reduced to reflect the application of the cap.

Qualification as existing credit claimant.—A corporation is an existing credit claimant with respect to a possession if (1) the corporation is engaged in the active conduct of a trade or business within the possession on October 13, 1995, and (2) the corporation has elected the benefits of the Puerto Rico and possession tax credit pursuant to an election which is in effect for its taxable year that includes October 13, 1995. A corporation that adds a substantial new line of business after October 13, 1995, ceases to be an existing credit claimant as of the beginning of the taxable year during which such new line of business is added.

For purposes of these rules, a corporation is treated as engaged in the active conduct of a trade or business within a possession on October 13, 1995, if such corporation is engaged in the active conduct of such trade or business before January 1, 1996, and such corporation has in effect on October 13, 1995, a binding contract for the acquisition of assets to be used in, or the sale of property to be produced in, such trade or business. For example, if a corporation has in effect on October 13, 1995, binding contracts for the lease of a facility and the purchase of machinery to be used in manufacturing business in a possession and if the corporation begins actively conducting that manufacturing business in the possession before January 1, 1996, that corporation would be an existing credit claimant. A change in the ownership of a corporation will not affect its status as an existing credit claimant.

In determining whether a corporation has added a substantial new line of business, the Committee intends that principles similar to those reflected in Treas. Reg. section 1.7704–2(d) (relating to the transition rules for existing publicly traded partnerships) apply. For example, a corporation that modifies its current production methods, expands existing facilities, or adds new facilities to support the production of its current product lines and products within the same four-digit Industry Number Standard Industrial Classification Code (Industry SIC Code) will not be considered to have added a substantial new line of business. In this regard, the Committee intends that the fact that a business which is added is assigned a different four-digit Industry SIC Code than is assigned to an existing business of the corporation will not automatically cause the corporation to be considered to have added a new line of business. For example, a pharmaceutical corporation that begins manufacturing a new drug will not be considered to have added a new line of business. Moreover, a pharmaceutical corporation that begins to manufacture a complete product from the bulk active chemical through the finished dosage form, a process that may be assigned two separate four-digit Industry SIC Codes, will not be considered to have added a new line of business even though it was previously engaged in activities that involved only a portion of the entire manufacturing process from bulk chemicals to finished dosages. The Committee further intends that, in the case of a merger of affiliated possession corporations that are existing credit claimants, the corporation that survives the merger will not be considered to have added a substantial new line of business by reason of its operation of the existing business of the affiliate that was merged into it.

Special rules for certain possessions.—A special transition rule applies to the Puerto Rico and possession tax credit with respect to operations in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. For any taxable year beginning after December 31, 1995, and before January 1, 2006, a corporation that is an existing credit claimant with respect to one of these possessions for such year continues to determine its credit with respect to operations in such possession as under present law. For taxable years beginning in 2006 and thereafter, the Puerto Rico and possession tax credit with respect to operations in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands is eliminated.

Effective date.—The House bill is effective for taxable years beginning after December 31, 1995.

Senate amendment

The Senate amendment is the same as the House bill with three modifications.

Under the Senate amendment, the Puerto Rico and possession tax credit attributable to QPSII continues to be allowed for QPSII earned before July 1, 1996.

Under the Senate amendment, a corporation that is an existing credit claimant continues to be eligible to claim credits under the wage credit method for taxable years beginning after December 31, 2005. For taxable years beginning in 2006 and thereafter, in computing the economic activity limit on the wage credit, the percentage of the corporation's qualifying wage and fringe benefit expenses that is taken into account is reduced from 60 percent of 40 percent. The corporation's business income that is eligible for the wage credit continues to be subject to the income cap. For taxable years beginning in 2006 and thereafter, a corporation that is an existing credit claimant with respect to Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands continues to be eligible to claim credits under the wage credit method, determined under the foregoing rules, with respect to its operations in such possession.

Under the Senate amendment, the Treasury Department is directed to study the effect on the economy of Puerto Rico of the wage credit (under present law and as amended), including an analysis of the impact of such credit on unemployment rates and economic growth. The Treasury Department is directed to submit to the House Committee on Ways and Means and the Senate Committee on Finance reports on its findings with respect to the impact of the wage credit within two years of the date of enactment and every four years thereafter.

Effective date.—Same as the House bill.

Conference agreement

The conference agreement follows the House bill with modifications.

Under the conference agreement, as under the Senate amendment, the Puerto Rico and possession tax credit attributable to QPSII continues to be allowed for QPSII earned before July 1, 1996. The conferees note that the repeal of the credit for QPSII will have the effect of eliminating a provision that has supported economic development and trade-related growth in the Caribbean Basin and served U.S. interests in the region. The loss of this program should not be interpreted as a loss of U.S. interest in the region. The conferees continue to support efforts furthering stable commercial and economic relations in that region.

Under the conference agreement, a corporation that acquires all the assets of a trade or business of an existing credit claimant will qualify as an existing credit claimant. The adjusted base period income of the existing credit claimant from which the assets are acquired is divided between such corporation and the corporation that acquires such assets. It is intended that regulations or other guidance will prevent taxpayers from abusing this rule through transactions that manipulate base period income amounts.

Under the conference agreement, for purposes of estimated tax payments due before October 1, 1996, a taxpayer whose tax liability is increased by reason of the modifications of the Puerto Rico and possession tax credit is not required to make a deposit with respect to more than 50 percent of such increase; any amount not deposited by such date will be required to be deposited, without penalty or interest, on the next estimated tax payment due date.

2. REPEAL 50-PERCENT INTEREST INCOME EXCLUSION FOR FINANCIAL INSTITUTION LOANS TO ESOP'S

(Sec. 1602 of the House bill and the Senate amendment.)

Present law

A bank, insurance company, regulated investment company, or a corporation actively engaged in the business of lending money may generally exclude from gross income 50 percent of interest received on an ESOP loan (sec. 133). The 50-percent interest exclusion only applies if: (1) immediately after the acquisition of securities with the loan proceeds, the ESOP owns more than 50 percent of the outstanding stock or more than 50 percent of the total value of all outstanding stock of the corporation; (2) the ESOP loan term will not exceed 15 years; and (3) the ESOP provides for full pass-through voting to participants on all allocated shares acquired or transferred in connection with the loan.

House bill

The provision repeals the 50-percent interest exclusion with respect to ESOP's.

Effective date.—The provision generally is effective with respect to loans made after October 13, 1995. The repeal of the exclusion does not apply to the refinancing of an ESOP loan originally made on or before October 13, 1995, provided: (1) such refinancing loan otherwise meets the requirements of section 133 in effect on or before October 13, 1993; (2) the outstanding principal amount of the loan is not increased; and (3) the term of the refinancing loan does not extend beyond the term of the original ESOP loan.

Senate amendment

Same as the House bill.

Effective date.—The provision is effective with respect to loans made after the date of enactment, other than loans made pursuant to a written binding contract in effect before June 10, 1996, and at all times thereafter before such loan is made. The repeal of the 50-percent interest exclusion does not apply to the refinancing of an ESOP loan originally made on or before the date of enactment or pursuant to a binding contract in effect before June 10, 1996, provided: (1) such refinancing loan otherwise meets the requirements of section 133 in effect on the day before the date of enactment; (2) the outstanding principal amount of the loan is not increased; and (3) the term of the refinancing loan does not extend beyond the term of the original ESOP loan.

Conference agreement

The conference agreement follows the Senate amendment.

3. APPLY LOOK-THROUGH RULE FOR PURPOSES OF CHARACTERIZING CERTAIN SUBPART F INSURANCE INCOME AS UNRELATED BUSINESS TAXABLE INCOME

(Sec. 1602 of the House bill.)

Present law

An organization that is exempt from tax by reason of Code section 501(a) (e.g., a charity, business league, or qualified pension trust) is nonetheless subject to tax on its unrelated business taxable income (UBTI) (sec. 511). Unrelated business taxable income generally excludes dividend income (sec. 512(b)(1)).

Special rules apply to a tax-exempt organization described in section 501(c)(3) or (c)(4) (i.e., a charity or social welfare or organization) that is engaged in commercial-type insurance activities. Such activities are treated as an unrelated trade or business and the tax-exempt organization is subject to tax on the income from such insurance activities (including investment income that might otherwise be excluded from the definition of unrelated business taxable income) under subchapter L (sec. 501(m)(2)).[49] Accordingly, a tax-exempt organization described in section 501(c)(3) or (c)(4) generally is subject to tax on its income from commercial-type insurance activities in the same manner as a taxable insurance company.

A tax-exempt organization that conducts insurance activities through a foreign corporation is not subject to U.S. tax with respect to such activities. Under the subpart F rules, the United States shareholders (as defined in sec. 951(b)) of a controlled foreign corporation (CFC) are required to include in income currently their shares of certain income of the CFC, whether or not such income is actually distributed to the shareholders. This current inclusion rule applies to certain insurance income of the CFC (sec. 953). However, income inclusions under subpart F have been characterized as dividends for unrelated business income tax purposes.[50] Accordingly, insurance earned by the CFC that is includible in income currently under subpart F by the taxable United States shareholders of the CFC is excluded from unrelated business taxable income in the case of a shareholder that is a tax-exempt organization.

House bill

The House bill applies a look-through rule in characterizing certain subpart F insurance income for unrelated business income tax purposes. Under the House bill, the look-through rule applies to amounts that constitute insurance income currently includible in gross income under the subpart F rules and that are not attributable to the insurance of risks of (1) the tax-exempt organization itself, (2) certain tax-exempt affiliates of such organization, or (3) an officer or director of, or an individual who (directly or indirectly) performs services for, the tax-exempt organization (or certain tax-exempt affiliates) provided that the insurance covers primarily risks associated with the individual's performance of services in connection with the tax-exempt organization (or tax-exempt affiliates). For purposes of this provision, a tax-exempt organization is an affiliate of another tax-exempt organization if (1) the two organizations have significant common purposes and substantial common membership of (2) the two organizations have directly or indirectly substantial common direction or control.

Effective date.—The provision applies to amounts includible in gross income in taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with one modification. For purposes of the provision, two or more organizations generally are treated as affiliates if such organizations are colleges or universities described in section 170(b)(1)(A)(ii) or hospitals or other medical entities described in section 170(b)(1)(A)(iii). Accordingly, in applying the provision to two or more such organizations that are the shareholders of a CFC, the exceptions from the look-through rule apply to each shareholder's share of the income attributable to insurance of risks of all such shareholders; the look-through rule applies to a shareholder's share of any income attributable to insurance of risks of a third party.

4. DEPRECIATION UNDER THE INCOME FORECAST METHOD

(Sec. 1604 of the House bill.)

Present law

In general

A taxpayer generally must capitalize the cost of property used in a trade or business and is allowed to recover such cost over time through allowances for depreciation or amortization.

The ''income forecast'' method is an allowable method for calculating depreciation for certain property. Under the income forecast method, the depreciation deduction for a taxable year for a property is determined by multiplying the cost of the property[51] (less estimated salvage value) by a fraction, the numerator of which is the income generated by the property during the year and the denominator of which is the total forecasted or estimated income to be derived from the property during its useful life. The income forecast method has been held to be applicable for computing depreciation deductions for motion picture films, television films and taped shows, books, patents, master sound recordings and video games. The total forecasted or estimated income to be derived from a property is to be based on the conditions known to exist at the end of the period for which depreciation is claimed.

House bill

The House bill makes several amendments to the income forecast method of determining depreciation deductions.

First, the bill provides that income to be taken into account under the income forecast method includes all estimated income generated by the property. In applying this rule, a taxpayer generally need not take into account income expected to be generated after the close of the tenth taxable year after the year the property was placed in service. Pursuant to a special rule, in the case of television and motion picture films, the income from the property shall include income from the financial exploitation of characters, designs, scripts, scores, and other incidental income associated with such films, but only to the extent the income is earned in connection with the ultimate use of such items by, or the ultimate sale of merchandise to, persons who are not related to the taxpayer (within the meaning of sec. 267(b)). In addition, pursuant to another special rule, if a taxpayer produces a television series and initially does not anticipate syndicating the episodes from the series, the

[49] If the commercial-type insurance activities constitute a substantial part of the organization's activities, the organization will not be tax-exempt under section 501(c)(3) or (c)(4) (sec. 501(m)(1)).

[50] The Internal Revenue Service has concluded in private letter rulings, which are not to be used or cited as precedent, that subpart F inclusions are treated as dividends received by the United States shareholders (a tax-exempt entity) for purposes of computing the shareholder's UBTI (see LTRs 9407007 (November 12, 1993), 90227051 (April 13, 1990), 9024086 (March 22, 1990), 9024026 (March 15, 1990), 8922047 (March 6, 1989), 8836037 (June 14, 1988), 8819034 (February 10, 1988)). However, the IRS issued on private ruling in which it concluded that subpart F inclusions are treated as if the underlying income were realized directly by the United States shareholder (a tax-exempt entity) for purposes of computing the shareholder's UBTI (see LTR 9043039 (July 30, 1990)). This ruling gave no explanation for the IRS's departure from the position in its prior rulings, and the IRS reiterated in a subsequent ruling the position that subpart F inclusions are characterized as dividends for purposes of computing UBTI. Moreover, the application of the look-through rule in the ruling in question did not affect the ultimate result in the ruling because the income to which the subpart F inclusion was attributable was of a type that was excludible from UBTI. The conferees believe that LTR 9043039 (July 30, 1990) is incorrect in its application of a look-through rule in characterizing income inclusions under subpart F for unrelated business income tax purposes.

[51] In *Transamerica Corp.* v. *U.S.*, 999 F.2d 1362, (9th Cir. 1993), the Ninth Circuit overturned the District Court and held that, for purposes of applying the income forecast method to a film, the ''cost of a film'' includes ''participation'' and ''residual'' payments (i.e., payments to producers, writers, directors, actors, guilds, and others based on a percentage of the profits from the film) even though these payments were contingent on the occurrence of future events. It is unclear to what extent, if any, the *Transamerica* decision applies to amounts incurred after the enactment of the economic performance rules of Code section 461(h), as contained in the Deficit Reduction Act of 1984.

forecasted income for the episodes of the first three years of the series need not take into account any future syndication fees (unless the taxpayer enters into an arrangement to syndicate such episodes during such period). The 10th-taxable-year rule, the financial exploitation rule, and the syndication rule apply for purposes of the lookback method described below.

Second, the adjusted basis of property that may be taken into account under the income forecast method only will include amounts that satisfy the economic performance standard of section 461(h).

Finally, taxpayers that claim depreciation deductions under the income forecast method are required to pay (or would receive) interest based on the recalculation of depreciation under a ''look-back'' method. The ''look-back'' method is applied in any ''recomputation year'' by (1) comparing depreciation deductions that had been claimed in prior periods to depreciation deductions that would have been claimed had the taxpayer used actual, rather than estimated, total income from the property; (2) determining the hypothetical overpayment or underpayment of tax based on this recalculated depreciation; and (3) applying the overpayment rate of section 6621 of the Code. Except as provided in Treasury regulations, a ''recomputation year'' is the third and tenth taxable year after the taxable year the property was placed in service, unless the actual income from the property for each taxable year ending with or before the close of such years was within 10 percent of the estimated income from the property for such years. Property that had a basis of $100,000 or less when placed in service is not subject to the look-back method.

Effective date.—The provision is effective for property placed in service after September 13, 1995, unless placed in service pursuant to a binding written contract in effect on such date and all times thereafter.

Senate amendment

No provision. A similar provision was contained in section 402 of the Senate amendment to H.R. 3286, the ''Adoption, Promotion and Stability Act of 1996,'' as favorably reported by the Senate Finance Committee on June 12, 1996.

Conference agreement

The conference agreement follows the provision that was contained in section 402 of the Senate amendment to H.R. 3286, the ''Adoption, Promotion and Stability Act of 1996,'' as favorably reported by the Senate Finance Committee on June 12, 1996. Thus, the conference agreement provides the following modifications to the income forecast method of present law.

Determination of estimated income

First, the agreement provides that income to be taken into account under the income forecast method includes all estimated income generated by the property. In applying this rule, a taxpayer generally need not take into account income expected to be generated after the close of the tenth taxable year after the year the property was placed in service. In the case of a film, television show, or similar property, such income includes, but is not necessarily limited to, income form foreign and domestic theatrical, television, and other releases and syndications; and video tape releases, sales, rentals, and syndications.

Pursuant to a special rule, in the case of television and motion picture films, the income from the property shall include income from the financial exploitation of characters, designs, scripts, scores, and other incidental income associated with such films, but only to the extent the income is earned in connection with the ultimate use of such items by, or the ultimate sale of merchandise to, persons who are not related to the taxpayer (within the meaning of sec. 267(b)). As an example of this special rule, assume a taxpayer produces a motion picture the subject of which is the adventures of a newly-created fictional character. If the taxpayer produces dolls or T-shirts using the character's image, income from the sales of these products by the taxpayer to consumers would be taken into account in determining depreciation for the motion picture under the income forecast method. Similarly, if the taxpayer enters into any licensing or similar agreement with an unrelated party with respect to the use of the image, such licensing income would be taken into account in determining depreciation for the motion picture. However, if the taxpayer uses the character's image to promote a ride at an amusement park that is wholly-owned by the taxpayer, no portion of the admission fees for the amusement park are to be taken into account under the income forecast method with respect to the motion picture.

In addition, pursuant to another special rule, if a taxpayer produces a television series and initially does not anticipate syndicating the episodes from the series, the forecasted income for the episodes of the first three years of the series need not take into account any future syndication fees (unless the taxpayer enters into an arrangement to syndicate such episodes during such period).

The 10th-taxable-year rule, the financial exploitation rule, and the syndication rule apply for purposes of the look-back method described below.

Determination and treatment of costs of property

The adjusted basis of property that may be taken into account under the income forecast method only will include amounts that satisfy the economic performance standard of section 461(h).[52] For this purpose, if the taxpayer incurs a noncontingent liability to acquire property subject to the income forecast method from another person, economic performance will be deemed to occur with respect to such noncontingent liability when the property is provided to the taxpayer. In addition, the recurring item exception of section 461(h)(3) will apply in a manner similar to the way such exception applies under present law. Thus, expenditures that relate to an item of property that are incurred in the taxable year following the taxable year in which the property is placed in service may be taken into account in the year the property is placed in service to the extent such expenditures meet the recurring item exception for such year.

Any costs that are taken into account after the property is placed in service are treated as a separate piece of property to the extent (1) such amounts are significant and are expected to give rise to a significant increase in the income from the property that was not included in the estimated income from the property, or (2) such costs are incurred more than 10 years after the property was placed in service. To the extent costs are incurred more than 10 years after the property was placed in service and give rise to a separate piece of property for which no income is generated, such costs may be written off and deducted they are incurred. For example, assume a taxpayer places property subject to the income forecast method in service during a taxable year and all income from the property is generated in the following four-year period. If the taxpayer incurs additional costs with respect to that property more than 10 years later (e.g., a payment pursuant to a deferred contingent compensation arrangement to a person that produced the property), such costs may be deducted in the year incurred provided no more income is generated with respect to such costs or the original property.

Any costs that are not recovered by the end of the tenth taxable year after the property was placed in service may be taken into account as depreciation in such year.

Look-back method

Finally, taxpayers that claim depreciation deductions under the income forecast method are required to pay (or would receive) interest based on the recalculation of depreciation under a ''look-back'' method.[53] The ''look-back'' method is applied in any ''recomputation year'' by (1) comparing depreciation deductions that had been claimed in prior periods of depreciation deductions that would have been claimed had the taxpayer used actual, rather than estimated, total income from the property; (2) determining the hypothetical overpayment or underpayment of tax based on this recalculated depreciation; and (3) applying the overpayment rate of section 6621 of the Code.

Except as provided in Treasury regulations, a ''recomputation year'' is the third and tenth taxable year after the taxable year the property was placed in service, unless the actual income from the property for each taxable year ending with or before the close of such years was within 10 percent of the estimated income from the property for such years. The Secretary of the Treasury has the authority to allow a taxpayer to delay the initial application of the look-back method where the taxpayer may be expected to have significant income from the property after the third taxable year after the taxable year the property was placed in service (e.g., the Treasury Secretary may exercise such authority where the depreciable life of the property is expected to be longer than three years).

In applying the look-back method, any cost that is taken into account after the property was placed in service may be taken into account by discounting (using the Federal mid-term rate determined under sec. 1274(d) as of the time the costs were taken into account) such cost to its value as of the date the property was placed in service.

Property that had an unadjusted basis of $100,000 or less is not subject to the look-back method. For this purpose, ''unadjusted basis'' means the total capitalized cost of a property as of the close of a recomputation year.

The agreement provides a simplified look-back method for pass-through entities.

Effective date

The agreement is effective for property placed in service after September 13, 1995, unless produced or acquired pursuant to a binding written contract in effect on such date and all times thereafter. For this purpose, the binding contract exception may apply to a written contract in effect on the relevant dates if that contract binds a taxpayer to produce, license or deliver property that will be used by the other party to the contract once the property is produced.

The agreement may apply to property placed in service in taxable years that ended before the date of enactment of this Act. The agreement waives additions to tax imposed under sections 6654, 6655, and 6662(d) for any

[52] No inference is intended as to the proper application of section 461(h) to the income forecast method under present law.

[53] The ''look-back'' method of the provision resembles the look-back method applicable to long-term contracts accounted for under the percentage-of-completion method of present-law sec. 460.

underpayments of tax or estimated tax for any taxable year ending before the date of enactment of this Act to the extent the underpayment was created or increased by the changes made to the income forecast method of depreciation by the provision. The application of the agreement (including the look-back method) is not waived for any taxable year that ends after the date of enactment of this Act.

5. MODIFY EXCLUSION OF DAMAGES RECEIVED ON ACCOUNT OF PERSONAL INJURY OR SICKNESS

(Sec. 1605 of the House bill and sec. 1603 of the Senate amendment.)

Present law

Under present law, gross income does not include any damages received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal injury or sickness (sec. 104(a)(2)).

The exclusion from gross income of damages received on account of personal injury or sickness specifically does not apply to punitive damages received in connection with a case not involving physical injury or sickness. Courts presently differ as to whether the exclusion applies to punitive damages received in connection with a case involving a physical injury or physical sickness.[54] Certain States provide that, in the case of claims under a wrongful death statute, only punitive damages may be awarded.

Courts have interpreted the exclusion from gross income of damages received on account of personal injury or sickness broadly in some cases to cover awards for personal injury that do not relate to a physical injury or sickness. For example, some courts have held that the exclusion applies to damages in cases involving certain forms of employment discrimination and injury to reputation where there is no physical injury or sickness. The damages received in these cases generally consist of back pay and other awards intended to compensate the claimant for lost wages or lost profits. The Supreme Court recently held that damages received based on a claim under the Age Discrimination in Employment Act could not be excluded from income.[55] In light of the Supreme Court decision, the internal Revenue Service has suspended existing guidance on the tax treatment of damages received on account of other forms of employment discrimination.

House bill

Include in income all punitive damages

The House bill provides that the exclusion from gross income does not apply to any punitive damages received on account of personal injury or sickness whether or not related to a physical injury or physical sickness. Under the House bill, present law continues to apply to punitive damages received in a wrongful death action if the applicable State law (as in effect on September 13, 1995 without regard to subsequent modification) provides, or has been construed to provide by a court decision issued on or before such date, that only punitive damages may be awarded in a wrongful death action. No inference is intended as to the application of the exclusion to punitive damages prior to the effective date of the House bill in connection with a case involving a physical injury or physical sickness.

Include in income damage recoveries for nonphysical injuries

The House bill provides that the exclusion from gross income only applies to damages received on account of a personal physical injury or physical sickness. If an action has its origin in a physical injury or physical sickness, then all damages (other than punitive damages) that flow therefrom are treated as payments received on account of physical injury or physical sickness whether or not the recipient of the damages is the injured party. For example, damages (other than punitive damages) received by an individual on account of a claim for loss of consortium due to the physical injury or physical sickness of such individual's spouse are excludable from gross income. In addition, damages (other than punitive damages) received on account of a claim of wrongful death continue to be excludable from taxable income as under present law.

The House bill also specifically provides that emotional distress is not considered a physical injury or physical sickness.[56] Thus, the exclusion from gross income does not apply to any damages received (other than for medical expenses as discussed below) based on a claim of employment discrimination or injury to reputation accompanied by a claim of emotional distress. Because all damages received on account of physical injury or physical sickness are excludable from gross income, the exclusion from gross income applies to any damages received based on a claim of emotional distress that is attributable to a physical injury or physical sickness. In addition, the exclusion from gross income specifically applies to the amount of damages received that is not in excess of the amount paid for medical care attributable to emotional distress.

No inference is intended as to the application of the exclusion to damages prior to the effective date of the House bill in connection with a case not involving a physical injury or physical sickness.

Effective date.—The provisions generally are effective with respect to amounts received after June 30, 1996. The provisions do not apply to amounts received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

Senate amendment

Include in income all punitive damages

The Senate amendment is the same as the House bill.

Include in income damage recoveries for nonphysical injuries

No provision.

Conference agreement

Include in income all punitive damages

The conference agreement follows the House bill and the Senate amendment.

Include in income damage recoveries for nonphysical injuries

The conference agreement follows the House bill.

Effective date.—The provision generally are effective with respect to amounts received after date of enactment. The provisions do not apply to amounts received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

6. REPEAL ADVANCE REFUNDS OF DIESEL FUEL TAX FOR PURCHASERS OF DIESEL-POWERED AUTOMOBILES, VANS AND LIGHT TRUCKS

(Sec. 1606 of the House bill.)

Present Law

Excise taxes are imposed on gasoline (14 cents per gallon) and diesel fuel (20 cents per gallon) to fund the Federal Highway Trust Fund. Before 1985, the gasoline and diesel fuel tax rates were the same. The predominate highway use of diesel fuel is by trucks. In 1984, the diesel excise tax rate was increased above the gasoline tax as the revenue offset for a reduction in the annual heavy truck use tax. Because automobiles, vans, and light trucks did not benefit from the use tax reductions, a provision was enacted allowing first purchasers of model year 1979 and later diesel-powered automobiles and light trucks a tax credit to offset this increased diesel fuel tax. The credit is $102 for automobiles and $198 for vans and light trucks.

House bill

The House bill repeals the tax credit for purchasers of diesel-powered automobiles, vans and light trucks.

Effective date.—Vehicles purchased after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

7. EXTENSION AND PHASEOUT OF EXCISE TAX ON LUXURY AUTOMOBILES

(Sec. 1604 of the bill and sec. 4001 of the Code.)

Present law

Present law imposes an excise tax on the sale of an automobile whose price exceeds a designated threshold, currently $34,000. The excise tax is imposed at a rate of 10-percent on the excess of the sales price above the designated threshold. The $34,000 threshold is indexed for inflation.

The tax applies to sales before January 1, 2000.

House bill

No provision.

Senate amendment

The Senate amendment extends and phases out the luxury tax on automobiles. The tax rate is reduced by one percentage point per year beginning in 1996. The tax rate for sales (on or after the date of enactment plus seven days) in 1996 is 9 percent. The tax rate for sales in 1997 is 8 percent. The tax rate for sales in 1998 is 7 percent. The tax rate for sales in 1999 is 6 percent. The tax rate for sales in 2000 is 5 percent. The tax rate for sales in 2001 is 4 percent. The tax rate for sales in 2002 is 3 percent. The tax will expire after December 31, 2002.

Effective date.—The provision is effective for sales on or after date of enactment plus seven days.

Conference agreement

The conference agreement follows the Senate amendment.

8. ALLOW CERTAIN PERSONS ENGAGED IN THE LOCAL FURNISHING OF ELECTRICITY OR GAS TO ELECT NOT TO BE ELIGIBLE FOR FUTURE TAX-EXEMPT BOND FINANCING

(Sec. 1605 of the amendment.)

Interest on State and local government bonds generally is excluded from income except where the bonds are issued to provide financing for private parties. Present law includes several exceptions, however, that allow tax-exempt bonds to be used to provide financing for certain specifically identified private parties. One such exception allows tax-exempt bonds to be issued to finance facilities for the furnishing of electricity or gas by private parties if the area served by the facilities does not exceed (1) two contiguous counties or (2) a city and a contiguous

[54] The Supreme Court recently agreed to decide whether punitive damages awarded in a physical injury lawsuit are excludable from gross income. *O'gilvie* v. *U.S.*, 66 F.3d 1550 (10th Cir. 1995), cert. granted, 64 U.S.L.W. 36+39 (U.S. March 25, 1996) (No. 95–966). Also, the Tax Court recently held that if punitive damages are not of a compensatory nature, they are not excludable from income, regardless of whether the underlying claim involved a physical injury or physical sickness. *Bagley* v. *Commissioner*, 105 T.C. No. 27 (1995).

[55] *Schleier* v. *Commissioner*, 115 S. Ct. 2159 (1995).

[56] It is intended that the term emotional distress includes symptoms (e.g., insomnia, headaches, stomach disorders) which may result from such emotional distress.

county (commonly referred to as the ''local furnishing'' of electricity or gas).

Most private activity tax-exempt bonds are subject to general State private activity bond volume limits of $50 per resident of the State ($150 million, if greater) per year. Tax-exempt bonds for facilities used in the local furnishing of electricity or gas are subject to this limit. Like most other private beneficiaries of tax-exempt bonds, borrowers using tax-exempt bonds to finance these facilities are denied interest deductions on the debt underlying the bonds if the facilities cease to be used in qualified local furnishing activities. Additionally, as with all tax-exempt bonds, if the use of facilities financed with the bonds changes to a use a not qualified for tax-exempt financing after the debt is incurred, interest on the bonds becomes taxable unless certain safe harbor standards are satisfied.

House bill

No provision.

Senate amendment

The Senate amendment allows persons that have received tax-exempt financing of facilities that currently qualify as used in the local furnishing of electricity or gas to elect to terminate their qualification for this tax-exempt financing and to expand their service areas without incurring the present-law loss of interest deductions and loss of tax-exemption penalties if—

(1) no additional bonds are issued for facilities of the person making the election (or were issued for any predecessor) after the date of the provision's enactment;

(2) the expansion of the person's service area is not financed with any tax-exempt bond proceeds; and

(3) all outstanding tax-exempt bounds of the person making the election (and any predecessor) are redeemed no later than six months after the earliest date on which redemption is not prohibited under the terms of the bonds, as issued, (or six months after the election, if later).

Except as described below, the provision further limits the local furnishing exception to bonds for facilities of (1) of persons that qualified as engaged in that activity on the date of the provision's enactment and (2) that serve areas served by those persons on that date. The area which is considered to be served on the date of the provision's enactment consists of the geographic area in which service actually is being provided on that date. Service initially provided after the date of enactment to a new customer within that area (e.g., as a result of new construction or of a change in heating fuel type) is not treated as a service area expansion.

For purposes of this requirement, a change in the identity of a person serving an area is disregarded if the change is the result of a corporate reorganization where the area served remains unchanged and there is common ownership of both the predecessor and successor entities. To facilitate compliance with electric and gas industry restructuring now in progress, the Senate amendment further permits continued qualification of successor entities under a ''step-in-the-shoes'' rule without regard to common ownership if the service provided remains unchanged and the area served after the facilities are transferred does not exceed the service area before the transfer. For example, if facilities of a person engaged in local furnishing are sold to another person, the purchaser (when it engages in otherwise qualified local furnishing activities) is eligible for continued tax-exempt financing to the same extent that the seller would have been had the sale not occurred if the service provided and the area served by the facilities do not change.

Similarly, a purchaser ''steps into the shoes'' of its seller with regard to eligibility (or the lack thereof) for making the election to terminate its status as engaged in local furnishing without imposition of certain penalties on outstanding tax-exempt bonds. For example, if a person engaged in local furnishing activities on the date of the provision's enactment receives financing from tax-exempt bonds issued after the date of the provision's enactment (and is thereby ineligible to make the election), any purchaser from that person likewise is ineligible.

Effective date.—The Senate amendment is effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, with two modifications to the portion of the provision that generally limits the benefit of tax-exempt financing to persons engaged in local furnishing activities on the date of the provision's enactment. First, the conference agreement allows certain expansions of existing local furnishing service areas to occur after the effective date of the provision without affecting continued qualification under the local furnishing exception, both within the existing service area and in the expansion area. Under this modification, a qualified local furnishing service area which includes a portion of a city or a county on the effective date of the provision may be expanded after that date to include other portions of the same city or county. For example, if a gas utility's service area on the effective date of the provision includes only an urban section of a county, a subsequent expansion of the utility's service area to include rural portions of the same county (e.g., as a result of population growth), does not in itself preclude qualification of the entire, expanded service area as a local furnishing area. This exception does not, however, allow expansion of local furnishing service areas beyond the borders of a city or county where service is being provided on the effective date of the provision or interconnection of facilities serving those areas with other facilities or persons in a manner not permitted under present law.

Second, the date by which an entity must be engaged in local furnishing activities (i.e., have facilities for local furnishing placed in service in that activity) as a condition of receiving future tax-exempt financing is delayed until January 1, 1997 (rather than the date of the provision's enactment).

The conferees also wish to clarify several questions that have risen since passage of the Senate amendment with respect to the limitation on future eligibility under the local furnishing exception. First, because the conference agreement precludes issuance of tax-exempt bonds except for local furnishers engaged in that activity on January 1, 1997 (and successors in interest), the statutory wording of the provision differs from the traditional focus of the local furnishing exception on a two county (or city and contiguous county) area without regard to the entity providing the service. The statutory references to ''persons'' engaged in the local furnishing of electricity or gas contained in the conference agreement are intended to prevent new entities (other than successors in interest) from qualifying for tax-exempt financing under the local furnishing exception. They are not to be construed in a manner affecting the tax-exempt status of interest on any outstanding bonds or the receipt of additional tax-exempt financing by an existing local furnisher, provided that the facilities financed with those bonds are used at all times in qualified local furnishing activities (defined under present law as modified by the conference agreement) and the bonds comply otherwise with the Internal Revenue Code's requirements for tax-exemption.

Second, the conferees are aware that present-law disregards certain transmission of electricity pursuant to FERC orders in determining whether a facility is used in the local furnishing of electricity. The conference agreement retains the relevant statutory rule to that effect, and the conferees intend no change in that rule.

Third, the conferees wish to clarify, by example, the application of the restriction on qualified local furnishing activities contained in this portion of the conference agreement to certain utility transactions such as those that may be expected to occur as a result of deregulation of the electric and gas industries.

Example (1).—As part of a corporate reorganization, an existing local furnishing utility sells a portion of its service area to a third party. The retained portion of the utility's service territory continues to qualify for tax-exempt financing under the local furnishing exception provided that no violations of that exception such as an impermissible interconnection with facilities outside the area occur. The determination of whether the portion of the service territory that is sold to a third party continues to qualify under the local furnishing exception depends on the manner in which the purchaser provides service in the area it acquires. If, for example, the purchaser operates in the area which it purchases in a manner that otherwise qualifies under the local furnishing exception, the purchaser is treated as a successor in interest to the seller and facilities for the area that is sold continue to be treated as used in local furnishing. However, if that area is merged into, or impermissibly (under present-law rules) and interconnected with, another service area that does not qualify as a local furnishing area after the transaction, the successor in interest rule does not preserve the status as a local furnishing area of the area sold.

Example (2).—Two independent utilities, both qualifying as engaged in local furnishing on the effective date of the provision, serve adjoining areas. The utilities decide to adjust their common service area boundary line to eliminate irregular geographic patterns. The parties to this transaction may be treated as successors in interest with respect to the area each acquires if the resulting service areas each qualify under the local furnishing exception (as modified by the conference agreement).

Example (3).—Assume the facts of Example (2), except the area acquired by one of the utilities is in a county where it did not provide service before the boundary line adjustments, and the utility's resulting service area includes all or part of three counties. That utility would no longer qualify as engaged in local furnishing under present law. The result is the same under the conference agreement.

Example (4).—Assume the facts of Example (2), except the utilities merge into a single company with a single service area. If the resulting combined service area of the new company does not exceed two counties (or a city and a contiguous county), the new company continues to be eligible for tax-exempt financing as a successor in interest.

Example (5).—Assume that a local furnishing utility decides to contract with a newly-formed independent power generating venture to construct a generating plant that will sell electricity to it exclusively for use in its service area. Tax-exempt bonds may not be issued under the local furnishing exception for construction of the generating plant. The independent power producer was neither engaged in the local furnishing of electricity to the service area involved on the effective date of the conference agreement's restriction nor is it a successor in interest under the agreement.

Effective date.—These provisions are effective on the date of the conference agreement's enactment.

9. REPEAL OF FINANCIAL INSTITUTION TRANSITION RULE TO INTEREST ALLOCATION RULES

Present law

For foreign tax credit purposes, taxpayers generally are required to allocate and apportion interest expense U.S. and foreign source income based on the proportion of the taxpayer's total assets in each location. Such allocation and apportionment is required to be made for affiliated groups (as defined in sec. 864(e)(5)) as a whole rather than on a subsidiary-by-subsidiary basis. However, certain types of financial institutions that are members of an affiliated group are treated as members of a separate affiliated group for purposes of allocating and apportioning their interest expense. Section 1215(c)(5) of the Tax Reform Act of 1986 (P.L. 99–145, 100 Stat. 2548) includes a targeted rule which treats a certain corporation as a financial institution for this purpose.

House bill

No provision.

Senate amendment

No provision. However section 1606 of the Senate amendment to H.R. 3448 (Small Business Job Protection Act of 1996) contained a provision that repeals section 1215(c)(5) of the Tax Reform Act of 1986.

Effective date.—Taxable years beginning after December 31, 1995.

Conference agreement

The conference agreement does not include the Senate amendment provision.

10. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES

(Sec. 1607 of the Senate amendment and secs. 4041, 4081, 4261, and 4271 of the Code)

Present law

Extension of aviation taxes

Before January 1, 1996, the following excise taxes were imposed to fund the Airport and Airway Trust Fund: (1) a 10-percent tax on domestic air passenger tickets; (2) a 6.25-percent tax on domestic air freight waybills; (3) a $6-per-person tax on international air departures; (4) a 17.5 cents-per-gallon tax on jet fuel used in noncommercial aviation; and (5) a 15-cents-per-gallon tax on gasoline used in noncommercial aviation (14 cents per gallon of this tax continues, with the revenues being deposited in the Highway Trust Fund). In addition, jet fuel and gasoline used in noncommercial aviation are subject to a tax of 4.3 cents per gallon, the revenues of which are deposited in the General Fund of the Treasury. Prior to January 1, 1996, of the total tax of 19.3 cents per gallon imposed on gasoline used in noncommercial aviation, 18.3 cents per gallon was collected when the gasoline was removed from a pipeline or barge terminal. The remaining 1 cent per gallon was imposed at the retail level.

Exemption for certain medical air transportation

An exemption is provided from the air passenger and air freight taxes for emergency medical helicopter transportation if the helicopter does not take off from or land at Federally assisted airports or otherwise use Federal aviation facilities or services.

Exemption for helicopters used in exploration or development of hard minerals or oil or gas

An exemption is provided from the air passenger tax for helicopter transportation for exploration, development, or removal of hard minerals or oil or gas if the helicopter does not take off from or land at Federally assisted airports or otherwise use Federal aviation facilities or services.

Transportation of employees of affiliated companies

Generally, when employees fly on their employer's aircraft, the fuel tax applies, but when a company flies other passengers for compensation or hire, the passenger ticket tax applies. Employees of affiliated corporations do not cause the air ticket tax to apply. The Internal Revenue Service has interpreted the use limitation of present-law section 4282 on an all-or nothing basis relating to aircraft of affiliated groups. That is, if an aircraft is available for hire by persons outside the affiliated group, all amounts paid for transportation, including charges among members of an affiliated group, are subject to the passenger ticket tax rather than the fuels tax.[57]

House bill

No provision.

Senate amendment

Extension of aviation taxes

The five Airport and Airway Trust Fund excise taxes are reinstated at the pre-1996 rates for the period beginning seven days after the date of enactment through April 15, 1997.

Exemption for certain medical air transportation

The Senate amendment: (1) expands the exemption for emergency medical helicopters to also include fixed-wing aircraft equipped for and exclusively dedicated to acute care emergency medical services; and (2) removes the reference to non-use of Federally assisted airports or other Federal aviation facilities or services for such medical aircraft to qualify for the exemption.

Exemption for helicopters used in exploration or development of hard minerals or oil or gas

The Senate amendment provides that the exemption for such helicopter transportation applies on a flight segment basis.

Effective date.—The Senate amendment applies for transportation or fuel sold beginning seven days after the date of enactment. The air passenger and air freight taxes do not apply to any amount paid before that date, even if for transportation occurring during the reinstatement period.

Conference agreement

The conference agreement follows the Senate amendment with three modifications. First, the conference agreement reinstates the five Airport and Airway Trust Fund excise taxes at the pre-1996 rates for the period beginning seven calendar days after the date of enactment and through December 1, 1996 (rather than through April 15, 1997).

Second, the conference agreement consolidates imposition of the aviation gasoline excise tax, with the entire 19.3-cents-per-gallon rate being imposed when the gasoline is removed from a pipeline or barge terminal facility.

Third, the conference agreement provides that the determination of which tax, the passenger ticket tax or the fuels tax, applies to flights of aircraft of affiliated groups of corporations will be made on a flight-by-flight basis.

Effective date,—Same as Senate amendment.

11. MODIFY BASIS ADJUSTMENT RULES UNDER SECTION 1033

(Sec. 1608 of the Senate amendment.)

Present law

Under section 1033, gain realized by a taxpayer from certain involuntary conversions of property is deferred to the extent the taxpayer purchases property similar or related in service of use to the converted property within a specified replacement period of time. The replacement property may be acquired directly or by acquiring control of a corporation (generally, 80 percent of the stock of the corporation) that owns replacement property. The taxpayer's basis in the replacement property generally is the same as the taxpayer's basis in the converted property, decreased by the amount of any money or loss recognized on the conversion, and increased by the amount of any gain recognized on the conversion. In cases in which a taxpayer purchases stock as replacement property, the taxpayer generally reduces the basis of the stock, but does not reduce the basis of the underlying assets. Thus, the reduction in the basis of the stock generally does not result in reduced depreciation deductions where the corporation holds depreciable property, and may result in the taxpayer having more aggregate depreciable basis after the acquisition of replacement property than before the involuntary conversion.

House bill

No provision.

Senate amendment

The Senate amendment provides that where the taxpayer satisfies the replacement property requirement of section 1033 by acquiring stock in a corporation, the corporation generally will reduce its adjusted bases in its assets by the amount by which the taxpayer reduces its basis in the stock. The corporation's adjusted bases in its assets will not be reduced, in the aggregate, below the taxpayer's basis is its stock (determined after the appropriate basis adjustment for the stock). In addition, the basis of any individual asset will not be reduced below zero. The basis reduction first is applied to: (1) property that is similar or related in service or use to the converted property, then (2) to other depreciable property, then (3) to other property.

Effective date.—The provision applies to involuntary conversions occurring after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

12. EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS

(Sec. 1609 of the Senate amendment.)

Present law

In general, proceeds from a wagering transaction are subject to withholding at a rate of 28 percent if the proceeds exceed $5,000 and are at least 300 times as large as the amount wagered. No withholding tax is imposed on winnings from bingo or keno.

House bill

No provision.

Senate amendment

The Senate amendment imposes withholding on proceeds from bingo or keno wagering transactions at a rate of 28 percent if such proceeds exceed $5,000, regardless of the odds of the wager.

Effective date.—The provision is effective 30 days after the date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment provision.

13. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES

(Sec. 1610 of the Senate amendment.)

Present law

Life insurance companies are allowed a deduction for any net increase in reserves and are required to include in income any net decrease in reserves. The reserve of a life insurance company for any contract is the greater

[57] Rev. Rul. 770405, 1977–2 C.B. 381; Rev. Rul. 76–394, 1976–2 C.B. 355.

of the net surrender value of the contract or the reserve determined under Federally prescribed rules. In no event, however, may the amount of the reserve for tax purposes for any contract at any time exceed the amount of the reserve for annual statement purposes.

Special rules are provided in the case of a variable contract. Under these rules, the reserve for a variable contract is adjusted by (1) subtracting any amount that has been added to the reserve by reason of appreciation in the value of assets underlying such contract, and (2) adding any amount that has been subtracted from the reserve by reason of depreciation in the value of assets underlying such contract. In addition, the basis of each asset underlying a variable contract is adjusted for appreciation or depreciation to the extent the reserve is adjusted.

A variable contract generally is defined as any annuity or life insurance contract (1) that provides for the allocation of all or part of the amounts received under the contract to an account that is segregated from the general asset accounts of the company, and (2) under which, in the case of an annuity contract, the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account, or, in the case of a life insurance contract, the amount of the death benefit (or the period of coverage) is adjusted on the basis of the investment return and the market value of the segregated asset account. A pension plan contract that is not a life, accident, or health, property, casualty, or liability insurance contract is treated as an annuity contract for purposes of this definition.

House bill

No provision.

Senate amendment

The Senate amendment provides that a variable contract is to include a contract that provides for the funding of group term life or group accident and health insurance on retired lives if: (1) the contract provides for the allocation of all or part of the amounts received under the contract to an account that is segregated from the general asset account of the company; and (2) the amounts paid in, or the amounts paid out, under the contract reflect the investment return and the market value of the segregated asset account underlying the contract.

Thus, the reserve for such a contract is to be adjusted by (1) subtracting any amount that has been added to the reserve by reason of appreciation in the value of assets underlying such contract, and (2) adding any amount that has been subtracted from the reserve by reason of depreciation in the value of assets underlying such contract. In addition, the basis of each asset underlying the contract is to be adjusted for appreciation or depreciation to the extent that the reserve is adjusted.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

14. TREATMENT OF MODIFIED GUARANTEED CONTRACTS

Present law

Life insurance companies are allowed a deduction for any net increase in reserves and are required to include in income any net decrease in reserves. The reserve of a life insurance company for any contract is the greater of the net surrender value of the contract or the reserve determined under Federally prescribed rules. The net surrender value of a contract is the cash surrender value reduced by any surrender penalty, except that any market value adjustment required on surrender is not taken into account. In no event, however, may the amount of the reserve for tax purposes for any contract at any time exceed the amount of the reserve for annual statement purposes.

In general, assets held for investment are treated as capital assets. Any gain or loss from the sale or exchange of a capital asset is treated as a capital gain or loss and is taken into account for the taxable year in which the asset is sold or exchanged.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement generally applies a mark-to-market regime to assets held as part of a segregated account under a modified guaranteed contract issued by a life insurance company. Gain or loss with respect to such assets held as of the close of any taxable year are taken into account for that year (even though the assets have not been sold or exchanged),[58] and are treated as ordinary. If gain or loss is taken into account by reason of the mark-to-market requirement, then the amount of gain or loss subsequently realized as a result of sale, exchange, or other disposition of the asset, or as a result of the application of the mark-to-market requirement is appropriately adjusted to reflect such gain or loss. In addition, the reserve for a modified guaranteed contract is determined by taking into account the market value adjustment required on surrender of the contract.

A modified guaranteed contract is defined as any life insurance contract, annuity contract or pension plan contract[59] that is not a variable contract (within the meaning of Code section 817), and that satisfies the following requirements. All or part of the amounts received under the contract must be allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time by reference to market values.

The reserves for the contract must be valued at market for annual statement purposes and the Federally prescribed reserve for the contract under section 807(d)(2) must be valued at market. Further, a modified guaranteed contract includes only a contract that provides either for a net surrender value or for a policyholder's fund (within the meaning of section 807(e)(1)). It is intended that a policyholder's fund be more than de minimis. For example, Treasury regulations could provide that a policyholder's fund that represents 15 percent or less of the insurer's reserve for the contract under section 807, and that is attributable to employee contributions, would be considered de minimis.

If only a portion of the contract is not described in section 817, that portion is treated as a separate contract for purposes of the provision.

The Treasury Department is authorized to issue regulations that provide for the application of the mark-to-market requirement at times other than the close of a taxable year or the last business day of a taxable year. The Treasury Department is also authorized to issue such regulations as may be necessary or appropriate to carry out the purposes of the provision and to provide for treatment of modified guaranteed contracts under sections 72, 7702, and 7702A. In addition, the Treasury Department is authorized to determine the interest rates applicable under section 807(c)(3), 807(d)(2)(B) and 812 with respect to modified guaranteed contracts annually, calculating such rates as appropriate for modified guaranteed contracts. The Treasury Department has discretion to determine an appropriate rate that is a current market rate, which could be determined, for example, either by using a rate that is appropriate for the obligations under the contract to which the reserve relates, or by taking into account the yield on the assets underlying the contract. The Treasury Department may exercise this authority by issuing a periodic announcement of the appropriate market interest rates or formula for determining such rates. The Treasury Department is also authorized, to the extent appropriate for such a contract, to modify or waive section 811(d).

The Treasury Department is also authorized to provide rules limiting the ordinary treatment provided under the provision to gain or loss on those assets properly taken into account in calculating the reserve for Federal tax purposes (and necessary to support such reserves) for modified guaranteed contracts, and to provide rules for limiting such treatment with respect to other assets (such as assets representing surplus of the company). Particular concern has been expressed about characterization of gain or loss as ordinary under the provision in transactions that would otherwise either (1) have to meet the requirements of the hedging exception to the straddle rules to receive this treatment, or (2) by treated as capital transactions under present law. It is intended that the mark-to-market treatment apply to all assets held as part of a segregated account established under the provision, even though ordinary treatment may not apply (pursuant to Treasury regulatory authority) to assets held as part of the segregated account that are not necessary to support the reserve for modified guaranteed contracts.

The conference agreement authorizes the Treasury Department to prescribe regulations that provide for the treatment of assets transferred to or from a segregated account. This regulatory authority is provided because of concern that taxpayers may exercise selective ordinary loss (or income or gain) recognition by virtue of the ordinary treatment under the provision. One example of selective ordinary loss recognition could arise if assets are always marked to market when transferred out of the segregated account. For example, if at the beginning of the taxable year an asset in the segregated account is worth $1,000, but declines to $900 in July, the taxpayer might choose to recognize $100 of ordinary loss while continuing to own the asset, simply by transferring it out of the segregated account in July and replacing $1,000 of cash (for example) in the segregated account.

It is intended that the regulations relating to asset transfers will forestall opportunities for selective recognition of ordinary items. Prior to the issuance of these regulations, the following rules shall apply.

If an asset is transferred to a segregated account, gain or loss attributable to the period during which the asset was not in the segregated account is taken into account when the asset is actually sold, and retains the character (as ordinary or capital) properly attributable to that period. Appropriate adjustments are made to the basis of the asset to reflect gain or loss attributable to that period.

If an asset is transferred out of a segregated account, the transfer is deemed to

[58] The wash sale rules of section 1091 of the Code are not to apply to any loss that is required to be taken into account solely by reason of the mark-to-market requirement.

[59] The provision applies only to a pension plan contract that is not a life, accident or health, property, casualty, or liability contract.

occur on the last business day of the taxable year and gain or loss with respect to the transferred asset is taken into account as of that day. Loss with respect to such transferred asset is treated as ordinary to the extent of the lesser of (1) the loss (if any) that would have been recognized if the asset had been sold for its fair market value on the last business day of the taxable year (or the date the asset was actually sold by the taxpayer, if earlier) or (2) the loss (if any) that would have been recognized if the asset had been sold for its fair market value on the date of the transfer. A similar rule applies for gains. Proper adjustment is made in the amount of any gain or loss subsequently realized to reflect gain or loss under the provision.

For example, assume that a capital asset in the segregated account that is worth $1,000 at the beginning of the year is transferred out of the segregated account in July at a value of $900, is retained by the company and is worth $950 on the last business day of the taxable year. A $50 ordinary loss is taken into account with respect to the asset for the taxable year (the difference Between $1,000 and $950). The asset is not marked to market in any subsequent year under the provision, provide that it is not transferred back to the segregated account.

As an additional example, assume that a capital asset in the segregated account that is worth $1,000 at the beginning of the year is transferred out of the segregated accounted in July at a value of $900, is retained by the company and continues to decline in value to $850 on the last business day of the taxable year. A $100 ordinary loss ($1,000 less $900) and a $50 capital loss ($900 less $850) is taken into account with respect to the asset for the taxable year.

Effective date.—The provision applies to taxable years beginning after December 31, 1995. A taxpayer that is required to (1) change its calculation of reserves to take into account market value adjustments and (2) mark to market its segregated assets in order to comply with the requirements of the provision is treated as having initiated changes in methods of accounting and as having received the consent of the Treasury Department to make such changes.

Except as otherwise provided in special rules (described below), the section 481(a) adjustments required by reason of the changes in method of accounting are to be taken into account as ordinary income for the taxpayer's first taxable year beginning after December 31, 1995.

Special rules providing for a seven-year spread apply in the case of certain losses (if any), and in the case of certain reserve increases (if any), in order to limit selective loss recognition or selective minimization of gain recognition. Thus, the seven-year spread rule applies when the taxpayer's section 481(a) adjustment is negative.

First, if, for the taxpayer's first taxable year beginning after December 31, 1995, (1) the aggregate amount of the loss recognized by reason of the change in method of accounting with respect to segregated assets under modified guaranteed contracts (i.e., the switch to a mark-to-market regime for such assets) exceeds (2) the amount include in income by reason of the change in method of accounting with respect to reserves (i.e., the change permitting a market value adjustment to be taken into account with respect to a modified guaranteed contract), then the excess is not allowed as a deduction in the taxpayer's first taxable year beginning after December 31, 1995. Rather, such excess is allowed ratably over the period of seven taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1995. The adjusted basis of each such segregated asset is nevertheless determined as if such losses were realized in the taxpayer's first taxable year beginning after December 31, 1995.

Second, if, for the taxpayer's first taxable year beginning after December 31, 1995, (1) the aggregate amount the taxpayer's deduction that arises by reason of the change in method of accounting with respect to reserves (i.e., the change permitting a market value adjustment to be taken into account with respect to a modified guaranteed contract), exceeds (2) the aggregate amount of the gain recognized by reason of the change in method of accounting with respect to segregated assets under modified guaranteed contracts (i.e., the switch to a mark-to-market regime for such assets), then the excess is not allowed as a deduction in the taxpayer's first taxable year beginning after December 31, 1995. Rather, such excess is allowed ratably over the period of seven taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1995.

15. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION FOR WATER UTILITIES

(Sec. 1611(a) of the Senate amendment.)

Present and prior law

The gross income of a corporation does not include contributions to its capital. A contribution to the capital of a corporation does not include any contribution in aid of construction or any other contribution as a customer or potential customer.

Prior to the enactment of the Tax Reform Act of 1986 (''1986 Act''), a regulated public utility that provided electric energy, gas water, or sewage disposal services was allowed to treat any amount of money or property received from any person as a tax-free contribution to its capital so long as such amount: (1) was a contribution in aid of construction; and (2) was not included in the taxpayer's rate base for rate-making purposes. A contribution in aid of construction did not include a connection fee. The basis of any property acquired with a contribution in aid of construction was zero.

If the contribution was in property other than electric energy, gas, steam, water, or sewerage disposal facilities, such contribution was not includible in the utility's gross income so long as: (1) an amount at least equal to the amount of the contribution was expended for the acquisition or construction of tangible property that was used predominantly in the trade or business of furnishing utility services; (2) the expenditure occurred before the end of the second taxable year after the year that the contribution was received; and (3) certain records were kept with respect to the contribution and the expenditure. In addition, the status of limitations for the assessment of deficiencies was extended in the case of these contributions.

These rules were repealed by the 1986 Act. Thus, after the 1986 Act, the receipt by a utility of a contribution in aid of construction is includible in the gross income of the utility, and the basis of property received or constructed pursuant to the contribution is not reduced.

House bill

No. provision.

Senate amendment

The Senate amendment restores the contributions in aid of construction provisions that were repealed by the 1986 Act for regulated public utilities that provide water or sewerage disposal services.

Effective date.—The provision is effective for amounts received after June 12, 1996.

Conference agreement

The conference agreement follows the Senate amendment.

16. REQUIRE WATER UTILITY PROPERTY TO BE DEPRECIATED OVER 25 YEARS

(Sec. 1611(b) of the Senate amendment.)

Present law

Property used by a water utility in the gathering, treatment, and commercial distribution of water and municipal sewers are depreciated over a 20-year period for regular tax purposes. The depreciation method generally applicable to property with a recovery period of 20 years is the 150-percent declining balance method (switching to the straight-line method in the year that maximizes the depreciation deduction). The straight-line method applies to property with a recovery period over 20 years.

House bill

No provision.

Senate amendment

The Senate amendment provides that water utility property will be depreciated using a 25-year recovery period and the straight-line method for regular tax purposes. For this purpose, ''water utility property'' means (1) property that is an integral part of the gathering, treatment, or commercial distribution of water, and that, without regard to the proposal, would have had a recovery period of 20 years and (2) any municipal sewer. Such property generally is described in Asset Classes 49.3 and 51 of Revenue Procedure 87–56, 1987–2 C.B. 674. The Senate amendment does not change the class lives of water utility property for purposes of the alternative depreciation system of section 168(g).

Effective date.—The provision is effective for 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.

Conference agreement

The conference agreement follows the Senate amendment.

17. ALLOW CONVERSION OF SCHOLARSHIP FUNDING CORPORATION TO TAXABLE CORPORATION

(Sec. 1621 of the Senate amendment.)

Present law

Qualified scholarship funding corporations are nonprofit corporations established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965 (sec. 150(d)). In addition, a qualified scholarship funding corporation must be required by its corporate charter and bylaws, or under State law, to devote any income (after payment of expenses, debt service and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the United States.

In general, State and local government bonds issued to finance private loans (e.g., student loans) are taxable private activity bonds. However, interest on qualified student loan bonds is tax-exempt. Qualified scholarship funding corporations are eligible issuers of qualified student loan bonds.

The Internal Revenue Code restricts the direct and indirect investment of bond proceeds in higher yielding investments and requires that profits on investments that are unrelated to the government purpose for which the bonds are issued be rebated to the United States. Special allowance payments (SAP) made by the Department of Education are treated as interest on notes and, therefore, are permitted arbitrage that need not be rebated to the United States.

Generally, a private foundation and disqualified persons may, in the aggregate, own 20 percent of the voting stock of a functionally unrelated corporation.

House bill

No provision.

Senate amendment

In general.—The amendment would provide that a nonprofit student loan funding corporation may elect to cease its status as a qualified scholarship funding corporation. If the corporation meets the requirements outlined below, such an election would not cause any bond outstanding as of the date of the issuer's election and any bond issued to refund such a bond to fail to be a qualified student loan bond. Once made, an election could be revoked only with the consent of the Secretary of the Treasury. After making the election, the issuer would not be authorized to issue any new bonds.

Requirements.—First, upon making the election, the issuer would be required to transfer all of the student loan notes to another, taxable, corporation in exchange for senior stock of such corporation within a reasonable period of time after the election is made. Immediately after the transfer, the issuer, and any other issuer who made the election, would be required to hold all of the senior stock of the corporation. Senior stock is stock whose rights to dividends, liquidation or redemption rights are not inferior to those of any other class of stock and that (1) participates pro rata and fully in the equity value of any other common stock of the corporation, (2) has the right to payments receivable in liquidation prior to any other stock in the corporation, (3) upon liquidation or redemption, has a fixed right to receive the greater of (a) the fair market value of the stock at the date of liquidation or redemption or (b) the net fair market value of all assets transferred to the corporation by the issuer, and (4) has a right to require its redemption by a date which is not later than 10 years after the date that the election is made.

Second, the transferee corporation would be required to assume or otherwise provide for the payment of all the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election.

Third, immediately after the transfer, the issuer (i.e., the nonprofit student loan funding corporation) would be required to become a charitable organization (described in section 501(c)(3) that is exempt from tax under section 501(a)), at least 80 percent of the members of its board of directors must be independent members, and it must hold all of the senior stock of the corporation.

Excess business holdings.—For purposes of the excess business holding restrictions imposed on a private foundation, the charity would not be required to divest its ownership in a corporation most of whose assets are student loan notes incurred under the Higher Education Act of 1965.

Effective date.—The amendment would be effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

18. APPLY MATHEMATICAL OR CLERICAL ERROR PROCEDURES FOR DEPENDENCY EXEMPTIONS AND FILING STATUS WHEN CORRECT TAXPAYER IDENTIFICATION NUMBERS ARE NOT PROVIDED

(Sec. 1613 of the Senate amendment.)

Present law

In general

Individuals who claim personal exemptions for dependents must include on their tax return the name and taxpayer identification number (TIN) of each dependent. For returns filed with respect to tax year 1996, individuals must provide a TIN for all dependents born on or before November 30, 1996. For returns filed with respect to tax year 1997 and all subsequent years, individuals must provide TINs for all dependents, regardless of their age. An individual's TIN is generally that individual's social security number.

If the individual fails to provide a correct TIN for a dependent, the Internal revenue Service may impose a $50 penalty.

Mathematical or clerical errors

The IRS may summarily assess additional tax due as a result of a mathematical or clerical error without sending the taxpayer a notice of deficiency and giving the taxpayer an opportunity to petition the Tax Court. Where the IRS uses the summary assessment procedure for mathematical or clerical errors, the taxpayer must be given an explanation of the asserted error and a period of 60 days to request that the IRS abate its assessments. The IRS may not proceed to collect the amount of the assessment until the taxpayer has agreed to it or has allowed the 60-day period for objecting to expire. If the taxpayer files a request for abatement of the assessment specified in the notice, the IRS must abate the assessment. Any reassessment of the abated amount is subject to the ordinary deficiency procedures. The request for abatement of the assessment is the only procedure a taxpayer may use prior to paying the assessed amount in order to contest an assessment arising out of a mathematical or clerical error. Once the assessment is satisfied, however, the taxpayer may file a claim for refund if he or she believes the assessment was made in error.

House bill

No provision.

Senate amendment

If an individual fails to provide a correct TIN for a dependent, the IRS is authorized to deny the dependency exemption. Such a change also has indirect consequences for other tax benefits currently conditioned on being able to claim a dependency exemption (e.g., head of household filing status and the dependent care credit). In addition, the failure to provide a correct TIN for a dependent will be treated as a mathematical or clerical error and thus any notification that the taxpayer owes additional tax because of that failure will not be treated as a notice of deficiency.

Effective date.—The provision is effective for tax returns for which the due date (without regard to extensions) is 30 days or more after the date of enactment. For taxable years beginning in 1995, no requirement to obtain a TIN applies in the case of dependents born after October 31, 1995. For taxable years beginning in 1996, no requirement to obtain a TIN applies in the case of dependents born after November 30, 1996.

Conference agreement

The conference agreement follows the Senate amendment.

19. TREATMENT OF FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS (''FASITS'')

(Sec. 1621 of the Senate amendment.)

Present law

An individual can own income-producing assets directly, or indirectly through an entity (i.e., a corporation, partnership, or trust). Where an individual owns assets through an entity (e.g., a corporation), the nature of the interest in the entity (e.g., stock of a corporation) is different than the nature of the assets held by the entity (e.g., assets of the corporation).

Securitization is the process of converting one type of asset into another and generally involves the use of an entity separate from the underlying assets. In the case of securitization of debt instruments, the instruments created in the securitization typically have different maturities and characteristics than the debt instruments that are securitized.

Entities used in securitization include entities that are subject to tax (e.g., a corporation), conduit entities that generally are not subject to tax (e.g., a partnership, grantor trust, or real estate mortgage investment conduit (''REMIC'')), or partial-conduit entities that generally are subject to tax only to the extent income is not distributed to owners (e.g., a trust, real estate investment trust (''REIT''), or regulated investment company (''RIC'')).

There is no statutory entity that facilitates the securitization of revolving, nonmortgage debt obligations.

House bill

No provision.

Senate amendment

In general

The Senate amendment would create a new type of statutory entity called a ''financial asset securitization investment trust'' (''FASIT'') that facilitates the securitization of debt obligations such as credit card receivables, home equity loans, and auto loans. A FASIT generally will not be taxable; the FASIT's taxable income or net loss will flow through to the owner of the FASIT.

The ownership interest of a FASIT generally will be required to be entirely held by a single domestic C corporation. The Finance Committee expected that the Treasury Department will issue guidance on how this rule would apply to cases in which the entity that owns the FASIT joins in the filing of a consolidated return with other members of the group that wish to hold an ownership interest in the FASIT. In addition, a FASIT generally may hold only qualified debt obligations, and certain other specified assets, and will be subject to certain restrictions on its activities. An entity that qualifies as a FASIT can issue instruments that meet certain specified requirements and treat those instruments as debt for Federal income tax purposes. Instruments issued by a FASIT bearing yields to maturity over five percentage points above the yield to maturity on specified United States government obligations (i.e., ''high-yield interests'') must be held, directly or indirectly, only by domestic C corporations that are not exempt from income tax.

Qualification as a FASIT

In general.—To qualify as a FASIT, an entity must: (1) make an election to be treated as a FASIT for the year of the election and all subsequent years; (2) have assets substantially all of which (including assets that the FASIT is treated as owning because they support regular interests) are specified types called ''permitted assets;'' (3) have non-ownership interests be certain specified types of debt instruments called ''regular interests''; (4) have a single ownership interest which is held by an ''eligible holder''; and (5) not qualify as a RIC. Any entity, including a corporation, partnership, or trust may be treated as a FASIT. In addition, a segregated pool of assets may qualify as a FASIT.

Election to be a FASIT.—Once an election to be a FASIT is made, the election applies from the date specified in the election and all subsequent years until the entity ceases to be a FASIT. The manner of making the election to be a FASIT is to determined by the Secretary of the Treasury. If an election to be a FASIT is made after the initial year of an entity, all of the assets in the entity at the time of the FASIT election are deemed contributed to the FASIT at that time and, accordingly, any gain (but not loss) on such assets will be recognized at that time.[60]

Ceasing to be a FASIT.—Once an entity ceases to be a FASIT, it is not a FASIT for that year or any subsequent year. Nonetheless, an entity can continue to be a FASIT where the Treasury Department determines that the entity inadvertently ceases to be a FASIT, steps are taken reasonably soon after it is discovered that the entity ceased being a FASIT so that it again qualifies as a FASIT, and the FASIT and its owner take those steps that the Treasury Department deems necessary. An entity will cease qualifying as a FASIT if the entity's owner ceases being an eligible corporation. Loss of FASIT status is to be treated as if all of the regular interests of the FASIT were retired and then reissued without the application of the rule which deems regular interests of a FASIT to be debt. The Finance Committee understood that this treatment could result in the creation of cancellation of indebtedness income where the new instruments deemed to be issued are treated as stock under general tax principles.

Permitted assets. In general.—For an entity or arrangement to qualify as a FASIT, substantially all of its assets must consist of the following ''permitted assets'': (1) cash and cash equivalents; (2) certain permitted debt instruments; (3) certain foreclosure property; (4) certain instruments or contracts that represent a hedge or guarantee of debt held or issued by the FASIT; (5) contract rights to acquire permitted debt instruments or hedges; and (6) a regular interest in another FASIT. A FASIT must meet the asset test at the 90th day after its formation and at all times thereafter. Permitted assets may be acquired at any time by a FASIT, including any time after its formation.

Permitted debt instruments.—A debt instrument will be a permitted asset only if the instrument is indebtedness for Federal income tax purposes including trade receivables, regular interests in a real estate mortgage investment conduit (REMIC), or regular interests issued by another FASIT and it bears (1) fixed interest or (2) variable interest of a type that relates to qualified variable rate debt (as defined in Treasury regulations prescribed under sec. 860G(a)(1)(B)). Except for cash equivalents, permitted debt obligations cannot be obligations issued, directly or indirectly, by the owner of the FASIT or a related person.

Foreclosure property.—Permitted assets include property acquired on default (or imminent default) of debt instruments, swap contracts, forward contracts, or similar contracts held by the FASIT that would be foreclosure property to a REIT (under sec. 856(e)) if the property that was acquired by foreclosure by the FASIT was real property or would be foreclosure property to a REIT but for certain leases entered into or construction performed (as described in sec. 856(e)(4)) while held by the FASIT.

Hedges.—Permitted assets include interest rate or foreign currency notional principal contracts, letters of credit, insurance, guarantees against payment defaults, notional principal contracts that are ''in the money,'' or other similar instruments as permitted under Treasury regulations, which are reasonably required to guarantee or hedge against the FASIT's risks associated with being the obligor of regular interests. An instrument is a hedge if it results in risk reduction as described in Treasury regulation section 1.1221-2.

''Regular interests'' of a FASIT.—Under the Senate amendment, ''regular interests'' of a FASIT, including ''high-yield interests,'' are treated as debt for Federal income tax purposes regardless of whether instruments with similar terms issued by non-FASITs might be characterized as equity under general tax principles. To be treated as a ''regular interest,'' an instrument must have fixed terms and must: (1) unconditionally entitle the holder to receive a specified principal amount; (2) pay interest that is based on (a) one or more rates that are fixed, (b) rates that measure contemporaneous variations in the cost of newly borrowed funds,[61] or (c) to the extent permitted by Treasury regulations, variable rates allowed to regular interests of a REMIC if the FASIT would otherwise qualify as a REMIC; (3) have a term to maturity of no more than 30 years, except as permitted by Treasury regulations; (4) be issued to the public with a premium of not more than 25 percent of its stated principal amount; and (5) have a yield to maturity determined on the date of issue of no more than five percentage points above the applicable Federal rate (AFR) for the calendar month in which the instrument is issued.

A FASIT also may issue high-yield debt instruments, which includes any debt instrument issued by a FASIT that meets the second and third conditions described above, so long as such interests are not held by a disqualified holder. A ''disqualified holder'' generally is any holder other than (1) a domestic C corporation that does not qualify as a RIC, REIT, REMIC, or cooperative[62] or (2) a dealer who acquires FASIT debt for resale to customers in the ordinary course of business. An excise tax is imposed at the highest corporate rate on a dealer if there is a change in dealer status or if the holding of the instrument is for investment purposes. A 31-day grace period is granted before ownership of an interest held by a dealer generally could be treated as held by the FASIT owner for investment purposes.

Permitted ownership holder.—A permitted holder of the ownership interest in a FASIT generally is a non-exempt domestic C corporation, other than a corporation that qualifies as a RIC, REIT, REMIC, or cooperative.

Transfers to non-permitted holders of high-yield interests

A transfer of a high-yield interest to a disqualified holder is to be ignored for Federal income tax purposes. Thus, such a transferor will continue to be liable for any taxes due with respect to the transferred interest.

Taxation of a FASIT

In general.—A FASIT generally is not subject to tax. Instead, all of the FASIT's assets and liabilities are treated as assets and liabilities of the FASIT's owner and any income, gain, deduction or loss of the FASIT is allocable directly to its owner. Accordingly, income tax rules applicable to a FASIT (e.g., related party rules, sec. 871(h), sec. 165(g)(2)) are to be applied in the same manner as they apply to the FASIT's owner. Any securities held by the FASIT that are treated as held by its owner are treated as held for investment. The taxable income of a FASIT is calculated using an accrual method of accounting. The constant yield method and principles that apply for purposes of determining OID accrual on debt obligations whose principal is subject to acceleration apply to all debt obligations held by a FASIT to calculate the FASIT's interest and discount income and premium deductions or adjustments. For this purpose, a FASIT's income does not include any income subject to the 100-percent penalty excise tax on prohibited transactions.

Income from prohibited transactions..—The owner of a FASIT is required to pay a penalty excise tax equal to 100 percent of net income derived from (1) an asset that is not a permitted asset, (2) any disposition of an asset other than a permitted disposition, (3) any income attributable to loans originated by the FASIT, and (4) compensation for services (other than fees for a waiver, amendment, or consent under permitted assets not acquired through foreclosure). A permitted disposition is any disposition of any permitted asset (1) arising from complete liquidation of a class of regular interests (i.e., a qualified liquidation[63]), (2) incident to the foreclosure, default, or imminent default of the asset, (3) incident to the bankruptcy or insolvency of the FASIT, (4) necessary to avoid a default on any indebtedness of the FASIT attributable to a default (or imminent default) on an asset of the FASIT, (5) to facilitate a clean-up call, (6) to substitute a permitted debt instrument for another such instrument, or (7) in order to reduce over-collateralization where a principal purpose of the disposition was not to avoid recognition of gain arising from an increase in its market value after its acquisition by the FASIT. Notwithstanding this rule, the owner of a FASIT may currently deduct its losses incurred in prohibited transactions in computing its taxable income for the year of the loss.

Taxation of interests in the FASIT

Taxation of holders of regular interests.—In general.—A holder of a regular interest, including a high-yield interest, is taxed in the same manner as a holder of any other debt instrument, except that the regular interest holder is required to account for income relating to the interest on an accrual method of accounting, regardless of the method of accounting otherwise used by the holder.[64]

High-yield interests.—Holders of high-yield interests are not allowed to use net operating losses to offset any income derived from the high-yield debt. Any net operating loss carryover shall be computed by disregarding any income arising by reason of the disallowed loss.

In addition, a transfer of a high-yield interest to a disqualified holder is not recognized for Federal income tax purposes such that the transferor will continue to be taxed on the income from the high-yield interest unless the transferee provides the transferor with an affidavit that the transferee is not a disqualified person or the Treasury Secretary determines that the high-yield interest is no longer held by a disqualified person and a corporate tax has been paid on the income from the high-yield interest while it was held by a disqualified person.[65] High-yield interests may be held without a corporate tax being imposed on the income from the high-yield interest where the interest is held by a dealer in securities who acquired such high-yield interest for sale in the ordinary course of his business as a securities

[60] The Senate amendment provided transitional relief under which gain in pre-effective date entities that make a FASIT election may be deferred.

[61] Variable interest rates that would meet this standard include variable interest rates described in Treasury Income Tax Regulations 1.860G-1(a)(3).

[62] The Senate amendment treats cooperatives as disqualified holders since cooperatives, like RICs and REITs, are treated as pass-through entities and, also like the owners of RICs and REITs, the cooperative's members and patrons need not be C corporations.

[63] for this purpose, a ''qualified liquidation'' has the same meaning as it does purposes of the exemption from the tax on prohibited transactions of a REMIC in section 860F(a)(4).

[64] Regular interests in a FASIT 95 percent or more of whose assets are real estate mortgages are treated as real estate assets where relevant (e.g., secs. 856, 593, 7701(a)(19)).

[65] Under this rule, no high-yield interests will be treated as issued where the FASIT directly issues such interests to a disqualified holder.

dealer. In such a case, a corporate tax is imposed on such a dealer if his reason for holding the high-yield interest changes to investment. There is a presumption that the dealer has not changed his intent for holding high-yield instruments to investment for the first 31 days he holds such interests unless such holding is part of a plan to avoid the restriction on holding of high-yield interests by disqualified persons.

Where a pass-through entity (other than a FASIT) issues either debt or equity instruments that are secured by regular interests in a FASIT and such instruments bear a yield to maturity greater than the yield on the regular iterests and the applicable Federal rate plus five percentage points (determined on date that the pass-through entity acquires the regular interests in the FASIT) and the pass-through entity issued such debt or equity with a principal purpose of avoiding the rule that high-yield interests be held by corporations, then an excise tax is imposed on the pass-through entity at a rate equal to the highest corporate rate on the income of any holder of such instrument attributable to the regular interests.

Taxation of holder of ownership interest.—All of the FASIT's assets and liabilities are treated as assets and liabilities of the holder of a FASIT ownership interest and that owner takes into account all of the FASIT's income, gain, deduction, or loss in computing its taxable income or net loss for the taxable year. The character of the income to the holder of an ownership interest is the same as its character to the FASIT, except tax-exempt interest is taken into income of the holder as ordinary income.[66]

Losses on assets contributed to the FASIT are not allowed upon their contribution, but may be allowed to the FASIT owner upon their disposition by the FASIT. A special rule provides that the holder of a FASIT ownership interest cannot offset income or gain from the FASIT ownership interest with any other losses. Any net operating loss carryover of the FASIT owner shall be computed by disregarding any income arising by reason arising by reason of a disallowed loss.

For purposes of the alternative minimum tax, the owner's taxable income is determined without regard to the minimum FASIT income. The alternative minimum taxable income of the FASIT owner cannot be less than the FASIT income for that year, and the alternative minimum tax net operating loss deduction is computed without regard to the minimum FASIT income.

Transfers to FASITs

Gain generally is recognized immediately by the owner of the FASIT upon the transfer of assets to a FASIT. Assets that are acquired by the FASIT from someone other than its owner are treated as if they were acquired by the owner and then contributed to the FASIT. In addition, any assets of the FASIT owner or a related person that are used to support[67] FASIT regular interests are treated as contributed to the FASIT and, thus, any gain on any such assets also will be recognized at the earliest date that such assets support any FASIT's regular interests.[68] To the extent provided by Treasury regulations, gain recognition on the contributed assets may be deferred until such assets support regular interests issued by the FASIT or any indebtedness of the owner or related person. These regulations my adjust other statutory FASIT provisions to the extent such provisions are inconsistent with such regulations. For example, such regulations may disqualify certain assets as permitted assets. The basis of any FASIT assets is increased by the amount of the taxable gain recognized on the contribution of the assets to the FASIT.

Valuation rules

In general, except in the case of debt instruments, the value of FASIT assets is their fair market value. In the case of debt instruments that are traded on an established securities market, then the market price will be used for purposes of determining the amount of gain realized upon contribution of such assets to a FASIT. Nonetheless, the Senate amendment contained special rules for valuing other debt instruments for purposes of computing gain on the transfer to a FASIT. Under these rules, the value of such debt instruments is the sum of the present values of the reasonably expected cash flows from such obligations discounted over the weighted average life of such assets. The discount rate is 120 percent of the applicable Federal rate, compounded semiannually, or such other rate that the Treasury Secretary shall prescribe by regulations. For purposes of determining the value of a pool of revolving loan accounts having substantially the same terms, each extension of credit (other than the accrual of interest) is treated as a separate debt instrument and the maturity of the instruments is determined using the reasonably anticipated periodic payment rate at which principal payments will be made as a proportion of their aggregate outstanding principal assuming that payments are applied to the earliest credit extensions. The Finance Committee understood that reasonably expected cash flows from loans will reflect nonpayment (i.e., losses), early payments (i.e., prepayments), and reasonable costs of servicing the loans. This value shall be used in determining the amount of gain realized upon the contribution of assets to a FASIT even though that value may be different than the value of such assets would be applying a willing buyer/willing seller standard.

Related person

For purposes of the FASIT rules, a person is related to another person if that person bears a relationship to the other person specified in sections 267(b) or 707(b)(1), using a 20-percent ownership test instead of the 50-percent test, or such persons are engaged in trades or businesses under common control as determined under sections 52(a) or (b).

Related amendments

For purposes of the wash sale rule (sec. 1091), an ownership interest of a FASIT is treated as a ''security.'' In addition, an ownership interest in a FASIT and a residual interest in a pool of debt obligations that are substantially similar to the debt obligations in the FASIT shall be treated as ''substantially identical stock or securities''. Finally, the wash sale period begins six months before, and ends six months after, the sale of the ownership interest of the FASIT.

Effective date

The Senate amendment would take effect on the date of enactment. The Senate amendment provided a special transition rule for entities (e.g., a trust whose interests are taxed like a partnership) that were in existence on June 10, 1996, that subsequently elect to be a FASIT (called a ''pre-effective date FASIT''). Under the special transitional rule, gain is not recognized on property contributed, or deemed contributed, to the FASIT to the extent that any such property is allocable to interests issued by a ''pre-effective date FASIT'' (called a ''pre-FASIT interest''). The portion of such property that is allocable to pre-FASIT interests is to be determined by the Treasury Secretary, except that the property of the entity allocable to ''pre-FASIT interests'' shall not be less than 107 percent of the aggregate principal amounts of outstanding ''pre-FASIT interests.''

Conference agreement

The conference agreement follows the Senate amendment with the following changes and clarifications:

The conference agreement modifies the rule under which property that is acquired by a FASIT from someone other than the FASIT's owner or a person related to the FASIT's owner is treated as being first acquired by the FASIT's owner who then transfers that asset to the FASIT. The conference modification would clarify that the deemed acquisition by the FASIT's owner would be for the FASIT's cost in acquiring that asset from the non-owner or related person.

The conference agreement makes a technical modification to the rule which deems gain to be recognized on assets held by the owner of the FASIT or a related person that support any regular interest of the FASIT to clarify that the gain will be deemed realized to the related person when the assets which support a regular interest in the FASIT is held by that related person.

The conference agreement clarifies that the taxable income of the holder of the ownership interest or a high-yield interest, that may not be offset by non-FASIT losses, includes gain and loss from the sale of the ownership interest or high-yield interest. In addition, the conference agreement coordinates the rule that limits a taxpayer's ability to offset REMIC excess inclusion income against net operating losses with this similar rule under the FASIT provisions.

The conference agreement provides that the taxable income of a holder of a FASIT ownership interest cannot be less than the taxable income with respect to the FASIT interest applies to any consolidated group of corporations of which the holder is a member as if the group were a single taxpayer.

The conference agreement makes a technical modification to the wording of a waiver of the rule that treats transfers of high-yield interest to disqualified persons as being ineffective such that the income for such high-yield interests will remain includable in the gross income of the transferor in computing its tax.

The conference agreement limits the rule of the Senate amendment that imposes a corporate tax on a pass-thru entity that issues a debt or equity interest that is supported by a regular interest in a FASIT and has high yield to cases where a principal purpose of such arrangement is the avoidance of the restriction that high-yield interests be held only by qualified holders.

The conference agreement modifies the rule of the Senate amendment which deals with terminations of a FASIT to provide that such terminations become effective on the date of the termination, instead of the beginning of the FASIT's taxable year in which the termination occurs.

The conference agreement provides that an asset which was a permitted asset at the time that it was acquired by the FASIT shall not be treated as an interest in the FASIT,

[66] Ownership interests in a FASIT 95 percent or more of whose assets are real estate mortgages are treated as real estate assets where relevant (e.g., secs. 856, 593, 7701(a)(19)).

[67] For this purpose, supporting assets includes any assets that are reasonably expected to directly or indirectly pay regular interests or to otherwise secure or collateralize regular interests. In the case where there is a commitment to make additional contributions to a FASIT, any such assets will not be treated as supporting the FASIT until they are transferred to the FASIT or set aside for such use.

[68] In the case of a securities dealer which may be an eligible holder, the Finance Committee understood that the mark-to-market rule of section 475 will not apply to an ownership interest in a FASIT or assets held in the FASIT.

except to the extent provided by regulation issued by the Treasury Secretary. Thus, an instrument acquired by the FASIT as a hedge (e.g., an interest rate swap) will not later become an interest in the FASIT when there is later an obligation by the FASIT to make payments to the counterparty under that hedge instrument.

The conference agreement clarifies that a FASIT may issue regular instruments with fixed rates or, except as provided by regulations issued by Treasury Secretary, variable rates permitted to be issued by real estate mortgage investment conduits (''REMICs'').

The conference agreement clarifies that ''interest-only instruments'' (''IOs'') may be issued by a FASIT as high-yield instruments if the instrument makes payments which consist of a specified portion of the interest payments in permitted assets and that portion does not vary throughout the life of that instrument.

The conference agreement clarifies that foreclosure property, which may be permitted asset of a FASIT, includes property acquired by foreclosure even though the acquired property is not real property. The conference agreement also grants the Treasury Secretary the power to reduce by regulations the two-year period that foreclosure property may be held as a permitted asset of the FASIT.

The conference agreement clarifies the application of section 475 to a securities dealer that holds an ownership interest in a FASIT. Under this clarification, except as provided in Treasury regulations, if section 475 applies to securities before their transfer to the FASIT, section 475 will continue to apply to securities that have been transferred (or deemed transferred) to the FASIT, except that the amount realized under the mark-to-market rule of section 475 shall be the greater of the securities' value under present law or their value determined under the special valuation rules applicable to FASITs.

The conference agreement deletes in technical amendments the rules that treat an ownership interests in a FASIT (a) as a non-capital asset of a bank or (b) as a permitted asset of a real estate investment trust (''REIT'').

The conference agreement provides that a regular interest, but not an ownership interest, in a FASIT is treated as a qualified mortgage of a real estate mortgage investment conduit (''REMIC'') if 95 percent or more of the value of the FASIT's assets consists, at all times, of real estate mortgages.

The conference agreement clarifies that a regular interest, but not an ownership interest, in a FASIT is treated as a qualifying asset for purposes of the definition of a domestic building and loan association so long as at least 95 percent of the assets of the FASIT are, at all times, qualified assets.

The conference agreement delays the effective date of the provision from the date of enactment of the provision to September 1, 1997, and extends the special transitional rule to any entity created before that date. The conferees expect that, prior to September 1, 1997, Treasury will issue guidance on how the ownership rule would apply to cases in which the entity that owns the FASIT joins in the filing of a consolidated return with other members of the group that wish to hold an ownership interest in the FASIT.

20. REVISION OF EXPATRIATION TAX RULES

(Secs. 1631–1633 of the Senate amendment.)

Present law

Individuals who relinquish U.S. citizenship with a principal purpose of avoiding U.S. taxes are subject to special tax provisions for 10 years after expatriation. The determination of who is a U.S. citizen for tax purposes, and when such citizenship is lost, is governed by the provisions of the Immigration and nationality Act, 8 U.S.C. section 1401, et. seq.

An individual who relinquishes his U.S. citizenship with a principal purpose of avoiding U.S. taxes is subject to tax on his or her U.S. source income at the rates applicable to U.S. citizens, rather than the rates applicable to other non-resident aliens, for 10 years after expatriation. In addition, the scope of items treated as U.S. source income for this purpose is broader than those items generally considered to be U.S. source income. For example, gains on the sale of personal property located in the United States and gains on the sale or exchange of stock or securities issued by U.S. persons are treated as U.S. source income. This alternative method of income taxation applies only if it results in a higher U.S. tax liability.

Rules applicable in the estate and gift tax contexts expand the categories of items that are subject to the gift and estate taxes in the case of a U.S. citizen who relinquished citizenship with a principal purpose of avoiding U.S. taxes within the 10-year period ending on the date of the transfer. For example, U.S. property held through a foreign corporation controlled by such individual and related persons is included in his or her estate and gifts of U.S.-situs intangible property by such individual are subject to the gift tax.

House bill

No provision.

Senate amendment

The Senate amendment replaces the present-law expatriation income tax rules with rules that generally subject certain U.S. citizens who relinquish their U.S. citizenship and certain long-term U.S. residents who relinquish their U.S. residency to tax on the net unrealized gain in their property as if such property were sold for fair market value on the expatriation date. The Senate amendment modifies the present-law expatriation estate and gift tax rules to apply to certain long-term U.S. residents and to provide that, for purposes of applying such rules, certain persons would be treated as having relinquished citizenship or residency for a principal purpose of avoiding U.S. taxes. The Senate amendment also imposes information reporting and sharing obligations with respect to U.S. citizens who relinquish their citizenship and long-term residents whose U.S. residency is terminated.

Effective date.—The provision generally is effective for U.S. citizens whose date of relinquishment of citizenship occurs on or after February 6, 1995 and for long-term residents who terminate their U.S. residency on or after such date.

Conference agreement

The conference agreement does not include the Senate amendment provision.

21. MODIFY TREATMENT OF FOREIGN TRUSTS

(Secs. 411–417 of H.R. 3286.)

Present law

Inbound grantor trusts with foreign grantors

Under the grantor trust rules (secs. 671–679), a grantor that retains certain rights or powers generally is treated as the owner of the trust's assets without regard to whether the grantor is a domestic or foreign person. Under these rules, U.S. trust beneficiaries are not subject to U.S. tax on distributions from a trust where a foreign grantor is treated as owner of the trust, even though no tax may be imposed on the trust income by any jurisdiction. In addition, a special rule provides that if a U.S. beneficiary of an inbound grantor trust transfers property to the foreign grantor by gift, that U.S. beneficiary is treated as the grantor of the trust to the extent of the transfer.

Foreign trusts that are no grantor trusts

Under the accumulation distribution rules (which generally apply to distributions from a trust in excess of the trust's distributable net income for the taxable year), a distribution by a foreign nongrantor trust of previously accumulated income generally is taxed at the U.S. beneficiary's average marginal rate for the prior 5 years, plus interest (secs. 666 and 667). Interest is computed at a fixed annual rate of 6 percent, with no compounding (sec. 668). If adequate records of the trust are not available to determine the proper application of the rules relating to accumulation distributions to any distribution from a trust, the distribution is treated as an accumulation distribution out of income earned during the first year of the trust (sec. 666(d)).

If a foreign nongrantor trust makes a loan to one of its beneficiaries, the principal of such a loan generally is not taxable as income to the beneficiary.

Outbound foreign grantor trusts with U.S. grantors

Under the grantor trust rules, a U.S. person that transfers property to a foreign trust generally is treated as the owner of the portion of the trust comprising that property for any taxable year in which there is a U.S. beneficiary of any portion of the trust (sec. 679(a)). This treatment generally does not apply, however, to transfers by reason of death, to transfers made before the transferor became a U.S. person, or to transfers that represent sales or exchanges of property at fair market value where gain is recognized to the transferor.

Residence of trusts

A trust is treated as foreign if it is not subject to U.S. income taxation on its income that is neither derived from U.S. sources nor effectively connected with the conduct of a U.S. trade or business. Thus, if a trust is taxed in a manner similar to a nonresident alien individual, it is considered to be a foreign trusts. Any other trust is treated as domestic.

Section 1491 generally imposes a 35-percent excise tax on a U.S. person that transfers appreciated property to certain foreign entities, including a foreign trust. In the case of a domestic trust that changes its situs and becomes a foreign trust, it is unclear whether property has been transferred from a U.S. person to a foreign entity and, thus, whether the transfer is subject to the excise tax.

Information reporting and penalties related to foreign trusts

Any U.S. person that creates a foreign trust or transfers money or property to a foreign trust is required to report that event to the Treasury Department without regard to whether the trust is a grantor or a nongrantor trust. Similarly, any U.S. person that transfers property to a foreign trust that has one or more U.S. beneficiaries is required to report annually to the Treasury Department. In addition, any U.S. person that makes a transfer described in section 1491 is required to report the transfer to the Treasury Department.

Any person that fails to file a required report with respect to the creation of, or a transfer to, a foreign trust may be subject to a penalty of 5 percent of the amount transferred to the foreign trust. Similarly, any person that fails to file a required annual report with respect to a foreign trust with U.S. beneficiaries may be subject to a penalty of 5 percent of the value of the corpus of the trust at the close of the taxable year. The maximum amount of the penalty imposed under either case may not exceed $1,000. A reasonable cause exception is available.

Reporting of foreign gifts

There is no requirement to report gifts or bequests from foreign sources.

House bill

No provision. However, sections 411–417 of H.R. 3286 (Adoption Promotion and Stability Act of 1996) contains the following provisions:

Inbound grantor trusts with foreign grantors

The House bill generally applies only to the extent it results, directly or indirectly, in income or other amounts (if any) being currently taken into account in computing the income of a U.S. citizen or resident or a domestic corporation. Certain exceptions apply to this rule. Under one exception, the grantor trust rules continue to apply to the portion of a trust where that portion of the trust is revocable by the grantor either without approval of another person or with the consent of a related or subordinate party who is subservient to the grantor. Under another exception, the grantor trust rules continue to apply to the portion of a trust where the only amounts distributable from that portion during the lifetime of the grantor are to the grantor or the grantor's spouse. The general rule denying grantor trust status does not apply to trusts established to pay compensation, and certain trusts in existence as of September 19, 1995 provided that such trust is treated as owned by the grantor under section 676 or 677 (other than sec. 677(a)(3)).[69] In addition, the grantor trust rules generally apply where the grantor is a controlled foreign corporation (as defined in sec. 957). Finally, the grantor trust rules continue to apply in determining whether a foreign corporation is characterized as a passive foreign investment company (''PFIC''). Thus, a foreign corporation cannot avoid PFIC status by transferring its assets to a grantor trust.

If a U.S. beneficiary, or a family member of such a beneficiary,[70] of an inbound grantor trust transfers property to the foreign grantor, such beneficiary generally is treated as a grantor of a portion of the trust to the extent of the transfer. This rule applies without regard to whether the foreign grantor is otherwise treated as the owner of any portion of such trust. However, this rule does not apply if the transfer is a sale of the property for full and adequate consideration or if the transfer is a gift that qualifies for the annual exclusion described in section 2503(b).

The House bill provides a special rule that allows the Secretary of the Treasury to recharacterize a transfer, directly or indirectly, from a partnership or foreign corporation which the transferee treats as a gift or bequest, to prevent the avoidance of the purpose of section 672(f).[71] In a case where a foreign person (that would be treated as the owner of a trust but for the above rule) actually pays tax on the income of the trust to a foreign country, it is anticipated that Treasury regulations will provide that, for foreign tax credit purposes, U.S. beneficiaries that are subject to U.S. income tax on the same income will be treated as having paid the foreign taxes that are paid by the foreign grantor. Any resulting foreign tax credits would be subject to applicable foreign tax credit limitations.

The House bill provides a transition rule for any domestic trust that has a foreign grantor that is treated as the owner of the trust under present law, but becomes a nongrantor trust under the bill. If such a trust becomes a foreign trust before January 1, 1997, or if the assets of such a trust are transferred to a foreign trust before that date, such trust is exempt from the excise tax on transfers to a foreign trust otherwise imposed by section 1491. However, the House bill's new reporting requirements and penalties are applicable to such a trust and its beneficiaries. In addition, the assets of such a trust will be treated as if they were recontributed to a nongrantor trust by the foreign grantor, with no recognition of gain or loss, on the date the trust ceases to be treated as a grantor trust. The nongrantor trust will have the same basis in such assets as did the grantor on the date the trust ceases to be treated as a grantor trust.

Effective date.—The provisions described in this part are effective on the date of enactment.

Foreign trusts that are not grantor trusts

The House bill changes the interest rate applicable to accumulation distributions from foreign trusts from simple interest at a fixed rate of 6 percent to compound interest determined in the same manner as interest imposed on underpayments of tax under section 6621(a)(2). Simple interest is accrued at the rate of 6 percent through 1995. Beginning on January 1, 1996, however, compound interest based on the underpayment rate is imposed not only on tax amounts determined under the accumulation distribution rules but also on the total simple interest for pre-1996 periods, if any. For purposes of computing the interest charge, the accumulation distribution is allocated proportionately to prior trust years in which the trust has undistributed net income (and the beneficiary receiving the distribution was a U.S. citizen or resident), rather than to the earliest of such years. An accumulation distribution is treated as reducing proportionately the undistributed net income from prior years.

In the case of a loan of cash or marketable securities by the foreign trust to a U.S. grantor or a U.S. beneficiary (or a U.S. person related to such grantor or beneficiary[72]), except, to the extent provided by Treasury regulations, the House bill treats the full amount of the loan as distributed to the grantor or beneficiary. It is expected that Treasury regulations will provide an exception from this treatment for loans with arm's-length terms. In applying this exception, it is further expected that consideration be given to whether there is a reasonable expectation that a loan will be repaid. In addition, any subsequent transaction between the trust and the original borrower regarding the principal of the loan (e.g., repayment) is disregarded for all purposes of the Code. This provision does not apply to loans made to persons that are exempt from U.S. income tax.

Effective date.—The provision to modify the interest charge on accumulation distributions applies to distributions after the date of enactment. The provision with respect to loans to U.S. grantors, U.S. beneficiaries or a related U.S. person related to such a grantor or beneficiary applies to loans made after September 19, 1995.

Outbound foreign grantor trusts with U.S. grantors

The House bill makes several modifications to the general rule of section 679(a)(1) under which a U.S. person who transfer property to a foreign trust generally is treated as the owner of the portion of the trust comprising that property for any taxable year in which there is a U.S. beneficiary of the trust. The House bill also contains an amendment to conform the definition of certain foreign corporations the income of which is deemed to be accumulated for the benefit of a U.S. beneficiary to the definition controlled foreign corporations (as defined in sec. 957(a)).

Sale or exchange at market value.—Present law contains several exceptions to grantor trust treatment under section 679(a)(1) described above. Under one of the exceptions, grantor trust treatment does not result from a transfer of property by a U.S. person to a foreign trust in the form of a sale or exchange at fair market value where gain is recognized to the transferor. In determining whether the trust paid fair markets value to the transferor, the House bill provides that obligations issued (or, to the extent provided by regulations, guaranteed) by the trust, by any grantor or beneficiary of the trust, or by any person related to any grantor or beneficiary[73] (referred to as ''trust obligations'') generally are not taken into account except as provided in Treasury regulations. It is expected that Treasury regulations will provide an exception from this treatment for loans with arm's-length terms. In applying this exception, it is further expected that consideration be given to whether there is a reasonable expectation that a loan will be repaid. Principal payments by the trust on any such trust obligations generally will reduce the portion of the trust attributable to the property transferred (i.e., the portion of which the transferor is treated as the grantor).

Other transfers.—The House bill adds new exception to the general rule of section 679(a)(1) described above. Under the House bill, a transfer of property to certain charitable trusts is exempt from the application of the rules treating foreign trusts with U.S. grantors and U.S. beneficiaries as grantor trusts.

Transferors or beneficiaries who become U.S. persons.—The House bill applies the rule of section 679(a)(1) to certain foreign persons who transfer property to a foreign trust and subsequently become U.S. persons. A nonresident alien individual who transfers property, directly or indirectly, to a foreign trust and then becomes a resident of the United States within 5 years after the transfer generally is treated as making a transfer to the foreign trust on the individual's U.S. residency starting date (as defined in sec. 7701(b)(2)(A)). The amount of the deemed transfer is the portion of the trust (including undistributed earnings) attributable to the property previously transferred. Consequently, the individual generally is treated under section 679(a)(1) as the owner of that portion of the trust in any taxable year in which the trust has U.S. beneficiaries.

Outbound trust migrations.—The House bill applies the rules of section 679(a)(1) to a U.S. person who transferred property to a domestic trust if the trust subsequently becomes a foreign trust while the transferor is still alive. Such a person is deemed to make a transfer to the foreign trust on the date of the migration. The amount of the deemed transfer is the portion of the trust (including undistributed earnings) attributable to the property previously transferred. Consequently, the individual generally is treated

[69] The exception does not apply to the portion of any such trust attributable to any transfers made after September 19, 1995.

[70] For this purpose, a family member is generally defined as a brother, sister, spouse, ancestor or lineal descendant.

[71] See discussion below for reporting requirements under the House bill with respect to certain foreign gifts and bequests received by a U.S. person.

[72] For this purpose, a person generally would be treated as related to the grantor or beneficiary if the relationship between such person and the grantor or beneficiary would result in a disallowance of losses under section 267 or 707(b), except that in applying section 267(c)(4) an individual's family includes the spouses of the members of the family.

[73] For this purpose, a person is treated as related to the grantor or beneficiary if the relationship between such person and the grantor or beneficiary would result in a disallowance of losses under section 267 or 707(b), except that in applying section 267(c)(4) an individual's family includes the spouses of the members of the family.

under the rules of section 679(a)(1) as the owner of that portion of the trust in any taxable year in which the trust has U.S. beneficiaries.

Effective date.—The provisions to amend section 679 apply to transfers of property after February 6, 1995.

Anti-abuse regulatory authority

The House bill includes an anti-abuse rule which authorizes the Secretary of the Treasury to issue regulations, on or after the date of enactment, that may be necessary or appropriate to carry out the purposes of the rules applicable to estates, trusts and beneficiaries, including regulations to prevent the avoidance of those purposes.

Effective date.—The provision is effective on the date of enactment.

Residence of trusts

The House bill establishes a two-part objective test for determining for tax purposes whether a trust is foreign or domestic. If both parts of the test are satisfied, the trust is treated as domestic. Under the first part of the proposed test, if a U.S. court (i.e., Federal, State, or local) exercises primary supervision over the administration of the trust, the trust is treated as domestic. Under the second part of the proposed test, in order for a trust to be treated as domestic, one or more U.S. fiduciaries must have the authority to control all substantial decisions of the trust.

Under the House bill, if a domestic trust changes its situs and becomes a foreign trust, the trust is treated as having made a transfer of its assets to a foreign trust and is subject to the 35-percent excise tax imposed by present-law section 1491 unless one of the exceptions to this excise tax is applicable.

Effective date.—The provision to modify the treatment of a trust as a U.S. person applies to taxable years beginning after December 31, 1996. In addition, if the trustee of a trust so elects, the provision would apply to taxable years ending after the date of enactment. The amendment to section 1491 is effective on the date of enactment.

Information reporting and penalties relating to foreign trusts

The House bill generally requires the grantor, transferor or executor (i.e., the ''responsible party'') to file information returns with the Treasury Department upon the occurrence of certain events. The term ''reportable event'' generally means the creation of any foreign trust by a U.S. person, the direct and indirect transfer of any money or property to a foreign trust, including a transfer by reason of death, and the death of a U.S. citizen or resident if any portion of a foreign trust was included in the gross estate of the decedent. In addition, a U.S. owner of any portion of a foreign trust generally is required to ensure that the trust files an annual return to provide full accounting of all the trust activities for the taxable year. Finally, any U.S. person that receives (directly or indirectly) any distribution from a foreign trust generally is required to file a return to report the name of the trust, the aggregate amount of the distributions received, and other information that the Secretary of the Treasury may prescribe.

Under the House bill, a person that fails to provide the required notice or return in cases involving the transfer of property to a new or existing foreign trust, or a distribution by a foreign trust to a U.S. person, is subject to an initial penalty equal to 35 percent of the gross reportable amount. A failure to provide an annual reporting of trust activities will result in an initial penalty equal to 5 percent of the gross reportable amount.

The House bill provides that if a U.S. owner of any portion of a foreign trust fails to appoint a limited U.S. agent to accept service of process with respect to any requests and summons by the Secretary of the Treasury in connection with the tax treatment of any items related to the trust, the Secretary may determine the tax consequences of amounts to be taken into account under the grantor trust rules. In cases where adequate records are not provided to the Secretary to determine the proper treatment of any distributions from a foreign trust, the distribution is includible in the gross income of the U.S. distributee and is treated as an accumulation distribution from the middle year of a foreign trust (i.e., computed by taking the number of years that the trust has been in existence divided by 2) for purposes of computing the interest charge applicable to such distribution, unless the foreign trust elects to have a U.S. agent for the limited purpose of accepting service of process (as described above).

Under the House bill, a person that fails to provide the required notice or return in cases involving the transfer of property to a new or existing foreign trust, or a distribution by a foreign trust to a U.S. person, is subject to an initial penalty equal to 35 percent of the gross reportable amount (generally the value of the property involved in the transaction). A failure to provide an annual reporting of trust activities will result in an initial penalty equal to 5 percent of the gross reportable amount. An additional $10,000 penalty is imposed for continued failure for each 30-day period (or fraction thereof) beginning 90 days after the Treasury Department notifies the responsible party of such failure. Such penalties are subject to a reasonable cause exception. In no event will the total amount of penalties exceed the gross reportable amount.

Effective date.—The reporting requirements and applicable penalties generally apply to reportable events occurring or distributions received after the date of enactment. The annual reporting requirement and penalties applicable to U.S. grantors apply to taxable years of such persons beginning after December 31, 1995.

REPORTING OF FOREIGN GIFTS

The House bill generally requires any U.S. person (other than certain tax-exempt organizations) that receives purported gifts or bequests from foreign sources total more than $10,000 during the taxable year to report them to the Treasury Department. The threshold for this reporting requirement is indexed for inflation. The definition of a gift to a U.S. person for this purpose excludes amounts that are qualified tuition or medical payments made on behalf of the U.S. person, as defined for gift tax purposes (sec. 2503(e)(2)), and amounts that are distributions to a U.S. beneficiary of a foreign trust if such amounts are properly disclosed under the reporting requirements of the House bill. If the U.S. person fails, without reasonable cause, to report foreign gifts as required, the Secretary of the Treasury is authorized to determine the tax treatment of the unreported gifts. It is intended that the Treasury Secretary's exercise of its authority to make such a determination will be subject to judicial review under a arbitrary or capricious standard, which provides a high degree of deference to such determination. In addition, the U.S. person is subject to a penalty equal to 5 percent of the amount of the gift for each month that the failure continues, with the total penalty not to exceed 25 percent of such amount.

Effective date.—The provision applies to amounts received after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement adopts the House bill provision of H.R. 3286 with one modification and two clarifications.

If a U.S. beneficiary of an unbound grantor trust transfers property to a foreign grantor, such beneficiary generally is treated as a grantor of a portion of the trust to the extent of the transfer. Under the conference agreement, this provision generally does not apply transfers by a family member of such a beneficiary.

The conferees wish to clarify that in exercising its regulatory authority to treat a U.S. trust as a foreign trust for purposes of information reporting purposes, the Secretary of the Treasury will take into account the information that such a trust reported under the domestic trust reporting rules.

Under the House bill, the section 1491 excise tax applies when a domestic trust changes its situs and becomes a foreign trust after the date of enactment. In addition, under the House bill, a trustee may elect to apply the new objective test for determining the residence of a trust to the taxable year of the trust ending after the date of enactment. The conferees wish to clarify that when a trustee makes this election, and thereby changes the situs of a trust from domestic to foreign, the trust is treated as having made an outbound transfer of its assets on the date of such election. Consequently, the section 1491 excise tax will apply to such a transfer.

22. TREATMENT OF BAD DEBT DEDUCTIONS OF THRIFT INSTITUTIONS

(Sec. 401 of the H.R. 3103 and sec. 611 of the Senate amendment to H.R. 3103.)

Present law

Generally, a taxpayer engaged in a trade or business may deduct the amount of any debt that becomes wholly or partially worthless during the year (the ''specific charge-off'' method of sec. 166). Certain thrift institutions (building and loan associations, mutual savings banks, or cooperative banks) are allowed deductions for bad debts under rules more favorable than those granted to other taxpayers (and more favorable than the rules applicable to other financial institutions). Qualified thrift institutions may compute deductions for bad debts using either the specific charge-off method or the reserve method of section 593. To qualify for this reserve method, a thrift institution must meet an asset test, requiring that 60 percent of its assets consist of ''qualifying assets'' (generally cash, government obligations, and loans secured by residential real property). This percentage must be computed at the close of the taxable year, or at the option of the taxpayer, as the annual average of monthly, quarterly, or semiannual computations of similar percentages.

If a thrift institution uses the reserve method of accounting, it must establish and maintain a reserve for bad debts and charge actual losses against the reserve, and is allowed a deduction for annual additions to restore the reserve to its permitted balance. Under section 593, a thrift institution annually may elect to calculate its addition to its bad debt reserve under either (1) the ''percentage of taxable income'' method applicable only to thrift institutions, or (2) the ''experience'' method that also is available to small banks.

Under the ''percentage of taxable income'' method, a thrift institution generally is allowed a deduction for an addition to its bad debt reserve equal to 8 percent of its taxable income (determined without regard to this deduction and with additional adjustments). Under the experience method, a thrift institution generally is allowed a deduction for an addition to its bad debt reserve equal to the greater of: (1) an amount based on its actual average experience for losses in the current and five preceding taxable years, or (2) an amount necessary to restore the reserve to its balance as of the close of the base year. For taxable years beginning before 1988, the ''base year'' was the last taxable year before the most recent adoption of the experience method (i.e., generally, the last year the taxpayer was on the percentage of taxable income method). For taxable years beginning after 1987, the base year is the last taxable year beginning before 1988. Prior to 1988, computing bad debts under a ''base year'' rule allowed a thrift institution to claim a deduction for bad debts for an amount at least equal to the institution's actual losses that were charged off during the taxable year.

If a thrift institution becomes a commercial bank, or if the institution fails to satisfy the 60-percent qualified asset test, it is required to change its method of accounting for bad debts and, under proposed Treasury regulations, is required to recapture its bad debt reserve. The percentage-of-taxable-income portion of the reserve generally is included in income ratably over a 6-taxable year period. The experience method portion of the reserve is not restored to income if the former thrift institution qualifies as a small bank. If the former thrift institution is treated as a large bank, the experience method portion of the reserve is restored to income ratably over a 6-taxable year period, or under the 4-year recapture method or the cut-off method described above.

In addition, a thrift institution may be subject to a form of reserve recapture even if the institution continues to qualify for the percentage of taxable income method. Specifically, if a thrift institution distributes to its shareholders an amount in excess of its post-1951 earnings and profits, such excess is deemed to be distributed from the nonexperience potion of the institution's bad debt reserve and is restored to income. In the case of any distribution in redemption of stock or in partial or complete liquidation of an institution, the distribution is treated as first coming from the nonexperience potion of the bad debt reserves of the institution (sec. 593(e)).

House bill

No provision in H.R. 3448. Section 401 of H.R. 3103, the ''Health Coverage Availability and Affordability Act of 1996,'' as passed by the House of Representatives on March 28, 1996, contained the following provision.

Repeal of section 593

The bill repeals the section 593 reserve method of account for bad debts by thrift institutions, effective for taxable years beginning after 1995. Thrift institutions that would be treated as small banks (as determined under sec. 585(c)(2)) are allowed to utilize the experience method applicable to such institutions, while thrift institutions that are treated as large banks are required to use only the specific charge-off method.

Treatment of recapture of bad debt reserves

In general.—A thrift institution required to change its method of computing reserves for bad debts will treat such change as a change in a method of accounting, initiated by the taxpayer, and having been made with the consent of the Secretary of the Treasury. Any section 481(a) adjustment required to be taken into account with respect to such change generally will be determined solely with respect to the ''applicable excess reserves'' of the taxpayer. The amount of applicable excess reserves shall be taken into account ratably over a six-taxable year period, beginning with the first taxable year beginning after 1995, subject to the residential loan requirement described below. In the case of a thrift institution that becomes a large bank, the amount of the institution's applicable excess reserves generally is the excess of (1) the balance of its reserves described in section 593(c)(1) other than its supplemental reserve for losses on loans (i.e., its reserve for losses on qualifying real property loans and its reserve for losses on nonqualifying loans) as of the close of its last taxable year beginning before January 1, 1996, over (2) the balance of such reserves (i.e., its reserve for losses on qualifying real property loans and its reserve for losses on nonqualifying loans) as of the close of its last taxable year beginning before January 1, 1988 (i.e., the ''pre-1988 reserves''). Similar rules would apply to small banks.

The balance of the pre-1988 reserves is subject to the provisions of section 593(e) (requiring recapture in the case of certain excess distributions to, and redemptions of, shareholders). In addition, the balances of the pre-1988 reserve and the supplemental reserve will be treated as tax attributes to which section 381 applies. Certain internal reorganizations of a group of thrift institutions will not be treated as distributions to shareholders for purposes of section 593(e). Further, if a taxpayer no longer qualifies as a bank (as defined by sec. 581), the balances of the taxpayer's pre-1988 reserve and supplement reserves are restored to income ratably over a six-year period, beginning in the taxable year the taxpayer no longer qualifies as a bank.

Residential loan requirement.—Under a special rule, if the taxpayer meets the ''residential loan requirement'' for a taxable year, the recapture of the applicable excess reserves otherwise required to be taken into account as a section 481(a) adjustment for such year will be suspended. A taxpayer meets the residential loan requirement if, for the taxable year, the principal amount of residential loans made by the taxpayer during the year is not less than its base amount. The residential loan requirement is applicable only for taxable years that begin after December 31, 1995, and before January 1, 1998, and must be applied separately with respect to each such year.

Treatment of conversions to credit unions

The bill provides that if a thrift institution to which the repeal of section 593 applies becomes a credit union, the credit union will be treated as a institution that is not a bank and any section 481(a) adjustment required to be included in gross income will be treated as derived from an unrelated trade or business.

Effective date

The provision general is effective for taxable years beginning after December 31, 1995. The amendments to section 593(e) do not apply to certain distributions with respect to preferred stock.

Senate amendment

No provision in the Senate amendment to H.R. 3448. Section 611 of the Senate amendment to H.R. 3103, the ''Health Coverage Availability and Affordability Act of 1996,'' as passed by the Senate on April 23, 1996, contained a provision similar to the provision in the House-passed version of H.R. 3103.

Conference agreement

The conference agreement generally follows the provision in the House-and Senate-passed versions of H.R. 3103, with modifications. The following describes the provisions of the conference agreement.

Repeal of section 593

The conference agreement repeals the section 593 reserve method of accounting for bad debts by thrift institutions, effective for taxable years beginning after 1995. Thrift institutions that would be treated as small banks[74] are allowed to utilize the experience method applicable to such institutions, while thrift institutions that are treated as large banks are required to use only the specific charge-off method. Thus, the percentage of taxable income method of accounting for bad debts is no longer available for any financial institution. The conference agreement also repeals the following present-law provisions that only apply to thrift institutions to which section 593 applies: (1) the denial of a portion of certain tax credits to a thrift institution (sec. 50(d)(1)); (2) the special rules with respect to the foreclosure of property securing loans of a thrift institution (sec. 595); (3) the reduction in the dividends received reduction of a thrift institution (sec. 596); and (4) the ability of a thrift institution to use a net operating loss to offset its income from a residual interest in REMIC (sec. 860E(a)(2)).

Treatment of recapture of bad debt reserves

In general.—A thrift institution required to change its method of computing reserves for bad debts will treat such change as a change in a method of accounting initiated by the taxpayer, and having been made with the consent of the Secretary of the Treasury.[75] Any section 481(a) adjustment required to be taken into account with respect to such change generally will be determined solely with respect to the ''applicable excess reserves'' of the taxpayer. The amount of applicable excess reserves shall be taken into account ratably over a six-taxable year period, beginning with the first taxable year beginning after 1995, subject to the residential loan requirement described below. In the case of a thrift institution that becomes a ''large bank'' (as determined under sec. 585(c)(2)), the amount of the institution's applicable excess reserves generally is the excess of (1) the balance of its reserves described in section 593(c)(1) other than its supplemental reserve for losses on loans (i.e., its reserve for losses on qualifying real property loans and its reserve for losses on nonqualifying loans) as of the close of its last taxable year beginning before January 1, 1996, over (2) the balance of such reserves (i.e., its reserve for losses on qualifying real property loans and its reserve for losses on nonqualifying loans) as of the close of its last taxable year beginning before January 1, 1988 (i.e., the ''pre-1988 reserves'').[76] Thus, a thrift institution that is treated as a large bank generally is required to recapture its post-1987 additions to its bad debt reserves,

[74] Under present-law section 581, the definition of a ''bank'' includes a thrift institution.

[75] The provisions of the conference agreement will apply to a thrift institution that has a taxable year that begins after December 31, 1995, even if such taxable year is a short taxable year that comes to a close because the thrift institution is acquired by a non-thrift institution.

In addition, a thrift institution that uses a reserve method described in section 593 will be deemed to have changed its method of computing reserves for bad debts even though such institution will be allowed to use the reserve method of section 585. Similarly, a large thrift institution will be deemed to have changed its method of computing reserves for bad debts even through such institution used the experience-method portion of section 593 in lieu of the percentage-of-taxable-income method of section 593.

[76] The balance of a taxpayer's pre-1988 reserves is reduced if the taxpayer's loan portfolio had decreased since 1988. The permitted balance of a taxpayer's pre-1988 reserves is reduced by multiplying such balance by the ratio of the balance of the taxpayer's loans outstanding at the close of the last taxable beginning before 1996, to the balance of the taxpayer's loans outstanding at the close of the last taxable beginning before 1988. This reduction is required for both large and small banks.

whether such additions are made pursuant to the percentage of taxable income method or the experience method. The timing of this recapture may be delayed for a one- or two-year period to the extent the residential loan requirement described below applies.

In the case of a thrift institution that becomes a ''small bank'' (as determined under sec. 585(c)(2)), the amount of the institution's applicable excess reserves will be the excess of (1) the balance of its reserves described in section 593(c)(1) as of the close of its last taxable year beginning before January 1, 1996, over (2) the greater of the balance of: (a) its pre-1988 reserves or (b) what the institution's reserves would have been at the close of its last taxable year beginning before January 1, 1996, had the institution always used the experience method described in section 585(b)(2)(A) (i.e., the six-year average method). For purposes of the future application of section 585, the beginning balance of the small bank's reserve for its first taxable year beginning after December 31, 1995, will be the greater of the two amounts described in (2) in the preceding sentence, and the balance of the reserve at the close of the base year (for purposes of sec. 585(b)(2)(B)) will be the amount of its pre-1988 reserves. The residential loan requirement described below also applies to small banks. If such small bank later becomes a large bank, any section 481(a) adjustment amount required to be taken into account under section 585(c)(3) will not include any portion of the bank's pre-1988 reserve. Similarly, if the bank elects the cut-off method to implement its conversion to large bank status, the amount of the reserve against which the bank charges its actual losses will not include any portion of the bank's pre-1988 reserve and the amount by which the pre-1988 reserve exceeds actual losses will not be included in gross income.

The balance of the pre-1988 reserves is subject to the provisions of section 593(e), as modified by the conference agreement (requiring recapture in the case of certain excess distributions to, and redemptions of, shareholders). Thus, section 593(e) will apply to an institution regardless of whether the institution becomes a commercial bank or remains a thrift institution. In addition, the balances of the pre-1988 reserve and the supplemental reserve will be treated as tax attributes to which section 381 applies. The conferees expect that Treasury regulations will provide rules for the application of section 593(e) in the case of mergers, acquisitions, spin-offs, and other reorganizations of thrift and other institutions.[77] The conferees believe that any such regulations should provide that, if the stock of an institution with a pre-1988 reserve is acquired by another depository institution, the pre-1988 reserve will not be restored to income by reason of the acquisition. Similarly, if an institution with a pre-1988 reserve is merged or liquidated tax-free into a bank, the pre-1988 reserve should not be restored to income by reason of the merger or liquidation. Rather, the bank will inherit the pre-1988 reserve and the post-1951 earnings and profits of the former thrift institution and section 593(e) will apply to the bank as if it were a thrift institution. That is, the pre-1988 reserve will be restored into income in the case of any distribution in redemption of the stock of the bank or in partial or complete liquidation of the bank following the merger or liquidation. In the case of any other distribution, the pre-1988 reserve will not be restored to income unless the distribution is in excess of the sum of the post-1951 earnings and profits inherited from the thrift institution and the post-1913 earnings and profits of the acquiring bank.[78] The conferees expect that Treasury regulations will address the case where the shareholders of an institution with a pre-1988 reserve are ''cashed out'' in a taxable merger of the institution and a bank. Such regulations may provide that the pre-1988 reserve may be restored to income if such redemption represents a concealed distribution from the former thrift institution. For example, cash received by former thrift shareholders pursuant to a taxable reverse merger may represent a concealed distribution if, immediately preceding the merger, the acquiring bank had no available resources to distribute and its existing debt structure, indenture restriction, financial condition, or regulatory capital requirements precluded it from borrowing money for purposes of making the cash payment to the former thrift shareholders. No inference is intended by the conferees as to the application of section 593(e) to these and similar transactions under present law.

Further, if a taxpayer no longer qualifies as a bank (as defined by sec. 581), the balances of the taxpayer's pre-1988 reserve and supplemental reserves are restored to income ratably over a six-year period, beginning in the taxable year the taxpayer no longer qualifies as a bank.

Residential loan requirement.—Under a special rule, if the taxpayer meets the 'residential loan requirement'' for a taxable year, the recapture of the applicable excess reserve otherwise required to be taken into account as a section 481(a) adjustment for such year will be suspended. A taxpayer meets the residential loan requirement if, for the taxable year, the principal amount of residential loans made by the taxpayer during the year is not less than its base amount. The residential loan requirement is applicable only for taxable years that begin after December 31, 1995, and before January 1, 1998, and must be applied separately with respect to each such year. Thus, all taxpayers are required to recapture their applicable excess reserves within six, seven, or eight years after the effective date of the provision.

The ''base amount'' of a taxpayer means the average of the principal amounts of the residential loans made by the taxpayer during the six most recent taxable years beginning before January 1, 1996. At the election of the taxpayer, the base amount may be computed by disregarding the taxable years within that six-year period in which the principal amounts of loans made during such years were highest and lowest. This election must be made for the first taxable year beginning after December 31, 1995, and applies to the succeeding taxable year unless revoked with the consent of the Secretary of the Treasury or his delegate.

For purposes of the residential loan requirement, a loan will be deemed to be ''made'' by a financial institution to the extent the institution is, in fact, the principal source of the loan financing. Thus, any loan only can be ''made'' once. The conferees expect that loans ''made'' by a financial institution may include, but are not limited to, loans (1) originated directly by the institution through its place of business or its employees, (2) closed in the name of the institution, (3) originated by a broker that acts as an agent for the institution, and (4) originated by another person (other than a financial institution) and that are acquired by the institution pursuant to a pre-existing, enforceable agreement to acquire such loans. In addition, Treasury regulations also may provide that loans ''made'' by a financial institution may include loans originated by another person (other than a financial institution) acquired by the institution soon after origination if such acquisition is pursuant to a customary practice of acquiring such loans from such person. A loan acquired by a financial institution from another financial institution generally will be considered to be made by the transferor rather than the transferee of the loan; however, such loan may be completely disregarded if a principal purpose of the transfer was to allow the transferor to meet the residential loan requirement. A loan may be considered to be made by a financial institution even if such institution has an arrangement to transfer such loan to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

For purposes of the residential loan requirement, a ''residential loan'' is a loan described in section 7701(a)(19)(C)(v) (generally, loans secured by residential real and church property and certain mobile homes),[79] but only to the extent the loan is made to the owner of the property to acquire, construct, or improve the property. Thus, mortgage refinancings and home equity loans are not considered to be residential loans, except to the extent the proceeds of the loan are used to acquire, construct, or improve qualified residential real property. The conferees understand that pursuant to the Home Mortgage Disclosure Act, financial institutions are required to disclose the purpose for which loans are made. The conferees further understand that for purposes of this disclosure, institutions are required to classify loans as home purchase loans, home improvement loans, refinancings, and multifamily dwelling loans (whether for purchase, improvement or refinancing of such property). The conferees expect that taxpayers (and the Secretary of the Treasury in promulgating guidance) may take such reporting into account, and make such adjustments as are appropriate,[80] in determining: (1) whether or not a loan qualifies as a ''residential loan'' and (2) whether the institution ''made'' the loan. A taxpayer must use consistent standards for determining whether loans qualify as residential loans made by the institution both for purposes of determining its base amount and for purposes of

[77] The conferees expect that in the case of the merger, acquisition, spin-off, or other reorganization involving only thrift institutions, section 593(e) as modified by the conference agreement, will continue to be applied in a manner similar to the way section 593(e) is applied under present law.

However, guidance will be needed in the case of transactions where one of the parties to the transaction is not a thrift institution. Guidance may be needed because the issue of whether section 593(e) applies in the case where a thrift institution is merged into a bank generally does not arise under present law because such merger results in a charter change and, under proposed Treasury regulations, requires full bad debt reserve recapture.

[78] If the acquiring bank is a former thrift institution itself and the pre-1988 reserves of neither institution are restored to income pursuant to the merger, the conferees expect that the pre-1988 reserves and the post-1951 earnings and profits of the two institutions will be combined for purposes of the continued application of section 593(e) with respect to the combined institution.

[79] For this purpose, as under present law, if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan will be deemed a residential real property loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). In addition, loans made to finance the acquisition or development of land will be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary of the Treasury, there is a reasonable assurance that the property will become residential real property within a period of three years from the date of acquisition of the land.

[80] For example, adjustments will be required with respect to the reporting of multifamily dwellings in order to distinguish home purchase, home improvement, and refinancing loans.

determining whether it met the residential loan requirement for a taxable year.

The residential loan requirement is determined on a controlled group basis. Thus, for example, if a controlled group consists of two thrift institutions with applicable excess reserves that are wholly-owned by a bank, the residential loan requirement will be met (or not met) with respect to both thrift institutions by comparing the principal amount of the residential loans made by all three members of the group during the taxable year to the group's base amount. The group's base amount will be the average principal amount of residential loans made by all three members of the group during the base period. The election to disregard the high and low taxable years during the 6-year base period also would be applied on a controlled group basis (i.e., generally by treating the members of the group as one taxpayer so that all members of the group must join in the election, and the same corresponding years of each member would be so disregarded).

Treasury regulations may provide rules for the application of the residential loan requirement in the case of mergers, acquisitions, and other reorganizations of thrift and other institutions. For example, the balance of a taxpayer's applicable excess reserve will be treated as a tax attribute to which section 381 applies. Thus, if an institution with an applicable excess reserve is acquired in a tax-free reorganization, the conferees expect that balance of such reserve will not be immediately restored to income but will continue to be subject to the residential loan requirement in the hands of the acquirer. The conferees further expect that if a financial institution joins or merges into (or leaves) a group of financial institutions, the base amount of the acquiring (or remaining) group will be appropriately adjusted to reflect the base amount of the acquired (or departing) institution for purposes of determining whether the group meets the residential loan requirement for the year of the acquisition (or departure) and subsequent years. Similarly, if a controlled group of institutions had made an election to disregard its high and low years in computing its base amount, it is anticipated that such election shall be binding on any institution that subsequently joins the group and the election shall be applied to the new member by disregarding the high and low years of the new member even if such years do not correspond to the years applicable to the other members of the group.

Treatment of conversions to credit unions

The conference agreement provides that if a thrift institution to which the repeal of section 593 applies becomes a credit union, the credit union will be treated as an institution that is not a bank and any section 481(a) adjustment required to be included in gross income will be treated as derived from an unrelated trade or business. Thus, if a thrift institution becomes a credit union in its first taxable year beginning after December 31, 1995, the entire balance of the institution's bad debt reserve will be included in income, and subject to tax, over a six-year period beginning with such taxable year. No inference is intended as to the Federal income tax treatment of any other aspect of the conversion of a financial institution to a credit union.

Effective date.—The repeal of section 593 is effective for taxable years beginning after December 31, 1995. The repeal of section 595 is effective for property acquired in taxable years beginning after December 31, 1995. The amendment to section 860E does not apply to any residual interest in a REMIC held by the taxpayer on October 31, 1995, and at all times thereafter.

The amendment to section 593(e)(1)(B) does not apply to any distributions with respect to preferred stock (including redemptions of such stock) if: (1) such stock was issued and outstanding as of November 1, 1995, and at all times thereafter before the distribution and (2) such distribution is made within the later of (a) one year after the date of enactment of this Act or (b) if the stock is redeemable by the issuer or a related party, 30 days after the date such stock first may be redeemed. For this purpose, the first date a preferred stock may be redeemed is the day upon which the issuer or a related party has the right to call the stock, regardless of the amount of call premium.

23. REMOVE BUSINESS EXCLUSION FOR ENERGY SUBSIDIES PROVIDED BY PUBLIC UTILITIES

(Sec. 401 of H.R. 3286.)

Present law

Internal Revenue Code section 136, as added by the Energy Policy Act of 1992, provides an exclusion from the gross income of a customer of a public utility for the value of any subsidy provided by the utility for the purchase or installation of an energy conservation measure with respect to a dwelling unit (as defined by sec. 280A(f)(1)). In addition, for subsidies received after 1994, section 136 provides a partial exclusion from gross income for the value of any subsidy provided by a utility for the purchase or installation of an energy conservation measure with respect to property that is not a dwelling unit. The amount of the exclusion is 40 percent of the value for subsidies received in 1995, 50 percent of the value for subsidies received in 1996, and 65 percent of the value for subsidies received after 1996.

For this purpose, an energy conservation measure is any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to property. With respect to property other than a dwelling unit, an energy conservation measure includes "specially defined energy property" (generally, property described in sec. 48(l)(5) of the Code as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

The exclusion does not apply to payments made to or from a qualified cogeneration facility or a qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.

Section 136 denies a deduction or credit to a taxpayer (or in appropriate cases requires a reduction in the adjusted basis of property of a taxpayer) for any expenditure to the extent that a subsidy related to the expenditure was excluded from the gross income of the taxpayer.

House bill

No provision in H.R. 3448. Section 401 of H.R. 3286, the "Adoption Promotion and Stability Act of 1996," as passed by the House, repeals the partial exclusion for any subsidy provided by a utility for the purchase or installation of an energy conservation measure with respect to property that is not a dwelling unit.

Effective date.—The provision is effective for subsidies received after December 31, 1996, unless received pursuant to a binding written contract in effect on September 13, 1995, and all times thereafter.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the provision in H.R. 3286.

VII. TAX TECHNICAL CORRECTIONS PROVISIONS

House bill

The House bill contains technical, clerical, and conforming amendments to the Revenue Reconciliation Act of 1990, the Revenue Reconciliation Act of 1993, and other recently enacted tax legislation.

Senate amendment

The Senate amendment is the same as the House bill, except as follows:

(a) Expiration date of special ethanol blender refund (sec. 1703(k) of the Senate amendment)

The Senate amendment corrects a 1990 drafting error by conforming the expiration date for an excise tax expedited refund provision for gasohol blenders to that for gasoline tax provisions generally.

(b) Estate tax freezes (sec. 1702(f) of the House bill and the Senate amendment)

The House bill includes a provision (also contained in prior technical corrections bills) to provide a special definition of "applicable family member" for purposes of determining control under section 2701 of the Code (relating to special valuation rules in case of transfers of certain interests in corporations or partnerships). The Senate amendment does not include this provision.

(c) Certain property not treated as section 179 property (sec. 1704(u) of the House bill and sec. 1702(h)(19) of the Senate amendment)

The House bill includes a provision denying the section 179 expensing allowance to (1) property described in section 50(b) (generally property used outside the United States, property used in connection with furnishing lodging, property used by tax exempt organizations, governments and foreign persons); (2) air conditioning or heating units; and (3) horses. The provision is effective for property placed in service after May 14, 1996.

The Senate amendment does not deny the expensing allowance for horses. The provision in the Senate amendment is effective as if included in the Revenue Reconciliation Act of 1990.

Conference agreement

The conference agreement follows the House bill and the Senate amendment with respect to identical provisions, with one modification. That modification deletes the technical correction related to a Tax Reform Act of 1986 transition rule allowing tax-exempt bonds to be issued for certain facilities. The 1986 provision to which that technical correction relates expired after December 31, 1990, and the correction has been rendered moot by passage of time.

With regard to the differing provisions, the conference agreement includes the following:

(a) Expiration date of special ethanol blender refund

The conference agreement follows the Senate amendment.

(b) Estate tax freezes

The conference agreement follows the House bill.

(c) Certain property not treated as section 179 property

The conference agreement follows the Senate amendment.

(d) Intermediate sanctions penalty provisions

The conference agreement corrects a drafting error in the Taxpayer Bill of Rights II (H.R. 2337) with respect to the additional filing and disclosure rules imposed on certain tax-exempt organizations as part of the intermediate sanctions provisions. The conference agreement increases (from $10 to $20 per each day of failure) present-law penalties that apply when a tax-exempt organization fails to allow public inspection of its annual returns (sec. 6652(c)(1)(C)) or fails to allow public inspection of its application for recognition of tax-exempt status (sec.

6652(c)(1)(D)). In addition, the conference agreement increases the section 6652(c)(1)(C) maximum penalty with respect to any one return from $5,000 to $10,000.

TRADE PROVISIONS

GENERALIZED SYSTEM OF PREFERENCES

Subtitle J of Title I of the conference agreement, the Generalized System of Preferences (GSP) Renewal Act of 1996, is a substitute amendment to Title V of the Trade Act of 1974, which expired on July 31, 1995. As indicated below, the conference agreement reinstates several provisions of expired law without change.

1. BASIC AUTHORITY

Expired law

Section 501 of the Trade Act of 1974, as amended, (Generalized System of Preferences) grants authority to the President to provide duty-free treatment to imports of eligible articles from designated Beneficiary Developing Countries (BDCs), subject to certain conditions and limitations.

House bill

No provision.

Senate amendment

No provision.

Conference Agreement

The conference agreement reinstates the expired section 501 of Title V, without change.

2. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES

Expired law

Section 502 of the Trade Act of 1974 sets forth both the procedures for designating countries as Beneficiary Developing Countries (BDCs) and the conditions for such designation. This section establishes conditions for designation which are mandatory and others which are discretionary. With regard to mandatory conditions, the President is prohibited from designating any country for GSP benefits which is a developed country listed in section 502(b). Further, the term ''country'' is defined as any foreign country, and overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands.

Under Section 502(b), the President is prohibited from designating specific developed countries as BDCs: Australia, Austria, Canada, European Union member states, Finland, Iceland, Japan, Monaco, New Zealand, Norway, Sweden, and Switzerland.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement amends the definition of country to include ''any territory'' and deletes the reference in section 502(b) to Austria, Finland, and Sweden which are now European Union member states.

3. MANDATORY CONDITIONS

Expired law

Under section 502(c) the President is prohibited from designating as a BDC a country which:

(a) is a Communist country, unless (i) its products receive non-discriminatory most-favored-nation (MFN) treatment, (ii) it is a GATT Contracting Party and a member of the International Monetary Fund (IMF), and (iii) it is not dominated or controlled by international communism;

(b) is an OPEC member, or a party to another arrangement, and participates in an action the effect of which is to withhold supplies of vital commodity resources from international trade or raise their price to an unreasonable level and to cause disruption of the world economy, subject to trade agreement exemptions consistent with objectives under the Trade Act of 1974;

(c) affords ''reverse preferences'' having or likely to have a significant adverse effect on U.S. commerce, unless the President receives satisfactory assurances of elimination before January 1, 1976;

(d) has nationalized or expropriated U.S. property, or taken similar actions, unless compensation is made, being negotiated, or in arbitration;

(e) fails to recognize as binding or enforce arbitral awards in favor of U.S. citizens;

(f) aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism; and

(g) has not taken or is not taking steps to afford internationally recognized worker rights to its workers.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reinstates expired law, except, with respect to mandatory conditions: in (a)(ii), replaces ''is a GATT contracting party'' with ''is a Member of the World Trade Organization.''; in (b), deletes the reference to OPEC member and the exemption authority; in (c), deletes the satisfactory assurances exemption for reverse preferences.

4. DISCRETIONARY CRITERIA

Expired law

Under section 502(c) of the Trade Act of 1974 the President must take into account a list of factors in determining whether to designate a country a BDC, including whether or not other major developed countries are granting GSP to the country, whether or not the country has taken or is taking steps to afford its workers internationally recognized workers rights, and the extent to which the country is providing adequate and effective intellectual property protection.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement makes no substantive change to the expired provision, but makes a technical change to the intellectual property rights criterion.

5. GRADUATION OF BDC's

Expired law

Countries are graduated from GSP eligibility if the per capita GNP of any BDC for any year exceeds a dollar limit ($11,800 in 1994), indexed annually under a formula starting with the base amount of $500 in 1984. When the income level reaches this amount, such country is subject to a 25, rather than 50, percent competitive need import share limit on all eligible articles for up to the following two years. After that time, the country is no longer treated as a BDC.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement substitutes ''high income'' country as designated by the World Bank (approximately $8,600 per capita GNP in 1994), for the per capita GNP indexing formula in current law. Thus, if the President determines that a BDC has become a ''high income'' country as designated by the World Bank, the President is required to remove the country from eligibility under the program. Although the Conference agreement would reinstate a transition period of up to two years for country graduation from the GSP program, it would eliminate application of the 25 percent competitive need limit during this phase-out period.

6. DESIGNATION OF ELIGIBLE ARTICLES

a. Exempted products

Expired law

Under Section 503 of the Trade Act of 1974 the President may not designate any article as GSP eligible within the following categories of import-sensitive articles:

(a) textile and apparel articles which are subject to textile agreements;

(b) watches, except watches entered after June 30, 1989 that the President determines will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or U.S. insular possessions;

(c) import-sensitive electronic articles;

(d) import-sensitive steel articles;

(e) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not GSP eligible articles on April 1, 1984;

(f) import-sensitive semi-manufactured and manufactured glass products; and

(g) any other articles the President determines to be import-sensitive in the context of GSP.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reinstates provisions of expired law, except, with respect to changes in the following statutory exemptions: in (a), it replaces the expired provision with exemption of textile and apparel articles which were not GSP eligible on January 1, 1994 and; in (e) it applies exemption to footwear and related articles which were not GSP eligible on January 1, 1995.

b. Three-year rule

Expired law

Each year the U.S. Trade Representative (USTR) conducts an interagency review process in which products can be added to or removed from the GSP program, or in which a country's compliance with eligibility requirements can be reviewed. The reviews are normally based on petitions filed by interested parties, but may also be self-initiated by USTR.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement prohibits consideration of an article for designation of eligibility for three years following formal consideration and denial of that article.

c. Least developing countries (LDDCs)

Expired law

No provision.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement provides specific authority for the President to designate any article that is the growth, product, or manufacture of a least-developed developing country (LDDC) as an eligible article with respect to imports from LDDCs, if, after receiving advice from the International Trade Commission, the President determines such an article is not import-sensitive in the context of imports from LDDCs. This authority does not apply to statutorily exempt articles—textiles and apparel, footwear and related articles, and watches. The President shall notify Congress at least 60 days in advance of LDDC designations. LDDC designations will be based on overall economic and discretionary criteria for country designation under the GSP program.

7. LIMITS ON PREFERENTIAL AUTHORITY

Expired law

Under Section 504 of the Trade Act of 1974, the President may withdraw, suspend, or limit GSP duty-free treatment with respect to any article or any country, except that no duty may be established other than the rate of duty which would otherwise apply (the MFN rate), after considering both the policy objectives and the discretionary BDC designation favors of the GSP program. The President shall withdraw or suspend the BDC designation of any country if he determines that, as a result of changed circumstances, the country would be barred from designation.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reinstates expired law.

8. COMPETITIVE NEED LIMITS

Expired law

Whenever the President determines that exports by any BDC to the United States of a GSP eligible article during any year—

(a) exceed a dollar limit ($122 million in 1995) based on $25 million adjusted annually relative to changes in the U.S. GNP since 1974, or

(b) equal or exceed a 50 percent share of the total value of U.S. imports of the article,

then, no later than July 1 of the next year, such country is not treated as a BDC with respect to such article.

Not later than January 4, 1987, and periodically thereafter, the President must conduct a general review of eligible articles and, if he determines that a BDC has demonstrated a sufficient degree of competitiveness relative to other BDCs on any eligible article, then a lower competitive need dollar limit ($41.9 million in 1993, indexed annually from 1984 base) and 25 percent total import share limit apply.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reduces the basic competitive need limit to $75 million for any year beginning January 1, 1996, and substitutes a standard annual increase of $5 million for the indexing formula in expired law. The 50 percent import share limit is reinstated. The conference agreement deletes the general review requirements and the lower competitive need limits.

9. AUTHORITY TO WAIVE COMPETITIVE NEED LIMITS

Expired law

The President may waive the dollar and import share competitive need limits on any eligible article of any BDC if he (1) receives ITC advice on the likely effect of the waiver on any U.S. industry; (2) determines, based on the overall GSP and discretionary country designation considerations and the ITC advice, that the waiver is in the U.S. national economic interest; and (3) publishes the determination in the Federal Register.

The import share competitive need limit may be disregarded if total U.S. imports of the eligible article during the preceding year do not exceed a de minimis amount of $5 million adjusted annually ($13.4 million in 1994) according to changes in u.S. GNP since 1979. The import share competitive need limit does not apply to any eligible article if a like or directly competitive article was not produced in the United States as of January 3, 1985.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reinstates the expired waiver authority. Under the conference Agreement the import share competitive need limit does not apply if the article is not produced in the United States as of January 1, 1995. The conference Agreement also reinstates the de minimis import provision, but substitutes $13 million in 1996 and a standard annual increase of $500,000 beginning January 1, 1996 for the indexing formula in expired law.

10. OTHER PROVISIONS REGARDING WAIVER AUTHORITY, REPORTS, AND AGRICULTURE EXPORTS

a. Waiver trade limits

Expired law

Under section 504(c)(3)(D) of the Trade Act of 1974, the President may not exercise the competitive need waiver authority in any year on imports of eligible articles exceeding:

(a) 30 percent of total GSP duty-free imports during the preceding year, or

(b) 15 percent of total GSP duty-free imports during the preceding year from BDCs which had (i) a per capita GNP of $5,000 or more, or (ii) exported to the United States more than 10 percent of total GSP duty-free imports during that year.

The President may waive competitive need limits in certain cases where there has been a historical preferential trade relationship between the United States and that country.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reinstates provisions in expired law regarding waiver trade limits, and historical preferences.

b. Report on workers rights

Expired law

The President must submit an annual report to the Congress on the status of internationally recognized workers' rights within each BDC.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reinstates expired law.

c. Agriculture exports

Expired law

Section 506 requires that appropriate U.S. agencies assist BDCs in developing and implementing measures designed to ensure that the production of agricultural sectors of their economies is not directed to export markets, to the detriment of the foodstuff production for their citizens.

House bill

No provision.

Senate bill

No provision.

Conference agreement

The conference agreement reinstates expired law.

11. PROVISIONS REGARDING TERMINATION AND EFFECTIVE DATES

Expired law

No duty-free treatment shall remain in effect after July 31, 1995.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reauthorizes the program for one year, ten months, to terminate on May 31, 1997. The effective date of the extension of the GSP program is October 1, 1996. However, the conference agreement also provides that, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry (1) of any article to which duty-free treatment under Title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, and (2) that was made after July 31, 1995, and before January 1, 1996, shall be liquidated or reliquidated as free of duty and the Secretary of the Treasury shall refund any duty paid, upon proper request filed with the appropriate customs officer, within 180 days after the date of enactment. Further, the conference agreement provides that notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry (1) of any article to which duty-free treatment under Title V of 1974 (as amended by this Title) would have applied if the entry had been made on or after October 1, 1996, and (2) that was made after December 31, 1995, and before October 1, 1996, shall be liquidated or reliquidated as free of duty and the Secretary of the Treasury shall refund any duty paid, upon proper request filed with the appropriate customs officer, within 180 days after the date of enactment. Although importers would be entitled to request such refunds after the date of enactment of the bill, reimbursement of duties would occur only after the beginning of fiscal year 1997 (October 1, 1996).

REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION

Present law

State law governs adoption and foster care placement. Many States permit race matching of foster and adoptive parents with children either in regulation, statute, policy, or practice. The Howard M. Metzenbaum Multiethnic Placement Act of 1994 (''Metzenbaum Act'', Public Law 103–382) permits States to consider race and ethnicity in selecting a foster care or adoptive home, but States cannot delay or deny the placement of the child solely on the basis of race, color, or national origin.

Noncompliance with the Metzenbaum Act is deemed a violation of Title VI of the Civil Rights Act of 1964.

House bill

Section 553 of the Metzenbaum Act is repealed. In addition, Section 471 of the Social Security Act is amended to prohibit a State or other entity that receives Federal assistance from denying to any person the opportunity to become an adoptive or a foster parent on the basis of the race, color, or national origin of the person or of the child involved. Similarly, so State or other entity receiving Federal funds can delay or deny the placement of a child for adoption or foster care in making a placement, on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved.

Section 474 of the Social Security Act is amended to require the Secretary of the Department of Health and Human Services (HHS) to reduce the amount of Federal foster care and adoption funds provided to the State through Title IV–E if the State program is found in violation of this provision as a result of a review conducted under Section 1123 of the Social Security Act. States found to be in violation would have their quarterly funds reduced by 2 percent for the first violation, by 5 percent for the second violation, and by 10 percent for the third or subsequent violation.

Private entities found to be in violation of this provision for a quarter are required to return to the Secretary all federal funds received from the State during the quarter. Any individual who is harmed by a violation of this provision may seek redress in any United States district court. An action under this provision may not be brought more than two years after the alleged violation occurred.

Noncompliance with this provision constitutes a violation of Title VI of the Civil Rights Act of 1964. The Indian Child Welfare Act of 1978 is not affected by changes made in this title.

Effective date.—This provision applies upon enactment (except States must meet the State plan requirement provision of bill section 201(a) not later than January 1, 1997).

Senate amendment

The Senate amendment is the same as the House bill, except that the Senate amendment clarifies that the Secretary of HHS shall apply penalties in conformance with section 1123 procedures to include an opportunity for the State to adopt and implement a corrective action plan. The provision clarifies that penalties will be assessed on a fiscal year basis. The amendment limits to 25 percent the maximum amount the Secretary of HHS can reduce a State's grant in a quarter.

Conference agreement

The conference agreement follows the House bill and the Senate amendment with modifications. If the State has failed to correct the violation within six months (or less, at the Secretary's discretion), the Secretary shall impose penalties. The amount of the graduated penalties or set at 2, 3, and 5 percent respectively. The total amount of penalties which can be applied in a fiscal year cannot exceed 5 percent of a State's total IV–E grant.

The Indian Child Welfare Act of 1978 is not affected by changes made in this title.

Effective date.—The provisions related to civil rights enforcement are effective upon enactment. The provisions related to State plan requirements are effective on January 1, 1997.

TITLE II

Senate Amendments 2 through 6: Senate amendments 2 through 6 made technical corrections in the section numbering in title II of the House bill. The House receded from its disagreement to Senate amendments 2 through 6 with technical changes to the House bill and other changes described in this statement.

1. EMPLOYEE COMMUTING FLEXIBILITY ACT

House bill

The House bill would clarify the Portal-to-Portal Act of 1947 to allow employers and employees to agree on the use of employer-provided vehicles to commute to and from work at the beginning and end of the workday, without the commuting time being treated as hours of work.

Senate amendment

Same.

Conference agreement

Follow House and Senate language.

2. MINIMUM WAGE INCREASE

House bill

The House bill would increase the minimum wage in two increments. Beginning July 1, 1996 the minimum wage would increase from $4.25 to $4.75, and beginning July 1, 1997 the minimum wage would increase from $4.75 to $5.15.

Senate amendment

Same.

Conference agreement

Beginning October 1, 1996, the minimum wage would increase from $4.25 to $4.75, and beginning September 1, 1997, the minimum wage would increase from $4.75 to $5.15. The conference agreement also makes a technical change to avoid retroactively increasing the minimum wage in Puerto Rico by also striking section 6(c) of the Fair Labor Standards Act.

3. COMPUTER PROFESSIONALS EXEMPTION

House bill

The House bill specifies that computer professionals who are paid at least $27.63 per hour (maintaining current law) are exempt from overtime wages.

Senate amendment

Same.

Conference agreement

Follow House and Senate language.

4. TIP CREDIT

House bill

The Fair Labor Standards Act (FLSA) currently contains a tip credit system whereby employers of tipped employees may count tips received by the worker for up to 50 percent of the employer's minimum wage obligation. In the event that an employee's cash wages and tips do not meet the statutory minimum wage, the employer must contribute the amount of wages necessary for the employee to make at least the minimum wage.

The House bill sets the cash wage paid by employers to tipped employees at $2.13 and allows tips to be counted toward the remainder of the minimum wage obligation. The employer would be required to make up any difference the minimum wage and the combination of $2.13 plus tips to ensure that each employee makes at least the minimum wage.

Senate amendment

Same.

Conference agreement

Follows House and Senate language except makes technical changes including the technical change of deleting the word ''cash'' before ''wage'' where it appears in paragraph (2).

5. OPPORTUNITY WAGE

House bill

The House bill allows employers to pay new hires under 20 years of age not less than $4.25 per hour for the first 90 days (calendar days—not days of work) after the employee is hired. The House bill contains protections for current workers by prohibiting employers from taking any action to displace any employee in order to hire a worker at the opportunity wage.

Senate amendment

Same.

Conference agreement

Follow House and Senate language.

ESTIMATED BUDGET EFFECTS OF THE CONFERENCE AGREEMENT RELATING TO THE REVENUE PROVISIONS OF H.R. 3448, THE "SMALL BUSINESS JOB PROTECTION ACT OF 1996,"

Fiscal Years 1996-2006

[Millions of Dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
I. IDENTICAL PROVISIONS															
Small Business and Other Tax Provisions															
A. Small Business Provisions															
1. FICA tip credit:															
a. Provided for off-premises employees	1/1/97	---	-6	-14	-15	-16	-17	-18	-18	-19	-20	-21	-51	-68	-165
b. Clarification of effective date	[1]	Negligible Revenue Effect													
2. Clarify exemption from FICA taxes for certain fishermen and provide that exemption applies even if crew member receives de minimis amounts of cash payments	[2]	-1	-10	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-11	-11	-13
B. Provisions Relating to S Corporations															
1. Increase number of eligible shareholders	tyba 12/31/96	---	-5	-14	-16	-20	-22	-25	-28	-31	-35	-39	-55	-77	-235
2. Permit certain trusts to hold stock in S corporations	tyba 12/31/96	---	-2	-2	-2	-2	-2	-2	-2	-3	-3	-3	-8	-10	-23
3. Extend holding period for certain trusts	tyba 12/31/96	---	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[5]	[6]	[7]
4. Financial institutions permitted to hold safe-harbor debt	tyba 12/31/96	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-1
5. Authority to validate certain invalid elections	tyba 12/31/82	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-1
6. Allow interim closing of the books	tyba 12/31/96	Negligible Revenue Effect													
7. Expand post-termination period and amend subchapter S audit procedures	tyba 12/31/96	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-1
8. S corporations permitted to hold S or C subsidiaries	tyba 12/31/96	---	-5	-9	-11	-13	-15	-17	-20	-23	-26	-29	-38	-53	-168
9. Treatment of distributions during loss years	tyba 12/31/96	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-1
10. Treatment of S corporations as shareholders in C corporations	tyba 12/31/96	---	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[5]	[6]	[7]
11. Elimination of certain earnings and profits of S corporations	tyba 12/31/96	---	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[5]	[6]	[7]
12. Treatment of certain losses carried over under at-risk rules	tyba 12/31/96	---	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[5]	[6]	[7]
13. Adjustments to basis of inherited S stock	dda DOE	---	[8]	[8]	[8]	[8]	[8]	[8]	[8]	[8]	[8]	[8]	[8]	[8]	[8]
14. Treatment of certain real estate held by an S corporation	tyba 12/31/96	---	-1	-1	-2	-2	-2	-2	-2	-2	-2	-2	-6	-8	-18
15. Transition rule for elections after termination	tyba 12/31/96	---	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[5]	[6]	[7]
16. Interaction of subchapter S changes except for ESOP and financial institution proposals	---	---	-3	-26	-32	-37	-38	-39	-40	-40	-40	-40	-98	-136	-335

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
Pension Simplification Provisions															
A. Simplified Distribution Rules															
1. Repeal of $5,000 exclusion of employees' death benefits	dda DOE	---	28	49	52	54	55	55	56	57	57	58	183	238	521
2. Simplified method for taxing annuity distributions under certain employer plans	asda 90 da DOE	---	22	28	28	29	29	29	30	30	31	31	107	136	287
3. Minimum required distributions	yba 12/31/96	---	-1	-4	-4	-4	-4	-4	-4	-4	-4	-4	-13	-17	-37
B. Increased Access to Retirement Savings Plans -															
1. Tax-exempt organizations eligible under section 401(k)	yba 12/31/96	---	-8	-22	-24	-25	-26	-28	-29	-30	-31	-31	-79	-105	-254
C. Nondiscrimination Provisions															
1. Repeal of family aggregation rules [9]	yba 12/31/96	---	[10]	[10]	Considered in Other Provisions								[10]	[10]	[10]
2. Modification of additional participation requirements	yba 12/31/96	Negligible Revenue Effect													
3. Definition of compensation for section 415 purposes	yba 12/31/97	---	---	-1	-1	-2	-2	-2	-2	-2	-3	-3	-4	-6	-18
4. Safe-harbor nondiscrimination rules for qualified cash or deferred arrangements and matching contributions [11]	yba 12/31/98	---	---	---	-45	-166	-171	-175	-180	-186	-191	-196	-211	-382	-1,309
D. Miscellaneous Provisions															
1. Plans covering self-employed individuals	yba 12/31/96	Negligible Revenue Effect													
2. Elimination of special vesting rule for multiemployer plans	yba 12/31/96	---	[3]	-1	-1	-1	-1	-1	-1	-1	-1	-1	-3	-4	-9
3. Distributions under rural cooperative plans	DOE	Negligible Revenue Effect													
4. Treatment of governmental plans under section 415	yba 12/31/94	Negligible Revenue Effect													
5. Uniform retirement age [9]	yba 12/31/96	---	[10]	[10]	Considered in Other Provisions								[10]	[10]	[10]
6. Contributions on behalf of disabled employees	yba 12/31/96	Negligible Revenue Effect													
7. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations	tyba 12/31/96	---	[3]	-1	-1	-1	-2	-2	-2	-2	-2	-2	-3	-5	-15
8. Correction of GATT interest and mortality rate provisions in the Retirement Protection Act	[12]	---	-4	-4	-4	---	---	---	---	---	---	---	-12	-12	-12
9. Application of elective deferral limit to section 403(b) plans	tyba 12/31/95	Negligible Revenue Effect													
10. Increase section 4975 excise tax on prohibited transactions from 5% to 10%	ptoa DOE	---	2	4	4	4	4	4	4	4	4	4	14	18	38
11. Treatment of leased employees	yba 12/31/96	Negligible Revenue Effect													
12. Uniform penalty provision to apply to certain pension reporting requirements	1/1/97	No Revenue Effect													
13. Clarify that SECA does not apply to certain parsonage allowance income	ybbo/a 12/31/94	Negligible Revenue Effect													
14. Date of adoption of plan amendments	DOE	No Revenue Effect													
15. Require section 457 plan assets to be held in trust; transition rule for existing plans	DOE	---	-7	-21	-24	-25	-25	-26	-27	-28	-29	-30	-77	-102	-242

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
16. Multiple salary reduction agreements permitted under section 403(b)	tyba 12/31/95	Negligible Revenue Effect													
SUBTOTAL: Identical Provisions		**---**	**-15**	**-54**	**-113**	**-242**	**-254**	**-268**	**-280**	**-295**	**-310**	**-323**	**-425**	**-679**	**-2,161**
II. PROVISIONS AGREED UPON															
Small Business and Other Tax Provisions															
A. Small Business Provisions															
1. Increase in expensing limitation for small businesses to $18,000 for 1997, $18,500 for 1998, $19,000 for 1999, $20,000 for 2000, $24,000 for 2001, $24,000 for 2002, $25,000 for 2003 and thereafter [13]	tyba 12/31/96	---	-67	-180	-261	-331	-763	-938	-786	-646	-439	-265	-839	-1,602	-4,676
2. Treatment of storage of product samples	tyba 12/31/95	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-2
3. Provide that certain charitable risk pools would qualify as charitable organizations under section 501(c)(3)	tyba DOE	---	[3]	-1	-1	-1	-1	-2	-2	-2	-3	-3	-3	-4	-16
4. Treatment of certain dues paid to agricultural or horticultural organizations	tyba 12/31/86	Negligible Revenue Effect													
5. Require purchasers of fish in excess of $600 in cash to provide information reports	12/31/97	---	---	5	9	10	10	11	11	11	12	12	24	34	91
6. Change related-party and maximum size requirements for first-time farmer industrial development bonds	bia DOE	---	-1	-6	-12	-17	-21	-26	-30	-34	-37	-40	-36	-57	-224
7. Clarify that newspaper carriers and distributors are independent contractors	spa 12/31/95	Negligible Revenue Effect													
8. Provide involuntary conversion treatment for Presidentially declared disaster areas	DDA 12/31/94	-6	-14	-10	-10	-10	-10	-10	-10	-10	-10	-10	-50	-54	-110
9. Provide 15-year depreciation for gas station/convenience stores	ppiso/a/b DOE	-7	-24	-37	-45	-50	-53	-53	-55	-61	-42	-25	-163	-209	-452
10. Leasehold improvements provision	lida 6/12/96	-12	-22	-19	-16	-13	-11	-7	-4	-2	1	4	-82	-81	-101
11. Worker classification:															
a. Clarification of Section 530 safe harbor	spa 12/31/96	---	[3]	[3]	[3]	[3]	[3]	-1	-1	-1	-1	-1	-1	-1	-6
b. Provide that if the taxpayer reclassifies independent contractors as employees, this change does not alter the application of the safe harbor for prior periods	pa 12/31/96	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[4]	[4]	[4]
c. Clarify "substantially similar position"	pa 12/31/96	Negligible Revenue Effect													
12. Allow certain teaching hospitals to provide tax-free housing to medical faculty	tyba 12/31/95	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[4]	[4]	[15]
B. Extension of Certain Expiring Provisions															
1. Extend the work opportunity tax credit, with modifications through 9/30/97 [16]	10/1/96	---	-116	-141	-82	-32	-12	-2	---	---	---	---	-371	-383	-385
2. Employer-provided educational assistance; extend for graduate education through 6/30/96; undergraduate education sunset 5/31/97	1/1/95	-68	-934	-103	---	---	---	---	---	---	---	---	-1,105	-1,037	-1,105
3. Permanent extension of FUTA exemption for alien agricultural workers [17]	1/1/95	-5	-3	-3	-3	-3	-3	-3	-3	-3	-3	-3	-17	-15	-35

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
4. R&E credit, with modifications through 5/31/97	7/1/96	-101	-331	-872	-208	-148	-77	-17	---	---	---	---	-1,660	-1,636	-1,754
5. Orphan drug tax credit through 5/31/97 with section 39 benefits	7/1/96	-6	-16	-1	-1	-1	-1	[3]	[3]	[3]	[3]	[3]	-25	-20	-26
6. Contribution of appreciated stock to private foundations through 5/31/97	7/1/96	-14	-104	-10	-4	---	---	---	---	---	---	---	-132	-118	-132
7. Extend section 29 binding contract date to 12/31/96 and placed-in-service date to 6/30/98 for biomass and coal	---	---	-8	-34	-60	-69	-65	-57	-55	-56	-58	-59	-171	-236	-522
8. Suspend excise tax on motorboat diesel through 12/31/97	DOE + 7 days	-4	-34	-9	---	---	---	---	---	---	---	---	-47	-43	-47
C. Provisions Relating to S Corporations															
1. Treat financial institutions that do not use the reserve method as eligible corporations	tyba 12/31/96	---	-1	-3	-5	-6	-8	-10	-12	-14	-15	-16	-15	-23	-90
2. Permit tax-exempts to be subchapter S shareholders with UBTI inclusion and ESOP benefit restriction	tyba 12/31/97	---	---	-3	-9	-11	-13	-15	-17	-19	-21	-23	-23	-36	-131
Pension Simplification Provisions															
A. Simplified Distribution Rules															
1. Repeal of 5-year income averaging for lump-sum distributions	tyba 12/31/99	---	74	77	108	78	70	44	17	15	---	---	337	407	483
B. Increased Access to Retirement Savings Plans -															
1. Establish SIMPLE pension plan	yba 12/31/96	---	-50	-76	-79	-81	-84	-87	-91	-94	-97	-101	-286	-370	-840
2. Increase availability of spousal IRAs	yba 12/31/96	---	-57	-168	-184	-195	-206	-219	-233	-248	-264	-281	-604	-810	-2,055
C. Nondiscrimination Provisions															
1. Simplified definition of highly compensated employees; employers can elect whether or not to apply a top 20% test [9]	yba 12/31/96	---	[15]	[15]	Considered in Other Provisions								[4]	[4]	[4]
D. Miscellaneous Provisions															
1. Treatment of Indian tribal governments under section 403(b)	cpb 1/1/95	Negligible Revenue Effect													
2. Allow waiver of 30-day waiting period for qualified plan distributions	pyba 12/31/96	Negligible Revenue Effect													
3. Repeal of combined plan limit	lyba 12/31/99	---	---	---	---	-72	-195	-201	-207	-213	-219	-226	-72	-267	-1,333
4. 3-year waiver of excess distribution tax	1/1/97	---	42	44	47	32	---	---	---	---	---	---	165	165	165
5. Direct IRS to develop model forms for qualified domestic relations orders ("QDRO") and spousal consent provisions	DOE	Negligible Revenue Effect													
6. Permit volunteer firefighters to make deferrals under section 457 (limited to $3,000 per year)	do/a 1/1/97	---	-2	-5	-7	-9	-11	-13	-16	-18	-20	-23	-23	-34	-124
7. Alternative nondiscrimination rules for certain plans that provide for early participation	1/1/99	---	---	---	-6	-17	-18	-19	-19	-20	-20	-20	-23	-41	-139
8. Clarify definition of plan assets	1/1/75	Negligible Revenue Effect													
9. Church pension plan simplification:															
a. Allow pension plan coverage for self-employed clergy	yba 12/31/96	Negligible Revenue Effect													

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
b. Allow church pension plans to use the new definition of highly compensated employee in the bill - Treasury safe harbor......	yba 12/31/96	Negligible Revenue Effect													
c. Allow payroll deduction of pension contributions for clergy on foreign missions......	tyba 12/31/96	Negligible Revenue Effect													
10. Grant IRS the discretion to waive pension liquidity shortfall excise tax......	[12]	---	-4	-3	-2	-1	[3]	[3]	[3]	[3]	[3]	[3]	-11	-11	-11
Foreign Simplification															
1. Repeal of excess passive assets provision (section 956A)......	---	---	-11	-22	-29	-36	-41	-45	-51	-57	-64	-71	-98	-139	-427
Other Provisions															
1. Exempt from diesel dyeing requirement any States exempt from Clean Air Act dyeing requirement......	fcqa DOE	---	[3]	-1	-1	-1	-1	-1	-1	-1	-1	-1	-2	-3	-6
2. Application of common paymaster rules to certain agency accounts at State universities [17]......	rpa 12/31/96	---	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]
3. Exempt imported recycled halons from ozone-depleting chemicals tax......	cia 12/31/96	---	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-4	-9
4. Suspend excise tax on ozone depleting chemicals used in metered dose inhalers......	DOE + 7 days	---	-12	-8	-8	-2	---	---	---	---	---	---	-30	-30	-30
5. Alaska Power Authority:															
a. Authorize tax-exempt bonds for purchase of Alaska Power Authority......	bia DOE	---	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-5	-10
b. Proceeds from asset sale; foregone receipts from electricity sale [18]......	DOE	---	76	-7	-7	-7	-7	-7	-7	-7	-7	-7	55	48	13
6. Allow for tax-free conversion of common trust funds to mutual funds......	ta 12/31/95	-4	-9	-8	-8	-8	-8	-8	-9	-9	-9	-9	-37	-41	-89
7. Clarify that State prepaid tuition plans are tax-exempt entities; clarify OID rules......	tyba 12/31/95	Negligible Revenue Effect													
Revenue Offsets															
1. Possessions tax credit: Wage credit companies - 6 years of present law, thereafter subject to income cap, followed by 4-year phaseout with modified base period, then repealed; Income companies - 2 years of present law followed by 8 years subject to income cap, then repealed; QPSII - repealed later of taxable years beginning after 12/31/95 or earnings after 6/30/96 with estimated payment adjustment; permit base adjustment for asset acquisition......	tyba 12/31/95	111	697	586	589	490	507	736	1,105	1,378	1,678	2,686	2,473	2,869	10,563
2. Repeal 50% interest income exclusion for financial institution loans to ESOPs [19]......	lma DOE	10	64	105	144	182	220	256	292	327	360	327	505	715	2,287

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
3. Apply look-through rule for purposes of characterizing certain subpart F insurance income as UBTI, with amendment	---	1	3	4	4	5	5	5	6	6	7	8	17	21	54
4. Corporate accounting - reform of income forecast method	ppisa 9/13/95	32	69	29	13	14	16	19	22	28	31	35	157	141	308
5. Modify exclusion of damages received on account of personal injury or sickness	ara DOE	3	50	55	59	61	64	68	71	74	77	80	228	289	662
6. Repeal advance refunds of diesel fuel tax for diesel cars and light trucks	vpa DOE	1	15	19	19	19	19	19	19	19	19	19	73	91	187
7. Phase out and extend luxury automobile excise tax through 12/31/02	so/a DOE + 7 days	-4	-56	-105	-132	124	183	140	32	---	---	---	-173	14	182
8. Modify two county tax-exempt bond rule for local furnishers of electricity or gas; prohibit new local furnishers (with current service areas grandfathered)	[20]	---	---	3	-3	-6	-4	-3	[3]	7	13	15	-5	-9	23
9. Reinstate Airport and Airway Trust Fund excise taxes through 12/31/96, with (1) exemption for fixed-wing emergency medical aircraft, and mining, oil, and gas industry helicopters for flights not using FAA services; (2) clarification of collection point; and (3) clarification of tax treatment of travel on corporate aircraft in affiliated groups	tp7data DOE	28	1,528	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	1,556	1,528	1,555
10. Modify basis adjustment rules under section 1033	ica DOE	---	1	5	9	14	20	29	37	46	56	64	29	49	281
11. Treatment of certain insurance on retired lives	tyba 12/31/95	---	2	1	-2	5	2	[3]	10	-5	2	-3	6	8	12
12. Modified guaranteed contracts	tyba 12/31/95	---	-3	3	2	2	-1	-1	[3]	[3]	[3]	[3]	5	4	1
13. Tax-free treatment of contributions in aid of construction for water utilities; change depreciation for water utilities	[21]	---	-21	-9	-3	11	24	35	45	55	64	73	-22	2	274
14. Permit scholarship funding corporation to convert to taxable corporation	1/1/97	---	3	6	8	10	10	9	7	6	5	4	26	36	68
15. Apply math error rules for dependency exemptions and filing status when correct taxpayer identification numbers are not provided	rd 30 da DOE	---	133	272	262	249	242	234	226	217	209	201	916	1,158	2,245
16. Provide for flow through treatment for Financial Asset Securitization Investment Trusts (FASITs)	9/1/97	---	---	92	48	8	-3	-9	-14	-19	-25	-32	148	146	47
Technical Corrections															
1. Luxury excise tax, and other technical corrections [13]	---	14	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	14	[3]	13

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
Additional Provisions															
1. Extend GSP through 5/31/97 [17] [22]	---	---	-817	---	---	---	---	---	---	---	---	---	-817	-817	-817
2. $5,000 nonrefundable adoption credit and employer-provided assistance exclusion;$6,000 special needs; non-special needs sunset after 2001; AGI phaseout beginning at $75,000	tyba 12/31/96	---	-19	-204	-332	-355	-366	-348	-222	-139	-129	-119	-910	-1,276	-2,234
3. 6 month delay of electronic funds transfer	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
4. Remove business exclusion for energy subsidies provided by public utilities	tyba 12/31/96	---	63	100	104	107	109	111	113	115	116	117	374	483	1,055
5. Repeal bad debt reserve deduction for thrift institutions, with residential loan test for 1996 and 1997	tyba 12/31/95	47	111	216	280	277	272	260	247	111	36	29	931	1,156	1,886
6. Modify treatment of foreign trusts	[23]	52	143	171	180	188	197	206	214	223	245	260	734	879	2,079
NET TOTALS		**67**	**316**	**-316**	**250**	**160**	**-269**	**-190**	**347**	**663**	**1,135**	**2,271**	**471**	**136**	**4,413**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.
Enactment date is assumed to be August 1, 1996.

Legend for "Effective" column:
ara = amounts received after
asda = annuity starting date after
bia = bonds issued after
cia = chemicals imported after
cpb = contracts purchased before
dda = decedents dying after
DDA = disasters declared after
do/a = deferrals on or after
DOE = date of enactment
fcqa = first calendar quarter after
ica = involuntary conversions after
lida = leasehold improvements disposed of after
lma = loans made after
lyba = limitation years beginning after
pa = periods after
ppisa = property placed in service after
ppiso/a/b = property placed in service on, after, or before
ptoa = prohibited transactions occurring after
pyba = plan years beginning after
rd 30 da = returns due 30 days after
rpa = remuneration paid after
so/a = sales on or after
spa = services performed after
ta = transfers after
tyba = taxable years beginning after
tp7data DOE = tickets purchased 7 days after date of enactment for travel 7 days after date of enactment
yba = years beginning after
ybbo/a = years beginning before, on, or after
vpa = vehicles purchased after
90 da DOE = 90 days after date of enactment

[1] Effective as if included in the Omnibus Reconciliation Act of 1993.
[2] The provision applies to remuneration paid after 12/31/94, and also is effective with respect to remuneration paid after 12/31/84, and before 1/1/95, unless the payor treated such remuneration (when paid) as being subject to FICA taxes.
[3] Loss of less than $500,000.
[4] Loss of less than $5 million.
[5] Loss of less than $15 million.
[6] Loss of less than $20 million.
[7] Loss of less than $30 million.

[Footnotes for Table #96-0 218 appear on the following page]

Footnotes continued:

[8] Gain of less than $1 million.
[9] Revenue effect after 1/1/99 included in the revenue estimate for the safe harbor provision due to interactions between this provision and Item II. Pension C.4.
[10] Negligible revenue effect.
[11] This provision considers interaction effects of SIMPLE retirement plan provisions (Items I. Pension C.1, I. Pension D.5, and II. Pension C.1).
[12] Effective as if included in the General Agreement on Tariffs and Trade of 1994.
[13] The technical correction relating to expensing is included in the increase in expensing limitation provision (Item II. Small Business A.1).
[14] Loss of less than $1 million.
[15] Loss of less than $10 million.
[16] Credit rate at 35% on first $6,000 of income; eligible workers expanded to include enterprise zone/community youth, welfare cash recipients, veteran foodstamp recipients, and 18 - 24 year olds living in a household receiving food stamps for a period of at least 6 months on the date of hire without pre-certification; 400 hour work requirement; 21 day certification requirement.
[17] Estimates provided by the Congressional Budget Office.
[18] Estimate provided by the Congressional Budget Office. Negative numbers indicate that Federal outlays will increase; positive numbers indicate that Federal outlays will decrease.
[19] The repeal would not apply to loans made pursuant to a binding contract entered into before 6/10/96.
[20] Effective generally date of enactment; placed in service before 1/1/97 for limitation on new local furnishers.
[21] Effective for amounts received after 6/12/96 and property placed in service after 6/12/96 with the exception of certain property subject to a binding contract before 6/10/96.
[22] Amounts are payable after 9/30/96.
[23] Various effective dates depending on provisions.

From the Committee on Ways and Means, for consideration of the House bill (except for title II) and the Senate amendment numbered 1, and modifications committed to conference:

BILL ARCHER,
PHIL CRANE,
BILL THOMAS,
SAM GIBBONS,
CHARLES B. RANGEL,

As additional conferees from the Committee on Economic and Educational Opportunities, for consideration of secs. 1704(h)(1)(B) and 1704(l) of the House bill and secs. 1421(d), 1442(b), 1442(c), 1451, 1457, 1460(b), 1460(c), 1461, 1465, and 1704(h)(1)(B) of the Senate amendment numbered 1, and modifications committed to conference:

WILLIAM F. GOODLING,
CASS BALLENGER,

As additional conferees from the Committee on Economic and Educational Opportunities, for consideration of title II of the House bill and the Senate amendments numbered 2–6, and modifications committed to conference:

WILLIAM F. GOODLING,
H.W. FAWELL,
FRANK RIGGS,
WILLIAM L. CLAY,
MAJOR R. OWENS,
MAURICE HINCHEY,

Managers on the Part of the House.

From the Committee on Labor and Human Resources:

NANCY LANDON
KASSEBAUM,
EDWARD M. KENNEDY,
JIM JEFFORDS,

From the Committee on Finance:

BILL ROTH,
JOHN H. CHAFEE,
CHUCK GRASSLEY,
ORRIN G. HATCH,
AL SIMPSON,
LARRY PRESSLER,
DANIEL P. MOYNIHAN,
MAX BAUCUS,
DAVID PRYOR,
JOHN D. ROCKEFELLER IV,

Managers on the Part of the Senate.

NOTICE

Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.

CONFERENCE REPORT ON H.R. 3845, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1997

Mr. BONILLA submitted the following conference report and statement on the bill (H.R. 3845) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1997, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–740)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3845) ''making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1997, and for other purposes,'' having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 4, 5, 6, and 7.

That the House recede from its disagreement to the amendments of the Senate numbered 9, 12, and 13, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert the following: *That funds expended for the Office of the Mayor are not to exceed $2,109,000, of which $632,000 is from intra-District funds: Provided further, That $327,000 of the funds for the Office of the Mayor shall be transferred to the Department of Administrative Services as reimbursement for occupancy costs, including costs for telephone, electricity and other services: Provided further,*; and the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment, and on page 3, after line 4 of the House engrossed bill, H.R. 3845, insert the following:

FEDERAL CONTRIBUTION FOR REPAIR OF DRINKING WATER SYSTEM

For a Federal contribution to the District of Columbia Financial Responsibility and Management Assistance Authority for contracting with a private entity (or entities) to carry out a program to inspect, flush, and repair the drinking water distribution system of the District of Columbia, $1,000,000.

, and

on page 4, line 13 of the House engrossed bill, H.R. 3845, strike all after ''funds)'' down through and including ''Columbia'' on page 5, line 11.

And the Senate agree to the same.

Amendment number 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

Retain the matter proposed in said amendment, and

on page 31, line 5 of the House engrossed bill, H.R. 3845, strike '', prior to October 1, 1996,''.

And the Senate agree to the same.

Amendment number 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

Delete the matter proposed and restore the matter stricken amended as follows:

In lieu of the first sum named in the matter restored insert: *$74,000,000*; and the Senate agree to the same.

Amendment number 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

Delete the matter proposed and restore the matter stricken amended as follows:

In lieu of subsection (a) in the matter restored insert:

(a) The heads of all personnel of the offices, together with all other District of Columbia accounting, budget, and financial management personnel (including personnel of independent agencies but not including personnel of the legislative and judicial branches of the District government), shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer:

The Office of the Treasurer.

The Controller of the District of Columbia.

The Office of the Budget.

The Office of Financial Information Services.

The Department of Finance and Revenue.

The District of Columbia Financial Responsibility and Management Assistance Authority established pursuant to Public Law 104–8, approved April 17, 1995, may remove such individuals from office for cause, after consultation with the Mayor and the Chief Financial Officer.

And the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 149. ENERGY AND WATER SAVINGS AT DISTRICT OF COLUMBIA FACILITIES.

(a) REDUCTION IN FACILITY ENERGY COSTS AND WATER CONSUMPTION.—

IN GENERAL.—The Director of the District of Columbia Office of Energy shall, subject to the contract approval provisions of Public Law 104–8—

(A) develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum cost-effective energy and water savings;

(B) enter into innovative financing and contractual mechanisms including, but not limited to utility demand-side management programs and energy savings performance contracts and water conservation performance contracts: Provided, That the terms of such contracts do not exceed twenty-five years; and

(C) permit and encourage each department or agency and other instrumentality of the District of Columbia to participate in programs conducted by any gas, electric or water utility of the management of electricity or gas demand or for energy or water conservation.

REDUCTION IN MINIMUM NUMBER OF MEMBERS OF THE BOARD OF TRUSTEES OF AMERICAN UNIVERSITY

SEC. 150. The first section of the Act entitled ''an Act to incorporate the American University'', approved February 24, 1893 (27 Stat. 476), is amended by striking ''forty'' and inserting ''twenty-five''.

WAIVER OF CONGRESSIONAL REVIEW FOR CERTAIN COUNCIL ACTS

SEC. 151. Notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, each of the following District of Columbia acts shall take effect on the date of the enactment of this act:

(1) The District of Columbia Real Property Tax Lien Assignment or Sale and Transfer Amendment Act of 1996 (D.C. Act 11–353).

(2) The Telecommunications Competition Act of 1996 (D.C. Act 11–300).

(3) The Mortgage Lenders and Brokers Act of 1996 (D.C. Act 11–309).

And the Senate agree to the same.

JAMES T. WALSH,
HENRY BONILLA,
JACK KINGSTON,

R.P. FRELINGHUYSEN,
MARK W. NEUMANN,
MIKE PARKER,
BOB LIVINGSTON,
JULIAN C. DIXON,
JOSÉ E. SERRANO,
MARCY KAPTUR,
DAVID R. OBEY,
Managers on the Part of the House.

JAMES M. JEFFORDS,
BEN NIGHTHORSE CAMPBELL,
MARK O. HATFIELD,
HERB KOHL
(Except amendments No. 6 and No. 7)
DANIEL K. INOUYE,
(Except amendments No. 6 and No. 7),
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3845) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1997, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the actions agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the District of Columbia Appropriations Act, 1997, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 104–689 and Senate Report 104–328 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary.

A summary chart appears after the explanation for amendment 5 showing the Federal appropriations by account and the allocation of District funds by agency or office under each appropriation title showing the fiscal year 1996 appropriation, the control board distribution for fiscal year 1996, and the fiscal year 1997 request, House and Senate recommendations and conference allowance.

DEFICIT SPENDING AND LONG-TERM DEFICIT BORROWING

The conferees are concerned with the insidious aspects of long-term borrowing to fund deficit spending. The conferees note that the actual deficit for fiscal year 1995 was only $25,000,000 when the accounting adjustments of $29,000,000 are factored out.

For fiscal year 1996, the deficit was estimated at $20,000,000 at the time the President signed the appropriations Act; however, in testimony provided by the Chief Financial Officer to the House Committee on Appropriations on May 15, 1996, the deficit was projected at $116,000,000, a 580 percent increase. While the deficit was relatively small in fiscal year 1995, it is projected to increase significantly in fiscal year 1996.

The District is proposing to borrow $500,000,000 long term to fund the accumulated deficit caused by overspending and future projected deficits. The cost of this proposal is $435,000,000 in interest costs that will have to be paid from current operating revenues in addition to the $500,000,000 in principal that will have to be repaid. Said another way, instead of the $435,000,000 being used to benefit District taxpayers in the form of teachers and counselors for education programs, police activities and fire services as well as programs to meet various social needs, those hundreds of millions of dollars will be used for interest payments to bondholders thus depriving the citizens of the District the use of scarce revenues for basic city services. The insidious nature of deficit borrowing is that it allows higher spending that satisfies immediate needs while at the same time entrapping current and future taxpayers into making interest payments on funds borrowed to pay for goods and services that were provided in the past. This $435,000,000 is in addition to the $150,000,000 in interest payments being made on the $336,000,000 in deficit borrowings made in fiscal year 1991.

Long-term borrowings for capital projects, on the other hand, are entirely appropriate because the projects on which those funds are spent last for the period during which those borrowings are repaid so that the taxpayers at the time the payments are made are able to benefit from those projects. This is not the case with long-term borrowings for deficit spending. Every effort should be made by the Mayor, the Council and the control board to avoid deficit spending and thus alleviate the need to obligate future taxpayers to pay for the overspending of those who preceded them.

The accumulated deficit at the end of fiscal year 1995 totaled $378,000,000 which was computed by subtracting total assets from total liabilities in the General Fund and resulted in liabilities exceeding assets available to satisfy those liabilities. However, an analysis of the liabilities reveals that approximately $312,000,000 will either not require a use of cash or are long term in nature. For example, $142,000,000 is deferred revenue, which is a record of cash already received that will be recorded as revenue earned in fiscal year 1996. The cash is already in the General Fund's cash account. Another $170,000,000 is recorded as accrued liabilities which are estimates of payments that may be made sometime in the distant future, such as payments resulting from claims and judgments, disputes from grant claims, and possible Medicaid payments subject to audits of reimbursement claims. Thus, only about $66,000,000 of the remaining excess liabilities over assets of the accumulated deficit may need to be paid in fiscal year 1996. Given this analysis it appears that a long-term borrowing of $500,000,000 should be carefully analyzed and avoided by pursuing other options. A very high priority should be given to living within the current revenues.

An analysis of the District's cash account to determine the pattern of overspending since fiscal year 1991 when $336,000,000 was borrowed to fund the accumulated deficit reveals that the District over spent an average of $71,000,000 per year. It should be noted that this amount reflects increases and decreases in both the accounts receivable and the accounts payable so that a deferral of the use of cash would not artificially inflate the balance in the cash account. This amount is approximately the amount of the projected fiscal year 1997 deficit of $74,000,000 recommended in this conference agreement. The Mayor and the Control Board Chairman recently stated that there were several ways of reducing the projected fiscal year 1997 deficit. These recommendations as well as those made by the many financial advisers who have testified and published reports on the various ways the city can reduce the costs of operating the Nation's Capital should be pursued vigorously.

Testimony at recent and past hearings as well as reports from financial advisors to the city and meetings with District and control board officials have documented the concerns and inherent problems in borrowing long-term to finance operating deficits. The officials cited several ways to reduce the projected deficit for fiscal year 1997; the advisors have testified that future requests by the District to fund an operating deficit should not be approved; and testimony indicates that a change in one item, Medicaid, among several other items, would eliminate the city's deficit and result in a surplus. Efforts should be pursued immediately on these items that will save District taxpayers and the Federal Government hundreds of millions of dollars instead of spending scarce local revenues on interest costs to bondholders.

Long-term borrowing for deficit spending does not resolve the problems caused by overspending—rather it increases the accumulated deficit and postpones the tough decisions that have to be made. Deficit financing carries a very high cost that has serious negative consequences to the financial health and quality of life of the community.

QUALITY OF DISTRICT'S DRINKING WATER

The conferees are deeply concerned about recent violations of Federal drinking water quality standards and the continuing problems that beset the drinking water supply and distribution system for the District of Columbia. The Federal Environmental Protection Agency (EPA) recently completed a preliminary investigation of the water quality problems attributed to the District's water distribution system and concluded that there is an urgent and immediate need for the District to implement steps to assure the integrity of drinking water quality in the District. Among the most important of these recommended actions is that the District hire a private contractor or contractors to flush the drinking water distribution system completely, and to inspect and repair water valves.

The conferees agree that there is a strong Federal interest in assuring that those who visit, live, and work in the Nation's Capital have safe water to drink. Accordingly, the conference agreement includes $1,000,000 in Federal funds for this purpose under amendment number 2. These funds are provided to the Financial Control Board to contract with a private entity or entities to conduct the inspection, flushing and repair work recommended by the EPA. The conferees direct the control board to consult with the Department of Public Works, the D.C. Water and Sewer Authority and the EPA in implementing this activity. Further, the conferees encourage the control board to move expeditiously to contract for the work in anticipation of the funds provided in the accompanying bill becoming available on October 1, 1996.

YCARE 2000 PRIVATE-PUBLIC PARTNERSHIP

The conferees fully support the YCARE 2000 program sponsored by the YMCA of Metropolitan Washington. The program provides work-readiness, conflict resolution training, tutoring, socialization and other skills to at-risk District youth who are in the age range of 5 to 18 years old. The conferees believe that YCARE 2000 is an example of an efficient and well-managed private-public partnership which can provide social services to improve the lives of the city's young people. The conferees note that the Council of the District of Columbia has formally recognized the achievements of the YCARE 2000 initiative in a July 11, 1995 resolution.

In order to provide and facilitate private-public partnerships such as YCARE 2000 and in order to reach at-risk youth most efficiently, the conferees request that the Mayor, the City Council, and the Board of Education work with organizations like the YMCA to locate such programs on or near school property. In addition, the conferees request that the Mayor consult with representatives of private, not-for-profit community organizations with demonstrated experience and expertise in providing services to children and youth in the District and, to the extent financial constraints permit, make funds available to such groups for such services on the condition that the groups provide equal matching amounts.

FEDERAL FUNDS

FEDERAL CONTRIBUTION FOR REPAIR OF DRINKING WATER SYSTEM

The conference agreement, under amendment number 2, includes a Federal contribution of $1,000,000 to the District of Columbia Financial Responsibility and Management Assistance Authority for contracting with private entities to inspect, flush, and repair the drinking water distribution system in the District. A discussion of the quality of the district's drinking water appears earlier in this statement.

DISTRICT FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

Amendment No. 1: Limits the fiscal year 1997 budget for the Office of the Mayor to $2,109,000 of which $632,000 is from intra-District funds instead of $1,753,000 of which $632,000 is from intra-District funds as proposed by the House and $2,209,000 of which $632,000 is from intra-District funds as proposed by the Senate and provides that $327,000 of the $2,109,000 shall be transferred to the Department of Administrative Services as reimbursement for occupancy costs, including costs for telephone, electricity and other services.

Amendment No. 2: Deletes a proviso proposed by the House and stricken by the Senate and further deletes a proviso before and a proviso that followed the proviso stricken by the Senate concerning the District of Columbia Housing Finance Agency and inserts a new heading and paragraph appropriating $1,000,000 in Federal funds to the District of Columbia Financial Responsibility and Management Assistance Authority for contracting with private entities to carry out a program to inspect, flush, and repair the drinking water distribution system in the District.

The conference action deletes language as requested in the consensus budget that eliminates the requirement for the District of Columbia Housing Finance Agency to repay the District's general fund $10,591,000 appropriated for fiscal years 1980 through 1992 to finance the Agency's operations. According to District officials, retaining the language requires the Agency to carry the debt on its books and creates a negative financial picture thereby making it difficult and more costly for the Agency to access capital markets. The debt was determined by the District's independent auditors to be ''uncollectible'' and is fully reserved for in the District's Comprehensive Annual Financial Report (CAFR) (see page 34, fiscal year 1995 CAFR). An earlier communication from District officials requested that the language be retained. See amendment number 12 for language ''forgiving'' the Agency from the repayment requirement.

The conference action also appropriates $1,000,000 for a Federal contribution to the District of Columbia Financial Responsibility and Management Assistance Authority for contracting with private entities to inspect, flush, and repair the city's water distribution system which has fallen into disrepair. A discussion of the quality of the District's drinking water appears earlier in this statement.

PUBLIC SAFETY AND JUSTICE

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 3: Deletes language proposed by the Senate that would have modified the appropriations title to indicate that this appropriation included a transfer of funds. The transfer of funds in amendment number 4 has not been agreed to by the conferees.

Amendment No. 4: Deletes a proviso proposed by the Senate that would have transferred $651,000 from the Department of Public Works to the District of Columbia Court System for maintenance and repair of elevators/escalators, heating, ventilation, and air conditioning systems, fire alarms and security systems, materials and services for building maintenance and repair, and trash removal.

The conferees are extremely concerned and disappointed that the Department of Public Works has failed to provide maintenance and repair services to the District of Columbia Courts in a professional manner, permitting necessary maintenance and repair contracts to lapse and causing greater expenses and disruptions as a result. While the conference agreement retains this responsibility in the Department of Public Works, the conferees expect this will not happen again.

The conference action reflects a reallocation of building occupancy costs totaling $2,347,000 from the Superior Court's budget to the Court System's budget because the payments are made from that particular budget. This reallocation was requested by District officials.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

Amendment No. 5: Provides an increase of $46,923,000 for construction projects as proposed by the House instead of $75,923,000 as proposed by the Senate. The reduction of $29,000,000 below the amount proposed by the Senate reflects the deletion of duplicate capital outlay authority initially provided in the fiscal year 1996 appropriations act (Public Law 104–234) for Facility Condition Assessment ($1,000,000) and Financial Control System or FMS ($28,000,000). The amount approved in fiscal year 1996 under ''Capital Outlay'' is available for two years for the initial obligation after which the authority remains available until exhausted. The House and Senate versions of the bill for fiscal year 1997 include an increase of $3,123,000 for the FMS which when added to the $28,000,000 in the fiscal year 1996 act will provide a total of $31,123,000 for FMS work.

SUMMARY TABLE OF CONFERENCE RECOMMENDATIONS BY AGENCY

A summary table showing the Federal appropriations by account and the allocation of District funds by agency or office under each appropriation title for fiscal year 1996, the control board distribution for fiscal year 1996, and the fiscal year 1997 request, House and Senate recommendations and conference allowance follows:

DISTRICT OF COLUMBIA APPROPRIATIONS, 1997 (H.R. 3845)

Appropriation	FY 1996 Approved	FY 1996 Distribution by Control Board	FY 1997 Request	House Recommendation	Senate Recommendation	Conference Agreement
FEDERAL FUNDS						
Federal payment to the District of Columbia	660,000,000	660,000,000	660,000,000	660,000,000	660,000,000	660,000,000
Federal contribution to retirement funds	52,070,000	52,070,000	104,140,000	52,070,000	52,070,000	52,070,000
Reimbursement of inauguration expenses	0	0	5,702,000	5,702,000	5,702,000	5,702,000
Federal contribution for repair of drinking water system	0	0	0	0	0	1,000,000
Total, Federal funds to the District of Columbia	712,070,000	712,070,000	769,842,000	717,772,000	717,772,000	718,772,000
DISTRICT OF COLUMBIA FUNDS						
Governmental Direction and Support:						
Council of the District of Columbia	8,380,000	7,295,000	8,878,000	8,878,000	8,878,000	8,878,000
Office of the District of Columbia Auditor	961,000	952,000	982,000	982,000	982,000	982,000
Advisory Neighborhood Commissions	572,000	572,000	572,000	572,000	572,000	572,000
Office of the Mayor	1,753,000	1,548,000	2,209,000	1,753,000	2,209,000	2,109,000
Office of the Secretary	2,497,000	2,424,000	2,208,000	2,208,000	2,208,000	2,208,000
Office of Inspector General	728,000	3,493,000	7,200,000	7,200,000	7,200,000	7,200,000
Office of Communications	300,000	313,000	350,000	350,000	350,000	350,000
Office of Intergovernmental Relations	1,735,000	1,259,000	1,239,000	1,239,000	1,239,000	1,239,000
Office of City Administrator/Deputy Mayor for Operations	4,776,000	3,975,000	4,637,000	4,637,000	4,637,000	4,637,000
Office of Personnel	11,220,000	10,596,000	10,568,000	10,568,000	10,568,000	10,568,000
Department of Administrative Services	38,288,000	45,331,000	29,819,000	29,819,000	29,819,000	29,819,000
Contract Appeals Board	511,000	528,000	563,000	563,000	563,000	563,000
Office of the Deputy Mayor for Finance	320,000	1,919,000	1,459,000	1,459,000	1,459,000	1,459,000
Office of the Budget	4,010,000	5,392,000	4,251,000	4,251,000	4,251,000	4,251,000
Office of Financial Management	43,009,000	26,310,000	23,764,000	23,764,000	23,764,000	23,764,000
Department of Finance and Revenue	21,183,000	20,828,000	22,357,000	22,357,000	22,357,000	22,357,000
Tax Revision Commission	0	200,000	0	0	0	0
Board of Elections and Ethics	3,015,000	2,807,000	2,777,000	2,777,000	2,777,000	2,777,000
Office of Campaign Finance	773,000	747,000	804,000	804,000	804,000	804,000
Public Employee Relations Board	470,000	467,000	325,000	325,000	325,000	325,000
Office of Employee Appeals	1,413,000	1,126,000	1,113,000	1,113,000	1,113,000	1,113,000
Metropolitan Washington Council of Governments	400,000	400,000	396,000	396,000	396,000	396,000
Office of Grants Management and Development	2,816,000	2,857,000	12,922,000	12,922,000	12,922,000	12,922,000

DISTRICT OF COLUMBIA APPROPRIATIONS, 1997 (H.R. 3845) - continued

Agency/Activity	FY 1996 Approved	FY 1996 Distribution by Control Board	FY 1997 Request	House Recommendation	Senate Recommendation	Conference Agreement
Governmental Direction and Support - continued						
Certificate of Participation	0	0	7,926,000	0	0	0
Human Resources Development	0	0	12,257,000	0	0	0
Real Estate	0	0	(4,488,000)	0	0	0
Management Information Systems	0	0	(6,317,000)	0	0	0
Energy Cost Reduction	0	0	(2,271,000)	0	0	0
Purchasing and Procurement	0	0	(12,960,000)	0	0	0
Unallocated	0	0	0	456,000	0	100,000
Total, Governmental Direction and Support	149,130,000	141,339,000	133,540,000	139,393,000	139,393,000	139,393,000
Lees Intra-District funds	(24,728,000)	(23,981,000)	(23,730,000)	(23,730,000)	(23,730,000)	(23,730,000)
Revised, Governmental Direction and Support	124,402,000	117,358,000	109,810,000	115,663,000	115,663,000	115,663,000
Economic Development and Regulation:						
Business Services and Economic Development	0	0	51,967,000	51,967,000	51,967,000	51,967,000
Assistant City Administrator for Economic Development	3,943,000	3,832,000	0	0	0	0
Office of Banking and Financial Institutions	296,000	231,000	0	0	0	0
Office of Tourism and Promotion	1,000,000	995,000	0	0	0	0
Office of Planning	1,955,000	1,910,000	0	0	0	0
Office of Zoning	541,000	552,000	870,000	870,000	870,000	870,000
Department of Housing and Community Development	15,988,000	15,114,000	0	0	0	0
Department of Public and Assisted Housing	8,420,000	8,344,000	8,330,000	8,330,000	8,330,000	8,330,000
Department of Employment Services	63,925,000	53,613,000	66,012,000	66,012,000	66,012,000	66,012,000
Board of Appeals and Review	131,000	129,000	157,000	157,000	157,000	157,000
Board of Real Property Assessments and Appeals	338,000	321,000	351,000	351,000	351,000	351,000
Department of Consumer and Regulatory Affairs	36,349,000	35,511,000	14,102,000	14,102,000	14,102,000	14,102,000
Public Service Commission	5,600,000	5,547,000	4,570,000	4,570,000	4,570,000	4,570,000
Office of the People's Counsel	2,497,000	2,081,000	2,437,000	2,437,000	2,437,000	2,437,000
Total, Economic Development and Regulation	140,983,000	128,180,000	148,796,000	148,796,000	148,796,000	148,796,000
Less Intra-District funds	(16,330,000)	(16,330,000)	(13,092,000)	(13,092,000)	(13,092,000)	(13,092,000)
Revised, Economic Development and Regulation	124,653,000	111,850,000	135,704,000	135,704,000	135,704,000	135,704,000

DISTRICT OF COLUMBIA APPROPRIATIONS, 1997 (H.R. 3845) - continued

Agency/Activity	FY 1996 Approved	FY 1996 Distribution by Control Board	FY 1997 Request	House Recommendation	Senate Recommendation	Conference Agreement
Public Safety and Justice:						
Metropolitan Police Department	245,717,000	237,624,000	264,637,000	264,637,000	264,637,000	264,637,000
Fire and Emergency Medical Services Department	87,292,000	89,960,000	106,720,000	106,720,000	106,720,000	106,720,000
Police and Fire Retirement System	220,000,000	220,000,000	226,700,000	226,700,000	226,700,000	226,700,000
Judges' Retirement System	4,700,000	4,700,000	5,500,000	5,500,000	5,500,000	5,500,000
Court of Appeals	5,974,000	5,937,000	6,167,000	6,167,000	6,167,000	6,167,000
Superior Court	80,919,000	76,852,000	81,101,000	81,101,000	81,101,000	81,101,000
Court System	34,677,000	33,331,000	33,944,000	33,944,000	33,944,000	33,944,000
Office of the Corporation Counsel	16,954,000	16,777,000	17,334,000	17,334,000	17,334,000	17,334,000
Settlements and Judgments	14,800,000	14,800,000	14,800,000	14,800,000	14,800,000	14,800,000
Public Defender Service	7,702,000	7,702,000	7,797,000	7,797,000	7,797,000	7,797,000
Pretrial Services Agency	4,407,000	5,429,000	6,063,000	6,063,000	6,063,000	6,063,000
Department of Corrections	232,302,000	248,541,000	272,302,000	272,302,000	272,302,000	272,302,000
Board of Parole	5,322,000	5,305,000	8,277,000	8,277,000	8,277,000	8,277,000
National Guard	678,000	667,000	902,000	902,000	902,000	902,000
Office of Emergency Preparedness	2,194,000	2,142,000	2,887,000	2,887,000	2,887,000	2,887,000
Commission on Judicial Disabilities and Tenure	130,000	126,000	128,000	128,000	128,000	128,000
Judicial Nomination Commission	80,000	79,000	80,000	80,000	80,000	80,000
Total, Public Safety and Justice	963,848,000	969,972,000	1,055,339,000	1,055,339,000	1,055,339,000	1,055,339,000
Less Intra-District funds	(9,115,000)	(9,115,000)	(14,058,000)	(14,058,000)	(14,058,000)	(14,058,000)
Revised, Public Safety and Justice	954,733,000	960,857,000	1,041,281,000	1,041,281,000	1,041,281,000	1,041,281,000
Public Education System:						
Board of Education (Public Schools)	580,996,000	575,175,000	578,822,000	578,822,000	578,822,000	578,822,000
School Repairs	0	2,730,000	0	0	0	0
Teachers' Retirement System	111,800,000	111,800,000	88,900,000	88,900,000	88,900,000	88,900,000
University of the District of Columbia	79,396,000	76,943,000	76,287,000	76,287,000	76,287,000	76,287,000
Public Library	20,742,000	21,657,000	22,432,000	22,432,000	22,432,000	22,432,000
Commission on the Arts and Humanities	2,267,000	2,262,000	2,220,000	2,220,000	2,220,000	2,220,000
Total, Public Education System	795,201,000	790,567,000	768,661,000	768,661,000	768,661,000	768,661,000
Less Intra-District funds	(9,846,000)	(9,846,000)	(9,846,000)	(9,846,000)	(9,846,000)	(9,846,000)
Revised, Public Education System	785,355,000	780,721,000	758,815,000	758,815,000	758,815,000	758,815,000

DISTRICT OF COLUMBIA APPROPRIATIONS, 1997 (H.R. 3845) -continued

Agency/Activity	FY 1996 Approved	FY 1996 Distribution by Control Board	FY 1997 Request	House Recommendation	Senate Recommendation	Conference Agreement
Human Support Services:						
Department of Human Services	1,705,427,000	1,566,614,000	1538200000	1,538,200,000	1,538,200,000	1,538,200,000
Department of Recreation and Parks	31,653,000	30,530,000	33,614,000	33,614,000	33,614,000	33,614,000
Office on Aging	19,009,000	18,994,000	19,169,000	19,169,000	19,169,000	19,169,000
D.C. General Hospital Payment	56,735,000	47,155,000	59,735,000	59,735,000	59,735,000	59,735,000
Unemployment Compensation Fund	10,000,000	5,937,000	7,678,000	7,678,000	7,678,000	7,678,000
Disability Compensation Fund	26,000,000	26,000,000	24,793,000	24,793,000	24,793,000	24,793,000
Department of Human Rights	1,301,000	1,388,000	974,000	974,000	974,000	974,000
Office on Latino Affairs	657,000	655,000	688,000	688,000	688,000	688,000
Commission for Women	20,000	20,000	0	0	0	0
D.C. Energy Office	4,212,000	4,167,000	5,326,000	5,326,000	5,326,000	5,326,000
Total, Human Support Services	1,855,014,000	1,701,460,000	1,690,177,000	1,690,177,000	1,690,177,000	1,690,177,000
Less Intra-District funds	(4,674,000)	(4,674,000)	(4,470,000)	(4,470,000)	(4,470,000)	(4,470,000)
Revised, Human Support Services	1,850,340,000	1,696,786,000	1,685,707,000	1,685,707,000	1,685,707,000	1,685,707,000
Public Works:						
Department of Public Works	161,227,000	151,729,000	159,042,000	159,042,000	159,042,000	159,042,000
Taxicab Commission	1,501,000	1,490,000	1,000,000	1,000,000	1,000,000	1,000,000
Washington Metropolitan Area Transit Commission	96,000	96,000	96,000	96,000	96,000	96,000
Washington Metropolitan Area Transit Authority (Metro)	130,899,000	130,899,000	131,820,000	131,820,000	131,820,000	131,820,000
School Transit Subsidy	3,845,000	3,845,000	3,845,000	3,845,000	3,845,000	3,845,000
Total, Public Works	297,568,000	288,059,000	295,803,000	295,803,000	295,803,000	295,803,000
Less Intra-District funds	(50,629,000)	(50,629,000)	(47,836,000)	(47,836,000)	(47,836,000)	(47,836,000)
Revised, Public Works	246,939,000	237,430,000	247,967,000	247,967,000	247,967,000	247,967,000

DISTRICT OF COLUMBIA APPROPRIATIONS, 1997 (H.R. 3845) - continued

Agency/Activity	FY 1996 Approved	FY 1996 Distribution by Control Board	FY 1997 Request	House Recommendation	Senate Recommendation	Conference Agreement
Financing and Other Uses:						
Washington Convention Center Transfer Payment	5,400,000	5,400,000	5,400,000	5,400,000	5,400,000	5,400,000
Repayment of Loans and Interest	327,787,000	327,787,000	333,710,000	333,710,000	333,710,000	333,710,000
Repayment of General Fund Recovery Debt	38,678,000	38,678,000	38,314,000	38,314,000	38,314,000	38,314,000
Interest on Short-Term Borrowing	9,698,000	18,420,000	34,461,000	34,461,000	34,461,000	34,461,000
Pay Renegotiation or Reduction in Compensation	(46,409,000)	0	0	0	0	0
Rainy Day Fund	4,563,000	0	0	0	0	0
Incentive Buyout Program	19,000,000	0	0	0	0	0
Outplacement Services	1,500,000	0	0	0	0	0
Boards and Commissions	(500,000)	0	0	0	0	0
Government Re-Engineering Program,	(16,000,000)	0	0	0	0	0
Presidential Inauguration	0	0	5,702,000	5,702,000	5,702,000	5,702,000
Certificate of Participation	0	0	0	7,926,000	7,926,000	7,926,000
Human Resources Development	0	0	0	12,257,000	12,257,000	12,257,000
Cost Reduction Initiatives	0	0	(21,375,000)	(47,411,000)	(47,411,000)	(47,411,000)
Personal and Nonpersonal Services Adjustments	(150,907,000)	0	0	0	0	0
Subtotal Financing and Other Uses	192,810,000	390,285,000	396,212,000	390,359,000	390,359,000	390,359,000
D.C. Financial Responsibility and Management Assistance Authority	3,500,000	3,150,000	3,400,000	3,400,000	3,400,000	3,400,000
Total, Financing and Other Uses	196,310,000	393,435,000	399,612,000	393,759,000	393,759,000	393,759,000
Total, general fund, operating expenses	4,398,054,000	4,413,012,000	4,491,928,000	4,491,928,000	4,491,928,000	4,491,928,000
Less Intra-District funds	(115,322,000)	(114,575,000)	(113,032,000)	(113,032,000)	(113,032,000)	(113,032,000)
Revised, general fund, operating expenses	4,282,732,000	4,298,437,000	4,378,896,000	4,378,896,000	4,378,896,000	4,378,896,000
Enterprise Funds:						
Department of Public Works (Utility Administration)	202,729,000	191,480,000	200,000,000	200,000,000	200,000,000	200,000,000
Washington Aqueduct	39,524,000	39,524,000	25,743,000	25,743,000	25,743,000	25,743,000
Total, Water and Sewer Enterprise Fund	242,253,000	231,004,000	225,743,000	225,743,000	225,743,000	225,743,000

DISTRICT OF COLUMBIA APPROPRIATIONS, 1997 (H.R. 3845) - continued

Agency/Activity	FY 1996 Approved	FY 1996 Distribution by Control Board	FY 1997 Request	House Recommendation	Senate Recommendation	Conference Agreement
Enterprise Funds - continued						
Lottery and Charitable Games	229,950,000	229,778,000	247,900,000	247,900,000	247,900,000	247,900,000
Cable Television	2,351,000	1,766,000	2,511,000	2,511,000	2,511,000	2,511,000
Sports Commission (STARPLEX)	6,580,000	6,547,000	8,717,000	8,717,000	8,717,000	8,717,000
D.C. General Hospital	58,299,000	58,092,000	58,299,000	58,299,000	58,299,000	58,299,000
Retirement Board	13,440,000	12,417,000	16,667,000	16,667,000	16,667,000	16,667,000
Correctional Industries Fund	10,516,000	8,827,000	9,152,000	9,152,000	9,152,000	9,152,000
Washington Convention Center	32,557,000	32,557,000	47,996,000	47,996,000	47,996,000	47,996,000
Total, Enterprise Funds	595,946,000	580,988,000	616,985,000	616,985,000	616,985,000	616,985,000
Less Intra-District funds	(50,017,000)	(48,512,000)	(21,496,000)	(21,496,000)	(21,496,000)	(21,496,000)
Revised, Enterprise Funds	545,929,000	532,476,000	595,489,000	595,489,000	595,489,000	595,489,000
Total, Operating Expenses	4,994,000,000	4,994,000,000	5,108,913,000	5,108,913,000	5,108,913,000	5,108,913,000
Less Intra-District funds	(165,339,000)	(163,087,000)	(134,528,000)	(134,528,000)	(134,528,000)	(134,528,000)
Revised, Operating Expenses	4,828,661,000	4,830,913,000	4,974,385,000	4,974,385,000	4,974,385,000	4,974,385,000
Capital Outlay	102,039,000	102,039,000	75,923,000	46,923,000	75,923,000	46,923,000
Grand Total, All funds	4,930,700,000	4,932,952,000	5,050,308,000	5,021,308,000	5,050,308,000	5,021,308,000

(NOTE. - Amounts recommended in the bill exclude intra-District funds whereas amounts in this table for departments and agencies include intra-District funds for comparison purposes with fiscal year 1996 which also included intra-District funds at the department and agency level.)

GENERAL PROVISIONS

Amendment No. 6: Restores language in section 129 proposed by the House and stricken by the Senate that prohibits the use of any funds in this Act for any abortion except to save the life of the mother or in cases of rape or incest.

Amendment No. 7: Restores language in section 130 proposed by the House and stricken by the Senate that prohibits the use of any funds in this Act (1) for any system of registration of unmarried cohabiting couples or (2) to implement or enforce the District's Domestic Partners Act.

Amendment No. 8: Inserts language in section 132 that adds the Financial Control Board to the entities in section 132 that are to receive monthly reports from the Board of Education as proposed by the Senate and deletes language in section 126 that would have prohibited the expenditure of funds by agencies for which a reorganization plan is required but has not been approved by the City Council prior to October 1, 1996. The language remaining in section 126 continues the prohibition on expenditures for such agencies until the City Council approves the required reorganization plans but removes the October 1, 1996 deadline for City Council approval.

Amendment No. 9: Adds the Financial Control Board to the entities in section 133 that are to receive monthly reports from the University of the District of Columbia as proposed by the Senate.

CEILING ON EXPENSES AND DEFICIT

Amendment No. 10: Amends language proposed by the House and stricken by the Senate in section 141 (1) establishing a ceiling on fiscal year 1997 operating expenses from all funds of $5,108,913,000 of which $134,528,000 are from intra-District funds as proposed by the House and stricken by the Senate; (2) limiting the operating deficit from all funds for fiscal year 1997 to $74,000,000 instead of $40,000,000 as proposed by the House and stricken by the Senate, and (3) requiring the Chief Financial Officer and the Financial Control Board to take such steps as are necessary to meet these requirements including the apportioning of appropriations and funds by the Chief Financial Officer during fiscal year 1997 as proposed by the House and stricken by the Senate.

The conferees urge the Mayor, the City Council, and the control board to use every means possible to reduce the costs of operating the Nation's Capital and make every effort to avoid deficit spending.

CHIEF FINANCIAL OFFICER POWERS

Amendment No. 11: Amends language in section 142 proposed by the House and the Senate to clarify that all financial personnel in the executive branch of the District government, including all independent agencies and excluding the legislative and judicial branches of the District Government, are under the exclusive control of the Chief Financial Officer instead of all financial personnel in the executive branch of the District government as proposed by the House and all financial personnel except those in the legislative and judicial branches as proposed by the Senate. The clarification is required to insure that the financial personnel of each independent agency in the District, without exception, are appointed by, serve at the pleasure of, and act under the direction and control of the Chief Financial Officer. The conferees do not expect any misinterpretation of the intent of this statute and direct the Chief Financial Officer to notify, in writing, the Committees on Appropriations as well as the respective authorizing committees of the House and the Senate of any person of any executive branch agency including any independent agency who fails to comply with the requirements of this section within five calendar days of the failure to comply.

HOUSING FINANCE AGENCY

Amendment No. 12: Inserts a new section 147 as proposed by the Senate that forgives the District of Columbia Housing Finance Agency from the requirement to repay the District's general fund for $10,591,000 appropriated during fiscal years 1980–1992 for the operations of the Agency. See also amendment number 2 for a further discussion of this issue.

SCHOOL REFORM

Amendment No. 13: Inserts a new section 148 as proposed by the Senate that amends section 2561(b) of the District of Columbia School Reform Act of 1995 (Public Law 104–134) to exclude Executive Order 11246 from being waived for construction or maintenance projects coordinated through the Federal General Services Administration for the District's public school facilities. Executive Order 11246 governs civil rights protections for Federal government construction contracts.

OTHER GENERAL PROVISIONS

Amendment No. 14: Inserts new general provisions numbered 149, 150 and 151 instead of a new general provision numbered 149 as proposed by the Senate. The additional general provisions were requested by the House authorizing committee and concurred in by the Senate authorizing committee. A brief explanation of each of these general provisions follows.

Language agreed to by the conferees in section 149 proposed by the Senate authorizes the District of Columbia Energy Office, subject to control board review, to negotiate energy performance contracts for periods up to 25 years with energy service companies who will provide investment capital to reduce energy consumption in District facilities. Through this method, the energy service companies will install energy efficient lighting, heating, and cooling systems using their investment capital with their payback coming in future years from a portion of the money saved when the energy bills are lowered. It is estimated that the District government could realize annual savings of $50,000,000 in its energy costs through this program.

Language requested by the House authorizing committee and agreed to by the conferees in section 150 reduces the minimum size of the Board of Trustees of American University from 40 to 25. According to the authorizing committee, this change was requested by the University.

Language requested by the House authorizing committee and agreed to by the conferees in section 151 waives the 30-day congressional layover period for three specific pieces of legislation already approved by the District government. The Tax Lien Act of 1996 (D.C. Act 11–353) will expedite the District's ability to sell $50,000,000 in uncollected property taxes in return for $44,000,000 in cash. The authorizing committee stated that this transaction could not move ahead in a timely manner unless the review period is waived. Section 151 also waives the 30-day congressional layover for the Telecommunications Competition Act of 1996 (D.C. Act 11–300) and the Mortgage Lenders and Brokers Act of 1996 (D.C. Act 11–309) which together comprise the District's efforts to implement the Federal Telecommunications Act. The District's Telecommunications Act opens the District's market to telecommunications services providers. The Mortgage Lenders and Brokers Act regulates mortgage lenders in the District and also contains substantive amendments to the Telecommunications Act.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1997 recommended by the Committee of Conference, with comparisons to the fiscal year 1996 amount, the 1997 budget estimates, and the House and Senate bills for 1997 follow:

Federal funds	
New budget (obligational) authority, fiscal year 1996	$712,070,000
Budget estimates of new (obligational) authority, fiscal year 1997	769,842,000
House bill, fiscal year 1997	717,772,000
Senate bill, fiscal year 1997	717,772,000
Conference agreement, fiscal year 1997	718,772,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1996	6,702,000
Budget estimates of new (obligational) authority, fiscal year 1997	(51,070,000)
House bill, fiscal year 1997	1,000,000
Senate bill, fiscal year 1997	1,000,000
District of Columbia Funds	
New budget (obligational) authority, fiscal year 1996	[1] *4,930,7000,000*
Budget estimates of new (obligational) authority, fiscal year 1997	*5,050,308,000*
House bill, fiscal year 1997	*5,021,308,000*
Senate bill, fiscal year 1997	*5,050,308,000*
Conference agreement, fiscal year 1997	*5,021,308,000*
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1996	*90,608,000*
Budget estimates of new (obligational) authority, fiscal year 1997	*(29,000,000)*
House bill, fiscal year 1997	*0*
Senate bill, fiscal year 1997	*(29,000,000)*

[1] *Excludes $165,339,000 in intra-District funds for comparability purposes with fiscal year 1997 which excludes intra-District funds.*

JAMES T. WALSH,
HENRY BONILLA,
JACK KINGSTON,
R.P. FRELINGHUYSEN,
MARK W. NEUMANN,
MIKE PARKER,
BOB LIVINGSTON,
JULIAN C. DIXON,
JOSÉ E. SERRANO,
MARCY KAPTUR,
DAVID R. OBEY,
Managers on the Part of the House.

JAMES M. JEFFORDS,
BEN NIGHTHORSE CAMPBELL,
MARK O. HATFIELD,
(Except amendments No. 6 and No. 7),
HERB KOHL,
(Except amendments No. 6 and No. 7),
DANIEL K. INOUYE,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 1316, SAFE DRINKING WATER ACT AMENDMENTS OF 1996

Mr. BLILEY submitted the following conference report and statement on the

Senate bill (S. 1316) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act''), and for other purposes:

CONFERENCE REPORT (H. REPT. 104–741)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1316), to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act''), and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Safe Drinking Water Act Amendments of 1996''.

(b) TABLE OF CONTENTS.—

SEC. 2. REFERENCES; EFFECTIVE DATE; DISCLAIMER.

(a) REFERENCES TO SAFE DRINKING WATER ACT.—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 that section or other provision of title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'') (42 U.S.C. 300f et seq.).

(b) EFFECTIVE DATE.—Except as otherwise specified in this Act or in the amendments made by this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(c) DISCLAIMER.—Except for the provisions of section 302 (relating to transfers of funds), nothing in this Act or in any amendments made by this Act to title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'') or any other law shall be construed by the Administrator of the Environmental Protection Agency or the courts as affecting, modifying, expanding, changing, or altering—

(1) the provisions of the Federal Water Pollution Control Act;

(2) the duties and responsibilities of the Administrator under that Act; or

(3) the regulation or control of point or nonpoint sources of pollution discharged into waters covered by that Act.

The Administrator shall identify in the agency's annual budget all funding and full-time equivalents administering such title XIV separately from funding and staffing for the Federal Water Pollution Control Act.

SEC. 3. FINDINGS.

The Congress finds that—

(1) safe drinking water is essential to the protection of public health;

(2) because the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help the communities meet Federal drinking water requirements;

(3) the Federal Government commits to maintaining and improving its partnership with the States in the administration and implementation of the Safe Drinking Water Act;

(4) States play a central role in the implementation of safe drinking water programs, and States need increased financial resources and appropriate flexibility to ensure the prompt and effective development and implementation of drinking water programs;

(5) the existing process for the assessment and selection of additional drinking water contaminants needs to be revised and improved to ensure that there is a sound scientific basis for setting priorities in establishing drinking water regulations;

(6) procedures for assessing the health effects of contaminants establishing drinking water standards should be revised to provide greater opportunity for public education and participation;

(7) in considering the appropriate level of regulation for contaminants in drinking water, risk assessment, based on sound and objective science, and benefit-cost analysis are important analytical tools for improving the efficiency and effectiveness of drinking water regulations to protect human health;

(8) more effective protection of public health requires—

(A) a Federal commitment to set priorities that will allow scarce Federal, State, and local resources to be targeted toward the drinking water problems of greatest public health concern;

(B) maximizing the value of the different and complementary strengths and responsibilities of the Federal and State governments in those States that have primary enforcement responsibility for the Safe Drinking Water Act; and

(C) prevention of drinking water contamination through well-trained system operators, water systems with adequate managerial, technical, and financial capacity, and enhanced protection of source waters of public water systems;

(9) compliance with the requirements of the Safe Drinking Water Act continues to be a concern at public water systems experiencing technical and financial limitations, and Federal, State, and local governments need more resources and more effective authority to attain the objectives of the Safe Drinking Water Act; and

(10) consumers served by public water systems should be provided with information on the source of the water they are drinking and its quality and safety, as well as prompt notification of any violation of drinking water regulations.

TITLE I—AMENDMENTS TO SAFE DRINKING WATER ACT

SEC. 101. DEFINITIONS.

(a) IN GENERAL.—Section 1401 (42 U.S.C. 300f) is amended as follows:

(1) In paragraph (1)—

(A) in subparagraph (D), by inserting ''accepted methods for'' before ''quality control''; and

(B) by adding at the end the following: ''At any time after promulgation of a regulation referred to in this paragraph, the Administrator may add equally effective quality control and testing procedures by guidance published in the Federal Register. Such procedures shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.''.

(2) In paragraph (13)—

(A) by striking ''The'' and inserting ''(A) Except as provided in subparagraph (B), the''; and

(B) by adding at the end the following:

''(B) For purposes of section 1452, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.''.

(3) In paragraph (14), by adding at the end the following: ''For purposes of section 1452, the term includes any Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c))).''.

(4) By adding at the end the following:

''(15) COMMUNITY WATER SYSTEM.—The term 'community water system' means a public water system that—

''(A) serves at least 15 service connections used by year-round residents of the area served by the system; or

''(B) regularly serves at least 25 year-round residents.

''(16) NONCOMMUNITY WATER SYSTEM.—The term 'noncommunity water system' means a public water system that is not a community water system.''.

(b) PUBLIC WATER SYSTEM.—

(1) IN GENERAL.—Section 1401(4) (42 U.S.C. 300f(4)) is amended as follows:

(A) In the first sentence, by striking ''piped water for human consumption'' and inserting

''water for human consumption through pipes or other constructed conveyances''.

(B) By redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively.

(C) By striking ''(4) The'' and inserting the following:

''(4) PUBLIC WATER SYSTEM.—

''(A) IN GENERAL.—The''; and

(D) by adding at the end the following:

''(B) CONNECTIONS.—

''(i) IN GENERAL.—For purposes of subparagraph (A), a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if—

''(I) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

''(II) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

''(III) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

''(ii) IRRIGATION DISTRICTS.—An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public water system if the system or the residential or similar users of the system comply with subclause (II) or (III) of clause (i).

''(C) TRANSITION PERIOD.—A water supplier that would be a public water system only as a result of modifications made to this paragraph by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public water system for purposes of the Act until the date that is two years after the date of enactment of this subparagraph. If a water supplier does not serve 15 service connections (as defined in subparagraphs (A) and (B)) or 25 people at any time after the conclusion of the 2-year period, the water supplier shall not be considered a public water system.''.

(2) GAO STUDY.—The Comptroller General of the United States shall undertake a study to—

(A) ascertain the numbers and locations of individuals and households relying for their residential water needs, including drinking, bathing, and cooking (or other similar uses) on irrigation water systems, mining water systems, industrial water systems, or other water systems covered by section 1401(4)(B) of the Safe Drinking Water Act that are not public water systems subject to the Safe Drinking Water Act;

(B) determine the sources and costs and affordability (to users and systems) of water used by such populations for their residential water needs; and

(C) review State and water system compliance with the exclusion provisions of section 1401(4)(B) of such Act.

The Comptroller General shall submit a report to the Congress within 3 years after the date of enactment of this Act containing the results of such study.

SEC. 102. GENERAL AUTHORITY.

(a) STANDARDS.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by striking ''(b)(1)'' and all that follows through the end of paragraph (3) and inserting the following:

''(b) STANDARDS.—

''(1) IDENTIFICATION OF CONTAMINANTS FOR LISTING.—

''(A) GENERAL AUTHORITY.—The Administrator shall, in accordance with the procedures established by this subsection, publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for a contaminant (other than a contaminant referred to in paragraph (2) for which a national primary drinking water regulation has been promulgated as of the date of enactment of the Safe Drinking Water Act Amendments of 1996) if the Administrator determines that—

''(i) the contaminant may have an adverse effect on the health of persons;

''(ii) the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern; and

''(iii) in the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

''(B) REGULATION OF UNREGULATED CONTAMINANTS.—

''(i) LISTING OF CONTAMINANTS FOR CONSIDERATION.—(I) Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and every 5 years thereafter, the Administrator, after consultation with the scientific community, including the Science Advisory Board, after notice and opportunity for public comment, and after considering the occurrence data base established under section 1445(g), shall publish a list of contaminants which, at the time of publication, are not subject to any proposed or promulgated national primary drinking water regulation, which are known or anticipated to occur in public water systems, and which may require regulation under this title.

''(II) The unregulated contaminants considered under subclause (I) shall include, but not be limited to, substances referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and substances registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act.

''(III) The Administrator's decision whether or not to select an unregulated contaminant for a list under this clause shall not be subject to judicial review.

''(ii) DETERMINATION TO REGULATE.—(I) Not later than 5 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, and every 5 years thereafter, the Administrator shall, after notice of the preliminary determination and opportunity for public comment, for not fewer than 5 contaminants included on the list published under clause (i), make determinations of whether or not to regulate such contaminants.

''(II) A determination to regulate a contaminant shall be based on findings that the criteria of clauses (i), (ii), and (iii) of subparagraph (A) are satisfied. Such findings shall be based on the best available public health information, including the occurrence data base established under section 1445(g).

''(III) The Administrator may make a determination to regulate a contaminant that does not appear on a list under clause (i) if the determination to regulate is made pursuant to subclause (II).

''(IV) A determination under this clause not to regulate a contaminant shall be considered final agency action and subject to judicial review.

''(iii) REVIEW.—Each document setting forth the determination for a contaminant under clause (ii) shall be available for public comment at such time as the determination is published.

''(C) PRIORITIES.—In selecting unregulated contaminants for consideration under subparagraph (B), the Administrator shall select contaminants that present the greatest public health concern. The Administrator, in making such selection, shall take into consideration, among other factors of public health concern, the effect of such contaminants upon subgroups that comprise a meaningful portion of the general population (such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations) that are identifiable as being at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

''(D) URGENT THREATS TO PUBLIC HEALTH.—The Administrator may promulgate an interim national primary drinking water regulation for a contaminant without making a determination for the contaminant under paragraph (4)(C), or completing the analysis under paragraph (3)(C), to address an urgent threat to public health as determined by the Administrator after consultation with and written response to any comments provided by the Secretary of Health and Human Services, acting through the director of the Centers for Disease Control and Prevention or the director of the National Institutes of Health. A determination for any contaminant in accordance with paragraph (4)(C) subject to an interim regulation under this subparagraph shall be issued, and a completed analysis meeting the requirements of paragraph (3)(C) shall be published, not later than 3 years after the date on which the regulation is promulgated and the regulation shall be repromulgated, or revised if appropriate, not later than 5 years after that date.

''(E) REGULATION.—For each contaminant that the Administrator determines to regulate under subparagraph (B), the Administrator shall publish maximum contaminant level goals and promulgate, by rule, national primary drinking water regulations under this subsection. The Administrator shall propose the maximum contaminant level goal and national primary drinking water regulation for a contaminant not later than 24 months after the determination to regulate under subparagraph (B), and may publish such proposed regulation concurrent with the determination to regulate. The Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation within 18 months after the proposal thereof. The Administrator, by notice in the Federal Register, may extend the deadline for such promulgation for up to 9 months.

''(F) HEALTH ADVISORIES AND OTHER ACTIONS.—The Administrator may publish health advisories (which are not regulations) or take other appropriate actions for contaminants not subject to any national primary drinking water regulation.

''(2) SCHEDULES AND DEADLINES.—

''(A) IN GENERAL.—In the case of the contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, and in volume 48, Federal Register, page 45502, the Administrator shall publish maximum contaminant level goals and promulgate national primary drinking water regulations—

''(i) not later than 1 year after June 19, 1986, for not fewer than 9 of the listed contaminants;

''(ii) not later than 2 years after June 19, 1986, for not fewer than 40 of the listed contaminants; and

''(iii) not later than 3 years after June 19, 1986, for the remainder of the listed contaminants.

''(B) SUBSTITUTION OF CONTAMINANTS.—If the Administrator identifies a drinking water contaminant the regulation of which, in the judgment of the Administrator, is more likely to be protective of public health (taking into account the schedule for regulation under subparagraph (A)) than a contaminant referred to in subparagraph (A), the Administrator may publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for the identified contaminant in lieu of regulating the contaminant referred to in subparagraph (A). Substitutions may be made for not more than 7 contaminants referred to in subparagraph (A). Regulation of a contaminant identified under this subparagraph shall be in accordance with the schedule applicable to the contaminant for which the substitution is made.

''(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator shall promulgate an Interim Enhanced Surface Water Treatment Rule, a Final Enhanced Surface Water Treatment Rule, a Stage I Disinfectants and Disinfection Byproducts Rule, and a Stage II Disinfectants and Disinfection Byproducts Rule in accordance with the schedule published in volume 59, Federal Register, page 6361 (February 10, 1994), in table III.13 of the proposed Information Collection Rule. If a delay occurs with respect to the promulgation of any rule in the schedule referred to in this subparagraph, all subsequent rules shall be completed as expeditiously as practicable but no later than a revised date that reflects the interval or intervals for the rules in the schedule.''.

(b) APPLICABILITY OF PRIOR REQUIREMENTS.—The requirements of subparagraphs (C) and (D) of section 1412(b)(3) of the Safe Drinking Water Act as in effect before the date of enactment of this Act, and any obligation to promulgate regulations pursuant to such subparagraphs not promulgated as of the date of enactment of this Act, are superseded by the amendments made by subsection (a).

(c) CONFORMING AMENDMENTS.—(1) Section 1415(d) (42 U.S.C. 300g–4(d)) is amended by striking ''1412(b)(3)'' and inserting ''1412(b)''.

(2) Section 1412(a)(3) (42 U.S.C. 300g–1(a)(3)) is amended by striking ''paragraph (1), (2), or (3) of'' in each place it appears.

SEC. 103. RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.

Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by inserting after paragraph (2) the following:

''(3) RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.—

''(A) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this section, and, to the degree that an Agency action is based on science, the Administrator shall use—

''(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

''(ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).

''(B) PUBLIC INFORMATION.—In carrying out this section, the Administrator shall ensure that the presentation of information on public health effects is comprehensive, informative, and understandable. The Administrator shall, in a document made available to the public in support of a regulation promulgated under this section, specify, to the extent practicable—

''(i) each population addressed by any estimate of public health effects;

''(ii) the expected risk or central estimate of risk for the specific populations;

''(iii) each appropriate upper-bound or lower-bound estimate of risk;

''(iv) each significant uncertainty identified in the process of the assessment of public health effects and studies that would assist in resolving the uncertainty; and

''(v) peer-reviewed studies known to the Administrator that support, are directly relevant to, or fail to support any estimate of public health effects and the methodology used to reconcile inconsistencies in the scientific data.

''(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—

''(i) MAXIMUM CONTAMINANT LEVELS.—When proposing any national primary drinking water regulation that includes a maximum contaminant level, the Administrator shall, with respect to a maximum contaminant level that is being considered in accordance with paragraph (4) and each alternative maximum contaminant level that is being considered pursuant to paragraph (5) or (6)(A), publish, seek public comment on, and use for the purposes of paragraphs (4), (5), and (6) an analysis of each of the following:

''(I) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur as the result of treatment to comply with each level.

''(II) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur from reductions in co-occurring contaminants that may be attributed solely to compliance with the maximum contaminant level, excluding benefits resulting from compliance with other proposed or promulgated regulations.

''(III) Quantifiable and nonquantifiable costs for which there is a factual basis in the rulemaking record to conclude that such costs are likely to occur solely as a result of compliance with the maximum contaminant level, including monitoring, treatment, and other costs and excluding costs resulting from compliance with other proposed or promulgated regulations.

''(IV) The incremental costs and benefits associated with each alternative maximum contaminant level considered.

''(V) The effects of the contaminant on the general population and on groups within the general population such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are identified as likely to be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

''(VI) Any increased health risk that may occur as the result of compliance, including risks associated with co-occurring contaminants.

''(VII) Other relevant factors, including the quality and extent of the information, the uncertainties in the analysis supporting subclauses (I) through (VI), and factors with respect to the degree and nature of the risk.

''(ii) TREATMENT TECHNIQUES.—When proposing a national primary drinking water regulation that includes a treatment technique in accordance with paragraph (7)(A), the Administrator shall publish and seek public comment on an analysis of the health risk reduction benefits and costs likely to be experienced as the result of compliance with the treatment technique and alternative treatment techniques that are being considered, taking into account, as appropriate, the factors described in clause (i).

''(iii) APPROACHES TO MEASURE AND VALUE BENEFITS.—The Administrator may identify valid approaches for the measurement and valuation of benefits under this subparagraph, including approaches to identify consumer willingness to pay for reductions in health risks from drinking water contaminants.

''(iv) AUTHORIZATION.—There are authorized to be appropriated to the Administrator, acting through the Office of Ground Water and Drinking Water, to conduct studies, assessments, and analyses in support of regulations or the development of methods, $35,000,000 for each of fiscal years 1996 through 2003.''.

SEC. 104. STANDARD-SETTING.

(a) IN GENERAL.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended as follows:

(1) In paragraph (4)—

(A) by striking ''(4) Each'' and inserting the following:

''(4) GOALS AND STANDARDS.—

''(A) MAXIMUM CONTAMINANT LEVEL GOALS.—Each'';

(B) in the last sentence—

(i) by striking ''Each national'' and inserting the following:

''(B) MAXIMUM CONTAMINANT LEVELS.— Except as provided in paragraphs (5) and (6), each national''; and

(ii) by striking ''maximum level'' and inserting ''maximum contaminant level''; and

(C) by adding at the end the following:

''(C) DETERMINATION.—At the time the Administrator proposes a national primary drinking water regulation under this paragraph, the Administrator shall publish a determination as to whether the benefits of the maximum contaminant level justify, or do not justify, the costs based on the analysis conducted under paragraph (3)(C).''.

(2) By striking ''(5) For the'' and inserting the following:

''(D) DEFINITION OF FEASIBLE.—For the''.

(3) In the second sentence of paragraph (4)(D) (as so designated), by striking ''paragraph (4)'' and inserting ''this paragraph''.

(4) By striking ''(6) Each national'' and inserting the following:

''(E) FEASIBLE TECHNOLOGIES.—

''(i) IN GENERAL.—Each national''.

(5) In paragraph (4)(E)(i) (as so designated), by striking ''this paragraph'' and inserting ''this subsection''.

(6) By inserting after paragraph (4) (as so amended) the following:

''(5) ADDITIONAL HEALTH RISK CONSIDERATIONS.—

''(A) IN GENERAL.—Notwithstanding paragraph (4), the Administrator may establish a maximum contaminant level for a contaminant at a level other than the feasible level, if the technology, treatment techniques, and other means used to determine the feasible level would result in an increase in the health risk from drinking water by—

''(i) increasing the concentration of other contaminants in drinking water; or

''(ii) interfering with the efficacy of drinking water treatment techniques or processes that are used to comply with other national primary drinking water regulations.

''(B) ESTABLISHMENT OF LEVEL.—If the Administrator establishes a maximum contaminant level or levels or requires the use of treatment techniques for any contaminant or contaminants pursuant to the authority of this paragraph—

''(i) the level or levels or treatment techniques shall minimize the overall risk of adverse health effects by balancing the risk from the contaminant and the risk from other contaminants the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the maximum contaminant level or levels; and

''(ii) the combination of technology, treatment techniques, or other means required to meet the level or levels shall not be more stringent than is feasible (as defined in paragraph (4)(D)).

''(6) ADDITIONAL HEALTH RISK REDUCTION AND COST CONSIDERATIONS.—

''(A) IN GENERAL.—Notwithstanding paragraph (4), if the Administrator determines based on an analysis conducted under paragraph (3)(C) that the benefits of a maximum contaminant level promulgated in accordance with paragraph (4) would not justify the costs of complying with the level, the Administrator may, after notice and opportunity for public comment, promulgate a maximum contaminant level for the contaminant that maximizes health risk reduction benefits at a cost that is justified by the benefits.

''(B) EXCEPTION.—The Administrator shall not use the authority of this paragraph to promulgate a maximum contaminant level for a contaminant, if the benefits of compliance with a national primary drinking water regulation for the contaminant that would be promulgated in accordance with paragraph (4) experienced by—

''(i) persons served by large public water systems; and

''(ii) persons served by such other systems as are unlikely, based on information provided by the States, to receive a variance under section 1415(e) (relating to small system variances);

would justify the costs to the systems of complying with the regulation. This subparagraph shall not apply if the contaminant is found almost exclusively in small systems eligible under section 1415(e) for a small system variance.

''(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator may not use the authority of this paragraph to establish a maximum contaminant level in a Stage I or Stage II national primary drinking water regulation (as described in paragraph (2)(C)) for contaminants that are disinfectants or disinfection byproducts, or to establish a maximum contaminant level or treatment technique requirement for the control of cryptosporidium. The authority of this paragraph may be used to establish regulations for the use of disinfection by systems relying on ground water sources as required by paragraph (8).

''(D) JUDICIAL REVIEW.—A determination by the Administrator that the benefits of a maximum contaminant level or treatment requirement justify or do not justify the costs of complying with the level shall be reviewed by the court pursuant to section 1448 only as part of a review of a final national primary drinking water regulation that has been promulgated based on the determination and shall not be set aside by the court under that section unless the court finds that the determination is arbitrary and capricious.''.

(b) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator of the Environmental Protection Agency may use the authority of section 1412(b)(5) of the Safe Drinking Water Act (as amended by this Act) to promulgate the Stage I and Stage II Disinfectants and Disinfection Byproducts Rules as proposed in volume 59, Federal Register, page 38668 (July 29, 1994). The considerations used in the development of the July 29, 1994, proposed national primary drinking water regulation on disinfectants and disinfection byproducts shall be treated as consistent with such section 1412(b)(5) for purposes of such Stage I and Stage II rules.

(c) REVIEW OF STANDARDS.—Section 1412(b)(9) (42 U.S.C. 300g–1(b)(9)) is amended to read as follows:

''(9) REVIEW AND REVISION.—The Administrator shall, not less often than every 6 years, review and revise, as appropriate, each national primary drinking water regulation promulgated under this title. Any revision of a national primary drinking water regulation shall be promulgated in accordance with this section, except that each revision shall maintain, or provide for greater, protection of the health of persons.''.

SEC. 105. TREATMENT TECHNOLOGIES FOR SMALL SYSTEMS.

Section 1412(b)(4)(E) (42 U.S.C. 300g–1(b)(4)(E)) is amended by adding at the end the following:

''(ii) LIST OF TECHNOLOGIES FOR SMALL SYSTEMS.—The Administrator shall include in the list any technology, treatment technique, or other means that is affordable, as determined by the Administrator in consultation with the States, for small public water systems serving—

''(I) a population of 10,000 or fewer but more than 3,300;

''(II) a population of 3,300 or fewer but more than 500; and

''(III) a population of 500 or fewer but more than 25;

and that achieves compliance with the maximum contaminant level or treatment technique, including packaged or modular systems and point-of-entry or point-of-use treatment units. Point-of-entry and point-of-use treatment units shall be owned, controlled and maintained by the public water system or by a person under contract with the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level or treatment technique and equipped with mechanical warnings to ensure that customers are automatically notified of operational problems. The Administrator shall not include in the list any point-of-use treatment technology, treatment technique, or other means to achieve compliance with a maximum contaminant level or treatment technique requirement for a microbial contaminant (or an indicator of a microbial contaminant). If the American National Standards Institute has issued product standards applicable to a specific type of point-of-entry or point-of-use treatment unit, individual units of that type shall not be accepted for compliance with a maximum contaminant level or treatment technique requirement unless they are independently certified in accordance with such standards. In listing any technology, treatment technique, or other means pursuant to this clause, the Administrator shall consider the quality of the source water to be treated.

''(iii) LIST OF TECHNOLOGIES THAT ACHIEVE COMPLIANCE.—Except as provided in clause (v), not later than 2 years after the date of enactment of this clause and after consultation with the States, the Administrator shall issue a list of technologies that achieve compliance with the maximum contaminant level or treatment technique for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii) for each national primary drinking water regulation promulgated prior to the date of enactment of this paragraph.

''(iv) ADDITIONAL TECHNOLOGIES.—The Administrator may, at any time after a national primary drinking water regulation has been promulgated, supplement the list of technologies describing additional or new or innovative treatment technologies that meet the requirements of this paragraph for categories of small public water systems described in subclauses (I), (II), and (III) of clause (ii) that are subject to the regulation.

''(v) TECHNOLOGIES THAT MEET SURFACE WATER TREATMENT RULE.—Within one year after the date of enactment of this clause, the Administrator shall list technologies that meet the Surface Water Treatment Rule for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii).''.

SEC. 106. LIMITED ALTERNATIVE TO FILTRATION.

Section 1412(b)(7)(C) (42 U.S.C. 300g–1(b)(7)(C)) is amended by adding the following after clause (iv):

''(v) As an additional alternative to the regulations promulgated pursuant to clauses (i) and (iii), including the criteria for avoiding filtration contained in 40 CFR 141.71, a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, and after notice and opportunity for public comment, establish treatment requirements as an alternative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure greater removal or inactivation efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with this section).''.

SEC. 107. GROUND WATER DISINFECTION.

Paragraph (8) of section 1412(b) (42 U.S.C. 300g–1(b)(8)) is amended by moving the margins of such paragraph 2 ems to the right and by striking the first sentence and inserting the following: ''DISINFECTION.—At any time after the end of the 3-year period that begins on the date of enactment of the Safe Drinking Water Act Amendments of 1996, but not later than the date on which the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts (as described in paragraph (2)(C)), the Administrator shall also promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems, including surface water systems and, as necessary, ground water systems. After consultation with the States, the Administrator shall (as part of the regulations) promulgate criteria that the Administrator, or a State that has primary enforcement responsibility under section 1413, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water.''.

SEC. 108. EFFECTIVE DATE FOR REGULATIONS.

Section 1412(b)(10) (42 U.S.C. 300g–1(b)(10)) is amended to read as follows:

''(10) EFFECTIVE DATE.—A national primary drinking water regulation promulgated under this section (and any amendment thereto) shall take effect on the date that is 3 years after the date on which the regulation is promulgated unless the Administrator determines that an earlier date is practicable, except that the Administrator, or a State (in the case of an individual system), may allow up to 2 additional years to comply with a maximum contaminant level or treatment technique if the Administrator or State (in the case of an individual system) determines that additional time is necessary for capital improvements.''.

SEC. 109. ARSENIC, SULFATE, AND RADON.

(a) ARSENIC AND SULFATE.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by inserting after paragraph (11) the following:

''(12) CERTAIN CONTAMINANTS.—

''(A) ARSENIC.—

''(i) SCHEDULE AND STANDARD.—Notwithstanding the deadlines set forth in paragraph (1), the Administrator shall promulgate a national primary drinking water regulation for arsenic pursuant to this subsection, in accordance with the schedule established by this paragraph.

''(ii) STUDY PLAN.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall develop a comprehensive plan for study in support of drinking water rulemaking to reduce the uncertainty in assessing health risks associated with exposure to low levels of arsenic. In conducting such study, the Administrator shall consult with the National Academy of Sciences, other Federal agencies, and interested public and private entities.

''(iii) COOPERATIVE AGREEMENTS.—In carrying out the study plan, the Administrator may enter into cooperative agreements with other Federal agencies, State and local governments, and other interested public and private entities.

''(iv) PROPOSED REGULATIONS.—The Administrator shall propose a national primary drinking water regulation for arsenic not later than January 1, 2000.

''(v) FINAL REGULATIONS.—Not later than January 1, 2001, after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for arsenic.

''(vi) AUTHORIZATION.—There are authorized to be appropriated $2,500,000 for each of fiscal years 1997 through 2000 for the studies required by this paragraph.

''(B) SULFATE.—

''(i) ADDITIONAL STUDY.—Prior to promulgating a national primary drinking water regulation for sulfate, the Administrator and the Director of the Centers for Disease Control and Prevention shall jointly conduct an additional study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to sulfate in drinking water, including the health effects that may be experienced by groups within the general population (including infants and travelers) that are potentially at greater risk of adverse health effects as the result of such exposure. The study shall be conducted in consultation with interested States, shall be based on the best available, peer-reviewed science and supporting studies conducted in accordance with *sound and objective scientific practices, and shall be completed not later than 30 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996.*

''(ii) DETERMINATION.—The Administrator shall include sulfate among the 5 or more contaminants for which a determination is made pursuant to paragraph (3)(B) not later than 5 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996.

''(iii) PROPOSED AND FINAL RULE.—Notwithstanding the deadlines set forth in paragraph (2), the Administrator may, pursuant to the authorities of this subsection and after notice and opportunity for public comment, promulgate a final national primary drinking water regulation for sulfate. Any such regulation shall include requirements for public notification and options for the provision of alternative water supplies to populations at risk as a means of complying with the regulation in lieu of a best available treatment technology or other means.''.

(b) RADON.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by inserting after paragraph (12) the following:

''(13) RADON IN DRINKING WATER.—

''(A) NATIONAL PRIMARY DRINKING WATER REGULATION.—Notwithstanding paragraph (2), the Administrator shall withdraw any national primary drinking water regulation for radon proposed prior to the date of enactment of this paragraph and shall propose and promulgate a regulation for radon under this section, as amended by the Safe Drinking Water Act Amendments of 1996.

''(B) RISK ASSESSMENT AND STUDIES.—

''(i) ASSESSMENT BY NAS.—Prior to proposing a national primary drinking water regulation for radon, the Administrator shall arrange for the National Academy of Sciences to prepare a risk assessment for radon in drinking water using the best available science in accordance with the requirements of paragraph (3). The risk assessment shall consider each of the risks associated with exposure to radon from drinking water and consider studies on the health effects of radon at levels and under conditions likely to be experienced through residential exposure. The risk assessment shall be peer-reviewed.

''(ii) STUDY OF OTHER MEASURES.—The Administrator shall arrange for the National Academy of Sciences to prepare an assessment of the health risk reduction benefits associated with various mitigation measures to reduce radon levels in indoor air. The assessment may be conducted as part of the risk assessment authorized by clause (i) and shall be used by the Administrator to prepare the guidance and approve State programs under subparagraph (G).

''(iii) OTHER ORGANIZATION.—If the National Academy of Sciences declines to prepare the risk assessment or studies required by this subparagraph, the Administrator shall enter into a contract or cooperative agreement with another independent, scientific organization to prepare such assessments or studies.

''(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—Not later than 30 months after the date of enactment of this paragraph, the Administrator shall publish, and seek public comment on, a health risk reduction and cost analysis meeting the requirements of paragraph (3)(C) for potential maximum contaminant levels that are being considered for radon in drinking water. The Administrator shall include a response to all significant public comments received on the analysis with the preamble for the proposed rule published under subparagraph (D).

''(D) PROPOSED REGULATION.—Not later than 36 months after the date of enactment of this paragraph, the Administrator shall propose a maximum contaminant level goal and a national primary drinking water regulation for radon pursuant to this section.

''(E) FINAL REGULATION.—Not later than 12 months after the date of the proposal under subparagraph (D), the Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for radon pursuant to this section based on the risk assessment prepared pursuant to subparagraph (B) and the health risk reduction and cost analysis published pursuant to subparagraph (C). In considering the risk assessment and the health risk reduction and cost analysis in connection with the promulgation of such a standard, the Administrator shall take into account the costs and benefits of control programs for radon from other sources.

''(F) ALTERNATIVE MAXIMUM CONTAMINANT LEVEL.—If the maximum contaminant level for radon in drinking water promulgated pursuant to subparagraph (E) is more stringent than necessary to reduce the contribution to radon in indoor air from drinking water to a concentration that is equivalent to the national average concentration of radon in outdoor air, the Administrator shall, simultaneously with the promulgation of such level, promulgate an alternative maximum contaminant level for radon that would result in a contribution of radon from drinking water to radon levels in indoor air equivalent to the national average concentration of radon in outdoor air. If the Administrator promulgates an alternative maximum contaminant level under this subparagraph, the Administrator shall, after notice and opportunity for public comment and in consultation with the States, publish guidelines for State programs, including criteria for multimedia measures to mitigate radon levels in indoor air, to be used by the States in preparing programs under subparagraph (G). The guidelines shall take into account data from existing radon mitigation programs and the assessment of mitigation measures prepared under subparagraph (B).

''(G) MULTIMEDIA RADON MITIGATION PROGRAMS.—

''(i) IN GENERAL.—A State may develop and submit a multimedia program to mitigate radon levels in indoor air for approval by the Administrator under this subparagraph. If, after notice and the opportunity for public comment, such program is approved by the Administrator, public water systems in the State may comply with the alternative maximum contaminant level promulgated under subparagraph (F) in lieu of the maximum contaminant level in the national primary drinking water regulation promulgated under subparagraph (E).

''(ii) ELEMENTS OF PROGRAMS.—State programs may rely on a variety of mitigation measures including public education, testing, training, technical assistance, remediation grant and loan or incentive programs, or other regulatory or nonregulatory measures. The effectiveness of elements in State programs shall be evaluated by the Administrator based on the assessment prepared by the National Academy of Sciences under subparagraph (B) and the guidelines published by the Administrator under subparagraph (F).

''(iii) APPROVAL.—The Administrator shall approve a State program submitted under this paragraph if the health risk reduction benefits expected to be achieved by the program are equal to or greater than the health risk reduction benefits that would be achieved if each public water system in the State complied with the maximum contaminant level promulgated under subparagraph (E). The Administrator shall approve or disapprove a program submitted under this paragraph within 180 days of receipt. A program that is not disapproved during such period shall be deemed approved. A program that is disapproved may be modified to address the objections of the Administrator and be resubmitted for approval.

''(iv) REVIEW.—The Administrator shall periodically, but not less often than every 5 years, review each multimedia mitigation program approved under this subparagraph to determine whether it continues to meet the requirements of clause (iii) and shall, after written notice to the State and an opportunity for the State to correct any deficiency in the program, withdraw approval of programs that no longer comply with such requirements.

''(v) EXTENSION.—If, within 90 days after the promulgation of an alternative maximum contaminant level under subparagraph (F), the Governor of a State submits a letter to the Administrator committing to develop a multimedia mitigation program under this subparagraph, the effective date of the national primary drinking water regulation for radon in the State that would be applicable under paragraph (10) shall be extended for a period of 18 months.

''(vi) LOCAL PROGRAMS.—In the event that a State chooses not to submit a multimedia mitigation program for approval under this subparagraph or has submitted a program that has been disapproved, any public water system in the State may submit a program for approval by the Administrator according to the same criteria, conditions, and approval process that would apply to a State program. The Administrator shall approve a multimedia mitigation program if the health risk reduction benefits expected to be achieved by the program are equal to or greater than the health risk reduction benefits that would result from compliance by the public water system with the maximum contaminant level for radon promulgated under subparagraph (E).''.

SEC. 110. RECYCLING OF FILTER BACKWASH.

Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by adding the following new paragraph after paragraph (13):

''(14) RECYCLING OF FILTER BACKWASH.—The Administrator shall promulgate a regulation to govern the recycling of filter backwash water within the treatment process of a public water system. The Administrator shall promulgate such regulation not later than 4 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996 unless such recycling has been addressed by the Administrator's Enhanced Surface Water Treatment Rule prior to such date.''.

SEC. 111. TECHNOLOGY AND TREATMENT TECHNIQUES.

(a) VARIANCE TECHNOLOGIES.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by adding the following new paragraph after paragraph (14):

''(15) VARIANCE TECHNOLOGIES.—

''(A) IN GENERAL.—At the same time as the Administrator promulgates a national primary drinking water regulation for a contaminant pursuant to this section, the Administrator shall issue guidance or regulations describing the best treatment technologies, treatment techniques, or other means (referred to in this paragraph as 'variance technology') for the contaminant that the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available and affordable, as determined by the Administrator in consultation with the States, for public water systems of varying size, considering the quality of the source water to be treated. The Administrator shall identify such variance technologies for public water systems serving—

''(i) a population of 10,000 or fewer but more than 3,300;

''(ii) a population of 3,300 or fewer but more than 500; and

''(iii) a population of 500 or fewer but more than 25,

if, considering the quality of the source water to be treated, no treatment technology is listed for public water systems of that size under paragraph (4)(E). Variance technologies identified by the Administrator pursuant to this paragraph may not achieve compliance with the maximum contaminant level or treatment technique requirement of such regulation, but shall achieve the maximum reduction or inactivation efficiency that is affordable considering the size of the system and the quality of the source water. The guidance or regulations shall not require the use of a technology from a specific manufacturer or brand.

''(B) LIMITATION.—The Administrator shall not identify any variance technology under this paragraph, unless the Administrator has determined, considering the quality of the source water to be treated and the expected useful life of the technology, that the variance technology is protective of public health.

''(C) ADDITIONAL INFORMATION.—The Administrator shall include in the guidance or regulations identifying variance technologies under this paragraph any assumptions supporting the public health determination referred to in subparagraph (B), where such assumptions concern the public water system to which the technology may be applied, or its source waters. The Administrator shall provide any assumptions used in determining affordability, taking into consideration the number of persons served by such systems. The Administrator shall provide as much reliable information as practicable on performance, effectiveness, limitations, costs, and other relevant factors including the applicability of variance technology to waters from surface and underground sources.

''(D) REGULATIONS AND GUIDANCE.—Not later than 2 years after the date of enactment of this paragraph and after consultation with the States, the Administrator shall issue guidance or regulations under subparagraph (A) for each national primary drinking water regulation promulgated prior to the date of enactment of this paragraph for which a variance may be granted under section 1415(e). The Administrator may, at any time after a national primary drinking water regulation has been promulgated, issue guidance or regulations describing additional variance technologies. The Administrator shall, not less often than every 7 years, or upon receipt of a petition supported by substantial information, review variance technologies identified under this paragraph. The Administrator shall issue revised guidance or regulations if new or innovative variance technologies become available that meet the requirements of this paragraph and achieve an equal or greater reduction or inactivation efficiency than the variance technologies previously identified under this subparagraph. No public water system shall be required to replace a variance technology during the useful life of the technology for the sole reason that a more efficient variance technology has been listed under this subparagraph.''.

(b) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—Section 1445 (42 U.S.C. 300j–4) is amended by adding the following new subsection after subsection (g):

''(h) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—For purposes of sections 1412(b)(4)(E) and 1415(e) (relating to small system variance program), the Administrator may request information on the characteristics of commercially available treatment systems and technologies, including the effectiveness and performance of the systems and technologies under various operating conditions. The Administrator may specify the form, content, and submission date of information to be submitted by manufacturers, States, and other interested persons for the purpose of considering the systems and technologies in the development of regulations or guidance under sections 1412(b)(4)(E) and 1415(e).''.

SEC. 112. STATE PRIMACY.

(a) STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 1413 (42 U.S.C. 300g–2) is amended as follows:

(1) In subsection (a), by amending paragraph (1) to read as follows:

''(1) has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under subsections (a) and (b) of section 1412 not later than 2 years after the date on which the regulations are promulgated by the Administrator, except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified;''.

(2) By adding at the end the following subsection:

''(c) INTERIM PRIMARY ENFORCEMENT AUTHORITY.—A State that has primary enforcement authority under this section with respect to each existing national primary drinking water regulation shall be considered to have primary enforcement authority with respect to each new or revised national primary drinking water regulation during the period beginning on the effective date of a regulation adopted and submitted by the State with respect to the new or revised national primary drinking water regulation in accordance with subsection (b)(1) and ending at such time as the Administrator makes a determination under subsection (b)(2)(B) with respect to the regulation.''.

(b) EMERGENCY PLANS.—Section 1413(a)(5) (42 U.S.C. 300g–2(a)(5)) is amended by inserting after ''emergency circumstances'' the following: ''including earthquakes, floods, hurricanes, and other natural disasters, as appropriate''.

SEC. 113. ENFORCEMENT; JUDICIAL REVIEW.

(a) IN GENERAL.—Section 1414 (42 U.S.C. 300g–3) is amended as follows:

(1) In subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in clause (i), by striking ''any national primary drinking water regulation in effect under section 1412'' and inserting ''any applicable requirement''; and

(II) by striking ''with such regulation or requirement'' and inserting ''with the requirement''; and

(ii) in subparagraph (B), by striking ''regulation or'' and inserting ''applicable''; and

(B) by striking paragraph (2) and inserting the following:

''(2) ENFORCEMENT IN NONPRIMACY STATES.—

''(A) IN GENERAL.—If, on the basis of information available to the Administrator, the Administrator finds, with respect to a period in which a State does not have primary enforcement responsibility for public water systems, that a public water system in the State—

''(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any applicable requirement; or

''(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant to the variance or exemption;

the Administrator shall issue an order under subsection (g) requiring the public water system to comply with the requirement, or commence a civil action under subsection (b).

''(B) NOTICE.—If the Administrator takes any action pursuant to this paragraph, the Administrator shall notify an appropriate local elected official, if any, with jurisdiction over the public water system of the action prior to the time that the action is taken.''.

(2) In the first sentence of subsection (b), by striking ''a national primary drinking water regulation'' and inserting ''any applicable requirement''.

(3) In subsection (g)—

(A) in paragraph (1), by striking ''regulation, schedule, or other'' each place it appears and inserting ''applicable'';

(B) in paragraph (2)—

(i) in the first sentence—

(I) by striking ''effect until after notice and opportunity for public hearing and,'' and inserting ''effect,''; and

(II) by striking ''proposed order'' and inserting ''order''; and

(ii) in the second sentence, by striking ''proposed to be''; and

(C) in paragraph (3)—

(i) by striking subparagraph (B) and inserting the following:

''(B) In a case in which a civil penalty sought by the Administrator under this paragraph does not exceed $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a public hearing (unless the person against whom the penalty is assessed requests a hearing on the record in accordance with section 554 of title 5, United States Code). In a case in which a civil penalty sought by the Administrator under this paragraph exceeds $5,000, but does not exceed $25,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.''; and

(ii) in subparagraph (C), by striking ''paragraph exceeds $5,000'' and inserting ''subsection for a violation of an applicable requirement exceeds $25,000''.

(4) By adding at the end the following:

''(h) CONSOLIDATION INCENTIVE.—

''(1) IN GENERAL.—An owner or operator of a public water system may submit to the State in which the system is located (if the State has primary enforcement responsibility under section 1413) or to the Administrator (if the State does not have primary enforcement responsibility) a plan (including specific measures and schedules) for—

''(A) the physical consolidation of the system with 1 or more other systems;

''(B) the consolidation of significant management and administrative functions of the system with 1 or more other systems; or

''(C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality.

''(2) CONSEQUENCES OF APPROVAL.—If the State or the Administrator approves a plan pursuant to paragraph (1), no enforcement action shall be taken pursuant to this part with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date on which consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

''(i) DEFINITION OF APPLICABLE REQUIREMENT.—In this section, the term 'applicable requirement' means—

''(1) a requirement of section 1412, 1414, 1415, 1416, 1417, 1441, or 1445;

''(2) a regulation promulgated pursuant to a section referred to in paragraph (1);

''(3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1); and

''(4) a requirement of, or permit issued under, an applicable State program for which the Administrator has made a determination that the requirements of section 1413 have been satisfied, or an applicable State program approved pursuant to this part.''.

(b) STATE AUTHORITY FOR ADMINISTRATIVE PENALTIES.—Section 1413(a) (42 U.S.C. 300g–2(a)) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(3) by adding at the end the following:

''(6) has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—

''(A) in the case of a system serving a population of more than 10,000, that is not less than $1,000 per day per violation; and

''(B) in the case of any other system, that is adequate to ensure compliance (as determined by the State);

except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.''.

(c) JUDICIAL REVIEW.—Section 1448(a) (42 U.S.C. 300j–7(a)) is amended—

(1) in paragraph (2) of the first sentence, by inserting ''final'' after ''any other'';

(2) in the second sentence, by striking ''or issuance of the order'' and inserting ''or any other final Agency action''; and

(3) by adding at the end the following ''In any petition concerning the assessment of a civil penalty pursuant to section 1414(g)(3)(B), the petitioner shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The court shall set aside and remand the penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.''.

(d) EMERGENCY POWERS.—Section 1431(b) (42 U.S.C. 300i(b)) is amended by striking ''$5,000'' and inserting ''$15,000''.

SEC. 114. PUBLIC NOTIFICATION.

(a) PUBLIC WATER SYSTEMS.—Section 1414(c) (42 U.S.C. 300g–3(c)) is amended to read as follows:

''(c) NOTICE TO PERSONS SERVED.—

''(1) IN GENERAL.—Each owner or operator of a public water system shall give notice of each of the following to the persons served by the system:

''(A) Notice of any failure on the part of the public water system to—

''(i) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation; or

''(ii) perform monitoring required by section 1445(a).

''(B) If the public water system is subject to a variance granted under subsection (a)(1)(A), (a)(2), or (e) of section 1415 for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, notice of—

''(i) the existence of the variance or exemption; and

''(ii) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

''(C) Notice of the concentration level of any unregulated contaminant for which the Administrator has required public notice pursuant to paragraph (2)(E).

''(2) FORM, MANNER, AND FREQUENCY OF NOTICE.—

''(A) IN GENERAL.—The Administrator shall, by regulation, and after consultation with the States, prescribe the manner, frequency, form, and content for giving notice under this subsection. The regulations shall—

''(i) provide for different frequencies of notice based on the differences between violations that are intermittent or infrequent and violations that are continuous or frequent; and

''(ii) take into account the seriousness of any potential adverse health effects that may be involved.

''(B) STATE REQUIREMENTS.—

''(i) IN GENERAL.—A State may, by rule, establish alternative notification requirements—

''(I) with respect to the form and content of notice given under and in a manner in accordance with subparagraph (C); and

''(II) with respect to the form and content of notice given under subparagraph (D).

''(ii) CONTENTS.—The alternative requirements shall provide the same type and amount of information as required pursuant to this subsection and regulations issued under subparagraph (A).

''(iii) RELATIONSHIP TO SECTION 1413.—Nothing in this subparagraph shall be construed or applied to modify the requirements of section 1413.

''(C) VIOLATIONS WITH POTENTIAL TO HAVE SERIOUS ADVERSE EFFECTS ON HUMAN HEALTH.—Regulations issued under subparagraph (A) shall specify notification procedures for each violation by a public water system that has the potential to have serious adverse effects on human health as a result of short-term exposure. Each notice of violation provided under this subparagraph shall—

''(i) be distributed as soon as practicable after the occurrence of the violation, but not later than 24 hours after the occurrence of the violation;

''(ii) provide a clear and readily understandable explanation of—

''(I) the violation;

''(II) the potential adverse effects on human health;

''(III) the steps that the public water system is taking to correct the violation; and

''(IV) the necessity of seeking alternative water supplies until the violation is corrected;

''(iii) be provided to the Administrator or the head of the State agency that has primary enforcement responsibility under section 1413 as soon as practicable, but not later than 24 hours after the occurrence of the violation; and

''(iv) as required by the State agency in general regulations of the State agency, or on a case-by-case basis after the consultation referred to in clause (iii), considering the health risks involved—

''(I) be provided to appropriate broadcast media;

''(II) be prominently published in a newspaper of general circulation serving the area not later than 1 day after distribution of a notice pursuant to clause (i) or the date of publication of the next issue of the newspaper; or

''(III) be provided by posting or door-to-door notification in lieu of notification by means of broadcast media or newspaper.

''(D) WRITTEN NOTICE.—

''(i) IN GENERAL.—Regulations issued under subparagraph (A) shall specify notification procedures for violations other than the violations covered by subparagraph (C). The procedures shall specify that a public water system shall provide written notice to each person served by the system by notice (I) in the first bill (if any) prepared after the date of occurrence of the violation, (II) in an annual report issued not later than 1 year after the date of occurrence of the violation, or (III) by mail or direct delivery as soon as practicable, but not later than 1 year after the date of occurrence of the violation.

''(ii) FORM AND MANNER OF NOTICE.—The Administrator shall prescribe the form and manner of the notice to provide a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps that the system is taking to seek alternative water supplies, if any, until the violation is corrected.

''(E) UNREGULATED CONTAMINANTS.—The Administrator may require the owner or operator of a public water system to give notice to the persons served by the system of the concentration levels of an unregulated contaminant required to be monitored under section 1445(a).

''(3) REPORTS.—

''(A) ANNUAL REPORT BY STATE.—

''(i) IN GENERAL.—Not later than January 1, 1998, and annually thereafter, each State that has primary enforcement responsibility under section 1413 shall prepare, make readily available to the public, and submit to the Administrator an annual report on violations of national primary drinking water regulations by public water systems in the State, including violations with respect to (I) maximum contaminant levels, (II) treatment requirements, (III) variances and exemptions, and (IV) monitoring requirements determined to be significant by the Administrator after consultation with the States.

''(ii) DISTRIBUTION.—The State shall publish and distribute summaries of the report and indicate where the full report is available for review.

''(B) ANNUAL REPORT BY ADMINISTRATOR.—Not later than July 1, 1998, and annually thereafter, the Administrator shall prepare and make available to the public an annual report summarizing and evaluating reports submitted by States pursuant to subparagraph (A) and notices submitted by public water systems serving Indian Tribes provided to the Administrator pursuant to subparagraph (C) or (D) of paragraph (2) and making recommendations concerning the resources needed to improve compliance with this title. The report shall include information about public water system compliance on Indian reservations and about enforcement activities undertaken and financial assistance provided by the Administrator on Indian reservations, and shall make specific recommendations concerning the resources needed to improve compliance with this title on Indian reservations.

''(4) CONSUMER CONFIDENCE REPORTS BY COMMUNITY WATER SYSTEMS.—

''(A) ANNUAL REPORTS TO CONSUMERS.—The Administrator, in consultation with public water systems, environmental groups, public interest groups, risk communication experts, and the States, and other interested parties, shall issue regulations within 24 months after the date of enactment of this paragraph to require each community water system to mail to each customer of the system at least once annually a report on the level of contaminants in the drinking water purveyed by that system (referred to in this paragraph as a 'consumer confidence report'). Such regulations shall provide a brief and plainly worded definition of the terms 'maximum contaminant level goal', 'maximum contaminant level', 'variances', and 'exemptions' and brief statements in plain language regarding the health concerns that resulted in regulation of each regulated contaminant. The regulations shall also include a brief and plainly worded explanation regarding contaminants that may reasonably be expected to be present in drinking water, including bottled water. The regulations shall also provide for an Environmental Protection Agency toll-free hotline that consumers can call for more information and explanation.

''(B) CONTENTS OF REPORT.—The consumer confidence reports under this paragraph shall include, but not be limited to, each of the following:

''(i) Information on the source of the water purveyed.

''(ii) A brief and plainly worded definition of the terms 'maximum contaminant level goal', 'maximum contaminant level', 'variances', and 'exemptions' as provided in the regulations of the Administrator.

''(iii) If any regulated contaminant is detected in the water purveyed by the public water system, a statement setting forth (I) the maximum contaminant level goal, (II) the maximum contaminant level, (III) the level of such contaminant in such water system, and (IV) for any regulated contaminant for which there has been a violation of the maximum contaminant level during the year concerned, the brief statement in plain language regarding the health concerns that resulted in regulation of such contaminant, as provided by the Administrator in regulations under subparagraph (A).

''(iv) Information on compliance with national primary drinking water regulations, as required by the Administrator, and notice if the system is operating under a variance or exemption and the basis on which the variance or exemption was granted.

''(v) Information on the levels of unregulated contaminants for which monitoring is required under section 1445(a)(2) (including levels of cryptosporidium and radon where States determine they may be found).

''(vi) A statement that the presence of contaminants in drinking water does not necessarily indicate that the drinking water poses a health risk and that more information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency hotline.

A public water system may include such additional information as it deems appropriate for public education. The Administrator may, for not more than 3 regulated contaminants other than those referred to in subclause (IV) of clause (iii), require a consumer confidence report under this paragraph to include the brief statement in plain language regarding the health concerns that resulted in regulation of the contaminant or contaminants concerned, as provided by the Administrator in regulations under subparagraph (A).

''(C) COVERAGE.—The Governor of a State may determine not to apply the mailing requirement of subparagraph (A) to a community water system serving fewer than 10,000 persons. Any such system shall—

''(i) inform, in the newspaper notice required by clause (iii) or by other means, its customers that the system will not be mailing the report as required by subparagraph (A);

''(ii) make the consumer confidence report available upon request to the public; and

''(iii) publish the report referred to in subparagraph (A) annually in one or more local newspapers serving the area in which customers of the system are located.

''(D) ALTERNATIVE TO PUBLICATION.—For any community water system which, pursuant to subparagraph (C), is not required to meet the mailing requirement of subparagraph (A) and which serves 500 persons or fewer, the community water system may elect not to comply with clause (i) or (iii) of subparagraph (C). If the community water system so elects, the system shall, at a minimum—

''(i) prepare an annual consumer confidence report pursuant to subparagraph (B); and

''(ii) provide notice at least once per year to each of its customers by mail, by door-to-door delivery, by posting or by other means authorized by the regulations of the Administrator that the consumer confidence report is available upon request.

''(E) ALTERNATIVE FORM AND CONTENT.—A State exercising primary enforcement responsibility may establish, by rule, after notice and public comment, alternative requirements with respect to the form and content of consumer confidence reports under this paragraph.''.

(b) BOTTLED WATER STUDY.—Not later than 18 months after the date of enactment of this Act, the Administrator of the Food and Drug Administration, in consultation with the Administrator of the Environmental Protection Agency, shall publish for public notice and comment a draft study on the feasibility of appropriate methods, if any, of informing customers of the contents of bottled water. The Administrator of the Food and Drug Administration shall publish a final study not later than 30 months after the date of enactment of this Act.

SEC. 115. VARIANCES.

The second sentence of section 1415(a)(1)(A) (42 U.S.C. 300g–4(a)(1)(A)) is amended—

(1) by striking ''only be issued to a system after the system's application of'' and inserting ''be issued to a system on condition that the system install''; and

(2) by inserting before the period at the end the following: '', and based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system''.

SEC. 116. SMALL SYSTEMS VARIANCES.

(a) SMALL SYSTEM VARIANCES.—Section 1415 (42 U.S.C. 300g–4) is amended by adding at the end the following:

''(e) SMALL SYSTEM VARIANCES.—

''(1) IN GENERAL.—A State exercising primary enforcement responsibility for public water systems under section 1413 (or the Administrator in nonprimacy States) may grant a variance under this subsection for compliance with a requirement specifying a maximum contaminant level or treatment technique contained in a national primary drinking water regulation to—

''(A) public water systems serving 3,300 or fewer persons; and

''(B) with the approval of the Administrator pursuant to paragraph (9), public water systems serving more than 3,300 persons but fewer than 10,000 persons,

if the variance meets each requirement of this subsection.

''(2) AVAILABILITY OF VARIANCES.—A public water system may receive a variance pursuant to paragraph (1), if—

''(A) the Administrator has identified a variance technology under section 1412(b)(15) that is applicable to the size and source water quality conditions of the public water system;

''(B) the public water system installs, operates, and maintains, in accordance with guidance or regulations issued by the Administrator, such treatment technology, treatment technique, or other means; and

''(C) the State in which the system is located determines that the conditions of paragraph (3) are met.

''(3) CONDITIONS FOR GRANTING VARIANCES.—A variance under this subsection shall be available only to a system—

''(A) that cannot afford to comply, in accordance with affordability criteria established by the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413), with a national primary drinking water regulation, including compliance through—

''(i) treatment;

''(ii) alternative source of water supply; or

''(iii) restructuring or consolidation (unless the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) makes a written determination that restructuring or consolidation is not practicable); and

''(B) for which the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) determines that the terms of the variance ensure adequate protection of human health, considering the quality of the source water for the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

''(4) COMPLIANCE SCHEDULES.—A variance granted under this subsection shall require compliance with the conditions of the variance not later than 3 years after the date on which the variance is granted, except that the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) may allow up to 2 additional years to comply with a variance technology, secure an alternative source of water, restructure or consolidate if the Administrator (or the State) determines that additional time is necessary for capital improvements, or to allow for financial assistance provided pursuant to section 1452 or any other Federal or State program.

''(5) DURATION OF VARIANCES.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall review each variance granted under this subsection not less often than every 5 years after the compliance date established in the variance to determine whether the system remains eligible for the variance and is conforming to each condition of the variance.

''(6) INELIGIBILITY FOR VARIANCES.—A variance shall not be available under this subsection for—

''(A) any maximum contaminant level or treatment technique for a contaminant with respect to which a national primary drinking water regulation was promulgated prior to January 1, 1986; or

''(B) a national primary drinking water regulation for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

''(7) REGULATIONS AND GUIDANCE.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection and in consultation with the States, the Administrator shall promulgate regulations for variances to be granted under this subsection. The regulations shall, at a minimum, specify—

''(i) procedures to be used by the Administrator or a State to grant or deny variances, including requirements for notifying the Administrator and consumers of the public water system that a variance is proposed to be granted (including information regarding the contaminant and variance) and requirements for a public hearing on the variance before the variance is granted;

''(ii) requirements for the installation and proper operation of variance technology that is identified (pursuant to section 1412(b)(15)) for small systems and the financial and technical capability to operate the treatment system, including operator training and certification;

''(iii) eligibility criteria for a variance for each national primary drinking water regulation, including requirements for the quality of the source water (pursuant to section 1412(b)(15)(A)); and

''(iv) information requirements for variance applications.

''(B) AFFORDABILITY CRITERIA.—Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator, in consultation with the States and the Rural Utilities Service of the Department of Agriculture, shall publish information to assist the States in developing affordability criteria. The affordability criteria shall be reviewed by the States not less often than every 5 years to determine if changes are needed to the criteria.

''(8) REVIEW BY THE ADMINISTRATOR.—

''(A) IN GENERAL.—The Administrator shall periodically review the program of each State that has primary enforcement responsibility for public water systems under section 1413 with respect to variances to determine whether the variances granted by the State comply with the requirements of this subsection. With respect to affordability, the determination of the Administrator shall be limited to whether the variances granted by the State comply with the affordability criteria developed by the State.

''(B) NOTICE AND PUBLICATION.—If the Administrator determines that variances granted by a State are not in compliance with affordability criteria developed by the State and the requirements of this subsection, the Administrator shall notify the State in writing of the deficiencies and make public the determination.

''(9) APPROVAL OF VARIANCES.—A State proposing to grant a variance under this subsection to a public water system serving more than 3,300 and fewer than 10,000 persons shall submit the variance to the Administrator for review and approval prior to the issuance of the variance. The Administrator shall approve the variance if it meets each of the requirements of this subsection. The Administrator shall approve or disapprove the variance within 90 days. If the Administrator disapproves a variance under this paragraph, the Administrator shall notify the State in writing of the reasons for disapproval and the variance may be resubmitted with modifications to address the objections stated by the Administrator.

''(10) OBJECTIONS TO VARIANCES.—

''(A) BY THE ADMINISTRATOR.—The Administrator may review and object to any variance proposed to be granted by a State, if the objection is communicated to the State not later than 90 days after the State proposes to grant the variance. If the Administrator objects to the granting of a variance, the Administrator shall notify the State in writing of each basis for the objection and propose a modification to the variance to resolve the concerns of the Administrator. The State shall make the recommended

modification or respond in writing to each objection. If the State issues the variance without resolving the concerns of the Administrator, the Administrator may overturn the State decision to grant the variance if the Administrator determines that the State decision does not comply with this subsection.

''(B) PETITION BY CONSUMERS.—Not later than 30 days after a State exercising primary enforcement responsibility for public water systems under section 1413 proposes to grant a variance for a public water system, any person served by the system may petition the Administrator to object to the granting of a variance. The Administrator shall respond to the petition and determine whether to object to the variance under subparagraph (A) not later than 60 days after the receipt of the petition.

''(C) TIMING.—No variance shall be granted by a State until the later of the following:

''(i) 90 days after the State proposes to grant a variance.

''(ii) If the Administrator objects to the variance, the date on which the State makes the recommended modifications or responds in writing to each objection.''.

SEC. 117. EXEMPTIONS.

(a) IN GENERAL.—Section 1416 (42 U.S.C. 300g–5) is amended as follows:

(1) In subsection (a)(1)—

(A) by inserting after ''(which may include economic factors'' the following: '', including qualification of the public water system as a system serving a disadvantaged community pursuant to section 1452(d)''; and

(B) by inserting after ''treatment technique requirement,'' the following: ''or to implement measures to develop an alternative source of water supply,''.

(2) In subsection (a), by striking ''and'' at the end of paragraph (2), striking the period at the end of paragraph (3) and inserting ''; and'' and by adding the following at the end thereof:

''(4) management or restructuring changes (or both) cannot reasonably be made that will result in compliance with this title or, if compliance cannot be achieved, improve the quality of the drinking water.''.

(3) In subsection (b)(1)(A)—

(A) by striking ''(including increments of progress)'' and inserting ''(including increments of progress or measures to develop an alternative source of water supply)''; and

(B) by striking ''requirement and treatment'' and inserting ''requirement or treatment''.

(4) In subsection (b)(2)—

(A) by striking ''(except as provided in subparagraph (B))'' in subparagraph (A) and all that follows through ''3 years after the date of the issuance of the exemption if'' in subparagraph (B) and inserting the following: ''not later than 3 years after the otherwise applicable compliance date established in section 1412(b)(10).

''(B) No exemption shall be granted unless'';

(B) in subparagraph (B)(i), by striking ''within the period of such exemption'' and inserting ''prior to the date established pursuant to section 1412(b)(10)'';

(C) in subparagraph (B)(ii), by inserting after ''such financial assistance'' the following: ''or assistance pursuant to section 1452, or any other Federal or State program is reasonably likely to be available within the period of the exemption'';

(D) in subparagraph (C)—

(i) by striking ''500 service connections'' and inserting ''a population of 3,300''; and

(ii) by inserting '', but not to exceed a total of 6 years,'' after ''for one or more additional 2-year periods''; and

(E) by adding at the end the following:

''(D) LIMITATION.—A public water system may not receive an exemption under this section if the system was granted a variance under section 1415(e).''.

(b) LIMITED ADDITIONAL COMPLIANCE PERIOD.—(1) The State of New York, on a case-by-case basis and after notice and an opportunity of at least 60 days for public comment, may allow an additional period for compliance with the Surface Water Treatment Rule established pursuant to section 1412(b)(7)(C) of the Safe Drinking Water Act in the case of unfiltered systems in Essex, Columbia, Greene, Dutchess, Rensselaer, Schoharie, Saratoga, Washington, and Warren Counties serving a population of less than 5,000, which meet appropriate disinfection requirements and have adequate watershed protections, so long as the State determines that the public health will be protected during the duration of the additional compliance period and the system agrees to implement appropriate control measures as determined by the State.

(2) The additional compliance period referred to in paragraph (1) shall expire on the earlier of the date 3 years after the date on which the Administrator identifies appropriate control technology for the Surface Water Treatment Rule for public water systems in the category that includes such system pursuant to section 1412(b)(4)(E) of the Safe Drinking Water Act or 5 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996.

SEC. 118. LEAD PLUMBING AND PIPES.

Section 1417 (42 U.S.C. 300g–6) is amended as follows:

(1) In subsection (a), by striking paragraph (1) and inserting the following:

''(1) PROHIBITIONS.—

''(A) IN GENERAL.—No person may use any pipe, any pipe or plumbing fitting or fixture, any solder, or any flux, after June 19, 1986, in the installation or repair of—

''(i) any public water system; or

''(ii) any plumbing in a residential or nonresidential facility providing water for human consumption,

that is not lead free (within the meaning of subsection (d)).

''(B) LEADED JOINTS.—Subparagraph (A) shall not apply to leaded joints necessary for the repair of cast iron pipes.''.

(2) In subsection (a)(2)(A), by inserting ''owner or operator of a'' after ''Each''.

(3) By adding at the end of subsection (a) the following:

''(3) UNLAWFUL ACTS.—Effective 2 years after the date of enactment of this paragraph, it shall be unlawful—

''(A) for any person to introduce into commerce any pipe, or any pipe or plumbing fitting or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing;

''(B) for any person engaged in the business of selling plumbing supplies, except manufacturers, to sell solder or flux that is not lead free; or

''(C) for any person to introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.''.

(4) In subsection (d)—

(A) by striking ''lead, and'' in paragraph (1) and inserting ''lead;'';

(B) by striking ''lead.'' in paragraph (2) and inserting ''lead; and''; and

(C) by adding at the end the following:

''(3) when used with respect to plumbing fittings and fixtures, refers to plumbing fittings and fixtures in compliance with standards established in accordance with subsection (e).''.

(5) By adding at the end the following:

''(e) PLUMBING FITTINGS AND FIXTURES.—

''(1) IN GENERAL.—The Administrator shall provide accurate and timely technical information and assistance to qualified third-party certifiers in the development of voluntary standards and testing protocols for the leaching of lead from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion.

''(2) STANDARDS.—

''(A) IN GENERAL.—If a voluntary standard for the leaching of lead is not established by the date that is 1 year after the date of enactment of this subsection, the Administrator shall, not later than 2 years after the date of enactment of this subsection, promulgate regulations setting a health-effects-based performance standard establishing maximum leaching levels from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion. The standard shall become effective on the date that is 5 years after the date of promulgation of the standard.

''(B) ALTERNATIVE REQUIREMENT.—If regulations are required to be promulgated under subparagraph (A) and have not been promulgated by the date that is 5 years after the date of enactment of this subsection, no person may import, manufacture, process, or distribute in commerce a new plumbing fitting or fixture, intended by the manufacturer to dispense water for human ingestion, that contains more than 4 percent lead by dry weight.''.

SEC. 119. CAPACITY DEVELOPMENT.

Part B (42 U.S.C. 300g et seq.) is amended by adding after section 1419 the following:

''CAPACITY DEVELOPMENT

''SEC. 1420. (a) STATE AUTHORITY FOR NEW SYSTEMS.—A State shall receive only 80 percent of the allotment that the State is otherwise entitled to receive under section 1452 (relating to State loan funds) unless the State has obtained the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

''(b) SYSTEMS IN SIGNIFICANT NONCOMPLIANCE.—

''(1) LIST.—Beginning not later than 1 year after the date of enactment of this section, each State shall prepare, periodically update, and submit to the Administrator a list of community water systems and nontransient, noncommunity water systems that have a history of significant noncompliance with this title (as defined in guidelines issued prior to the date of enactment of this section or any revisions of the guidelines that have been made in consultation with the States) and, to the extent practicable, the reasons for noncompliance.

''(2) REPORT.—Not later than 5 years after the date of enactment of this section and as part of the capacity development strategy of the State, each State shall report to the Administrator on the success of enforcement mechanisms and initial capacity development efforts in assisting the public water systems listed under paragraph (1) to improve technical, managerial, and financial capacity.

''(3) WITHHOLDING.—The list and report under this subsection shall be considered part of the capacity development strategy of the State required under subsection (c) of this section for purposes of the withholding requirements of section 1452(a)(1)(G)(i) (relating to State loan funds).

''(c) CAPACITY DEVELOPMENT STRATEGY.—

''(1) IN GENERAL.—Beginning 4 years after the date of enactment of this section, a State shall receive only—

''(A) 90 percent in fiscal year 2001;

''(B) 85 percent in fiscal year 2002; and

''(C) 80 percent in each subsequent fiscal year,

of the allotment that the State is otherwise entitled to receive under section 1452 (relating to State loan funds), unless the State is developing and implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.

''(2) CONTENT.—In preparing the capacity development strategy, the State shall consider, solicit public comment on, and include as appropriate—

''(A) the methods or criteria that the State will use to identify and prioritize the public water systems most in need of improving technical, managerial, and financial capacity;

''(B) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, or local level that encourage or impair capacity development;

''(C) a description of how the State will use the authorities and resources of this title or other means to—

''(i) assist public water systems in complying with national primary drinking water regulations;

''(ii) encourage the development of partnerships between public water systems to enhance the technical, managerial, and financial capacity of the systems; and

''(iii) assist public water systems in the training and certification of operators;

''(D) a description of how the State will establish a baseline and measure improvements in capacity with respect to national primary drinking water regulations and State drinking water law; and

''(E) an identification of the persons that have an interest in and are involved in the development and implementation of the capacity development strategy (including all appropriate agencies of Federal, State, and local governments, private and nonprofit public water systems, and public water system customers).

''(3) REPORT.—Not later than 2 years after the date on which a State first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the State agency that has primary responsibility to carry out this title in the State shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State.

''(4) REVIEW.—The decisions of the State under this section regarding any particular public water system are not subject to review by the Administrator and may not serve as the basis for withholding funds under section 1452.

''(d) FEDERAL ASSISTANCE.—

''(1) IN GENERAL.—The Administrator shall support the States in developing capacity development strategies.

''(2) INFORMATIONAL ASSISTANCE.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator shall—

''(i) conduct a review of State capacity development efforts in existence on the date of enactment of this section and publish information to assist States and public water systems in capacity development efforts; and

''(ii) initiate a partnership with States, public water systems, and the public to develop information for States on recommended operator certification requirements.

''(B) PUBLICATION OF INFORMATION.—The Administrator shall publish the information developed through the partnership under subparagraph (A)(ii) not later than 18 months after the date of enactment of this section.

''(3) PROMULGATION OF DRINKING WATER REGULATIONS.—In promulgating a national primary drinking water regulation, the Administrator shall include an analysis of the likely effect of compliance with the regulation on the technical, financial, and managerial capacity of public water systems.

''(4) GUIDANCE FOR NEW SYSTEMS.—Not later than 2 years after the date of enactment of this section, the Administrator shall publish guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations.

''(e) VARIANCES AND EXEMPTIONS.—Based on information obtained under subsection (c)(3), the Administrator shall, as appropriate, modify regulations concerning variances and exemptions for small public water systems to ensure flexibility in the use of the variances and exemptions. Nothing in this subsection shall be interpreted, construed, or applied to affect or alter the requirements of section 1415 or 1416.

''(f) SMALL PUBLIC WATER SYSTEMS TECHNOLOGY ASSISTANCE CENTERS.—

''(1) GRANT PROGRAM.—The Administrator is authorized to make grants to institutions of higher learning to establish and operate small public water system technology assistance centers in the United States.

''(2) RESPONSIBILITIES OF THE CENTERS.—The responsibilities of the small public water system technology assistance centers established under this subsection shall include the conduct of training and technical assistance relating to the information, performance, and technical needs of small public water systems or public water systems that serve Indian Tribes.

''(3) APPLICATIONS.—Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

''(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

''(A) The small public water system technology assistance center shall be located in a State that is representative of the needs of the region in which the State is located for addressing the drinking water needs of small and rural communities or Indian Tribes.

''(B) The grant recipient shall be located in a region that has experienced problems, or may reasonably be foreseen to experience problems, with small and rural public water systems.

''(C) The grant recipient shall have access to expertise in small public water system technology management.

''(D) The grant recipient shall have the capability to disseminate the results of small public water system technology and training programs.

''(E) The projects that the grant recipient proposes to carry out under the grant are necessary and appropriate.

''(F) The grant recipient has regional support beyond the host institution.

''(5) CONSORTIA OF STATES.—At least 2 of the grants under this subsection shall be made to consortia of States with low population densities.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this subsection $2,000,000 for each of the fiscal years 1997 through 1999, and $5,000,000 for each of the fiscal years 2000 through 2003.

''(g) ENVIRONMENTAL FINANCE CENTERS.—

''(1) IN GENERAL.—The Administrator shall provide initial funding for one or more university-based environmental finance centers for activities that provide technical assistance to State and local officials in developing the capacity of public water systems. Any such funds shall be used only for activities that are directly related to this title.

''(2) NATIONAL CAPACITY DEVELOPMENT CLEARINGHOUSE.—The Administrator shall establish a national public water system capacity development clearinghouse to receive and disseminate information with respect to developing, improving, and maintaining financial and managerial capacity at public water systems. The Administrator shall ensure that the clearinghouse does not duplicate other federally supported clearinghouse activities.

''(3) CAPACITY DEVELOPMENT TECHNIQUES.—The Administrator may request an environmental finance center funded under paragraph (1) to develop and test managerial, financial, and institutional techniques for capacity development. The techniques may include capacity assessment methodologies, manual and computer based public water system rate models and capital planning models, public water system consolidation procedures, and regionalization models.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $1,500,000 for each of the fiscal years 1997 through 2003.

''(5) LIMITATION.—No portion of any funds made available under this subsection may be used for lobbying expenses.''.

SEC. 120. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN GROUND WATER PROGRAMS.

(a) CRITICAL AQUIFER PROTECTION.—Section 1427 (42 U.S.C. 300h–6) is amended as follows:

(1) Subsection (b)(1) is amended by striking ''not later than 24 months after the enactment of the Safe Drinking Water Act Amendments of 1986''.

(2) The table in subsection (m) is amended by adding at the end the following:

''1992–2003 .... 15,000,000.''.

(b) WELLHEAD PROTECTION AREAS.—The table in section 1428(k) (42 U.S.C. 300h–7(k)) is amended by adding at the end the following:

''1992–2003 .... 30,000,000.''.

(c) UNDERGROUND INJECTION CONTROL GRANT.—The table in section 1443(b)(5) (42 U.S.C. 300j–2(b)(5)) is amended by adding at the end the following:

''1992–2003 .... 15,000,000.''.

SEC. 121. AMENDMENTS TO SECTION 1442.

Section 1442 (42 U.S.C. 300j–1) is amended—

(1) by redesignating paragraph (3) of subsection (b) as paragraph (3) of subsection (d) and moving such paragraph to appear after paragraph (2) of subsection (d);

(2) by striking subsection (b) (as so amended);

(3) by redesignating subparagraph (B) of subsection (a)(2) as subsection (b) and moving such subsection to appear after subsection (a);

(4) in subsection (a)—

(A) by striking paragraph (2) (as so amended) and inserting the following:

''(2) INFORMATION AND RESEARCH FACILITIES.—In carrying out this title, the Administrator is authorized to—

''(A) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water, together with appropriate recommendations in connection with the information; and

''(B) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to this title.'';

(B) by striking paragraph (3); and

(C) by redesignating paragraph (11) as paragraph (3) and moving such paragraph to appear before paragraph (4).

SEC. 122. TECHNICAL ASSISTANCE.

Section 1442(e) (42 U.S.C. 300j–1(e)) is amended to read as follows:

''(e) TECHNICAL ASSISTANCE.—The Administrator may provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with applicable national primary drinking water regulations. Such assistance may include circuit-rider and multi-State regional technical assistance programs, training, and preliminary engineering evaluations. The Administrator shall ensure that technical assistance pursuant to this subsection is available in each State. Each nonprofit organization receiving assistance under this subsection shall consult with the State in which the assistance is to be expended or otherwise made available before using assistance to undertake activities to carry out this subsection. There are authorized to be appropriated to the Administrator to be used for such technical assistance $15,000,000 for each of the fiscal years 1997 through 2003. No portion of any State loan *fund established under section 1452 (relating to State loan funds) and no portion of any funds made available under this subsection may be used for lobbying expenses. Of the total amount appropriated under this subsection, 3 percent shall be used for technical assistance to public water systems owned or operated by Indian Tribes.''.*

SEC. 123. OPERATOR CERTIFICATION.

Part B (42 U.S.C. 300g et seq.) is amended by adding the following after section 1418:

''OPERATOR CERTIFICATION

''SEC. 1419. (a) GUIDELINES.—Not later than 30 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and in cooperation with the States, the Administrator shall publish guidelines in the Federal Register, after notice and opportunity for comment from interested persons, including States and public water systems, specifying minimum standards for certification (and recertification) of the operators of community and nontransient noncommunity public water systems. Such guidelines shall take into account existing State programs, the complexity of the system, and other factors aimed at providing an effective program at reasonable cost to States and public water systems, taking into account the size of the system.

''(b) STATE PROGRAMS.—Beginning 2 years after the date on which the Administrator publishes guidelines under subsection (a), the Administrator shall withhold 20 percent of the funds a State is otherwise entitled to receive under section 1452 unless the State has adopted and is implementing a program for the certification of operators of community and nontransient noncommunity public water systems that meets the requirements of the guidelines published pursuant to subsection (a) or that has been submitted in compliance with subsection (c) and that has not been disapproved.

''(c) EXISTING PROGRAMS.—For any State exercising primary enforcement responsibility for public water systems or any other State which has an operator certification program, the guidelines under subsection (a) shall allow the State to enforce such program in lieu of the guidelines under subsection (a) if the State submits the program to the Administrator within 18 months after the publication of the guidelines unless the Administrator determines (within 9 months after the State submits the program to the Administrator) that such program is not substantially equivalent to such guidelines. In making this determination, an existing State program shall be presumed to be substantially equivalent to the guidelines, notwithstanding program differences, based on the size of systems or the quality of source water, providing the State program meets the overall public health objectives of the guidelines. If disapproved, the program may be resubmitted within 6 months after receipt of notice of disapproval.

''(d) EXPENSE REIMBURSEMENT.—

''(1) IN GENERAL.—The Administrator shall provide reimbursement for the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating systems serving 3,300 persons or fewer that are required to undergo training pursuant to this section.

''(2) STATE GRANTS.—The reimbursement shall be provided through grants to States with each State receiving an amount sufficient to cover the reasonable costs for training all such operators in the State, as determined by the Administrator, to the extent required by this section. Grants received by a State pursuant to this paragraph shall first be used to provide reimbursement for training and certification costs of persons operating systems serving 3,300 persons or fewer. If a State has reimbursed all such costs, the State may, after notice to the Administrator, use any remaining funds from the grant for any of the other purposes authorized for grants under section 1452.

''(3) AUTHORIZATION.—There are authorized to be appropriated to the Administrator to provide grants for reimbursement under this section $30,000,000 for each of fiscal years 1997 through 2003.

''(4) RESERVATION.—If the appropriation made pursuant to paragraph (3) for any fiscal year is not sufficient to satisfy the requirements of paragraph (1), the Administrator shall, prior to any other allocation or reservation, reserve such sums as necessary from the funds appropriated pursuant to section 1452(m) to provide reimbursement for the training and certification costs mandated by this subsection.''.

SEC. 124. PUBLIC WATER SYSTEM SUPERVISION PROGRAM.

Section 1443(a) (42 U.S.C. 300j–2(a)) is amended as follows:

(1) Paragraph (7) is amended to read as follows:

''(7) AUTHORIZATION.—For the purpose of making grants under paragraph (1), there are authorized to be appropriated $100,000,000 for each of fiscal years 1997 through 2003.''.

(2) By adding at the end the following:

''(8) RESERVATION OF FUNDS BY THE ADMINISTRATOR.—If the Administrator assumes the primary enforcement responsibility of a State public water system supervision program, the Administrator may reserve from funds made available pursuant to this subsection an amount equal to the amount that would otherwise have been provided to the State pursuant to this subsection. The Administrator shall use the funds reserved pursuant to this paragraph to ensure the full and effective administration of a public water system supervision program in the State.

''(9) STATE LOAN FUNDS.—

''(A) RESERVATION OF FUNDS.—For any fiscal year for which the amount made available to the Administrator by appropriations to carry out this subsection is less than the amount that the Administrator determines is necessary to supplement funds made available pursuant to paragraph (8) to ensure the full and effective administration of a public water system supervision program in a State, the Administrator may reserve from the funds made available to the State under section 1452 (relating to State loan funds) an amount that is equal to the amount of the shortfall. This paragraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of the date of enactment of the Safe Drinking Water Act Amendments of 1996.

''(B) DUTY OF ADMINISTRATOR.—If the Administrator reserves funds from the allocation of a State under subparagraph (A), the Administrator shall carry out in the State each of the activities that would be required of the State if the State had primary enforcement authority under section 1413.''.

SEC. 125. MONITORING AND INFORMATION GATHERING.

(a) REVIEW OF EXISTING REQUIREMENTS.—Paragraph (1) of section 1445(a) (42 U.S.C. 300j–4(a)(1)) is amended to read as follows:

''(1)(A) Every person who is subject to any requirement of this title or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist the Administrator in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, in administering any program of financial assistance under this title, in evaluating the health risks of unregulated contaminants, or in advising the public of such risks. In requiring a public water system to monitor under this subsection, the Administrator may take into consideration the system size and the contaminants likely to be found in the system's drinking water.

''(B) Every person who is subject to a national primary drinking water regulation under section 1412 shall provide such information as the Administrator may reasonably require, after consultation with the State in which such person is located if such State has primary enforcement responsibility for public water systems, on a case-by-case basis, to determine whether such person has acted or is acting in compliance with this title.

''(C) Every person who is subject to a national primary drinking water regulation under section 1412 shall provide such information as the Administrator may reasonably require to assist the Administrator in establishing regulations under section 1412 of this title, after consultation with States and suppliers of water. The Administrator may not require under this subparagraph the installation of treatment equipment or process changes, the testing of treatment technology, or the analysis or processing of monitoring samples, except where the Administrator provides the funding for such activities. Before exercising this authority, the Administrator shall first seek to obtain the information by voluntary submission.

''(D) The Administrator shall not later than 2 years after the date of enactment of this subparagraph, after consultation with public health experts, representatives of the general public, and officials of State and local governments, review the monitoring requirements for not fewer than 12 contaminants identified by the Administrator, and promulgate any necessary modifications.''.

(b) MONITORING RELIEF.—Part B is amended by adding the following new section after section 1417 (42 U.S.C. 300g–6):

''MONITORING OF CONTAMINANTS

''SEC. 1418. (a) INTERIM MONITORING RELIEF AUTHORITY.—

''(1) IN GENERAL.—A State exercising primary enforcement responsibility for public water systems may modify the monitoring requirements for any regulated or unregulated contaminants for which monitoring is required other than microbial contaminants (or indicators thereof), disinfectants and disinfection byproducts or corrosion byproducts for an interim period to provide that any public water system serving 10,000 persons or fewer shall not be required to conduct additional quarterly monitoring during an interim relief period for such contaminants if—

''(A) monitoring, conducted at the beginning of the period for the contaminant concerned and certified to the State by the public water system, fails to detect the presence of the contaminant in the ground or surface water supplying the public water system; and

''(B) the State, considering the hydrogeology of the area and other relevant factors, determines in writing that the contaminant is unlikely to be detected by further monitoring during such period.

''(2) TERMINATION; TIMING OF MONITORING.—The interim relief period referred to in paragraph (1) shall terminate when permanent monitoring relief is adopted and approved for such State, or at the end of 36 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996, whichever comes first. In order to serve as a basis for interim relief, the monitoring conducted at the beginning of the period must occur at the time determined by the State to be the time of the public water system's greatest vulnerability to the contaminant concerned in the relevant ground or surface water, taking into account in the case of pesticides the time of application of the pesticide for the source water area and the travel time for the pesticide to reach such waters and taking into account, in the case of other contaminants, seasonality of precipitation and contaminant travel time.

''(b) PERMANENT MONITORING RELIEF AUTHORITY.—

''(1) IN GENERAL.—Each State exercising primary enforcement responsibility for public water systems under this title and having an approved

source water assessment program may adopt, in accordance with guidance published by the Administrator, tailored alternative monitoring requirements for public water systems in such State (as an alternative to the monitoring requirements for chemical contaminants set forth in the applicable national primary drinking water regulations) where the State concludes that (based on data available at the time of adoption concerning susceptibility, use, occurrence, or wellhead protection, or from the State's drinking water source water assessment program) such alternative monitoring would provide assurance that it complies with the Administrator's guidelines. The State program must be adequate to assure compliance with, and enforcement of, applicable national primary drinking water regulations. Alternative monitoring shall not apply to regulated microbiological contaminants (or indicators thereof), disinfectants and disinfection byproducts, or corrosion byproducts. The preceding sentence is not intended to limit other authority of the Administrator under other provisions of this title to grant monitoring flexibility.

''(2) GUIDELINES.—

''(A) IN GENERAL.—The Administrator shall issue, after notice and comment and at the same time as guidelines are issued for source water assessment under section 1453, guidelines for States to follow in proposing alternative monitoring requirements under paragraph (1) for chemical contaminants. The Administrator shall publish such guidelines in the Federal Register. The guidelines shall assure that the public health will be protected from drinking water contamination. The guidelines shall require that a State alternative monitoring program apply on a contaminant-by-contaminant basis and that, to be eligible for such alternative monitoring program, a public water system must show the State that the contaminant is not present in the drinking water supply or, if present, it is reliably and consistently below the maximum contaminant level.

''(B) DEFINITION.—For purposes of subparagraph (A), the phrase 'reliably and consistently below the maximum contaminant level' means that, although contaminants have been detected in a water supply, the State has sufficient knowledge of the contamination source and extent of contamination to predict that the maximum contaminant level will not be exceeded. In determining that a contaminant is reliably and consistently below the maximum contaminant level, States shall consider the quality and completeness of data, the length of time covered and the volatility or stability of monitoring results during that time, and the proximity of such results to the maximum contaminant level. Wide variations in the analytical results, or analytical results close to the maximum contaminant level, shall not be considered to be reliably and consistently below the maximum contaminant level.

''(3) EFFECT OF DETECTION OF CONTAMINANTS.—The guidelines issued by the Administrator under paragraph (2) shall require that if, after the monitoring program is in effect and operating, a contaminant covered by the alternative monitoring program is detected at levels at or above the maximum contaminant level or is no longer reliably or consistently below the maximum contaminant level, the public water system must either—

''(A) demonstrate that the contamination source has been removed or that other action has been taken to eliminate the contamination problem; or

''(B) test for the detected contaminant pursuant to the applicable national primary drinking water regulation.

''(4) STATES NOT EXERCISING PRIMARY ENFORCEMENT RESPONSIBILITY.—The Governor of any State not exercising primary enforcement responsibility under section 1413 on the date of enactment of this section may submit to the Administrator a request that the Administrator modify the monitoring requirements established by the Administrator and applicable to public water systems in that State. After consultation with the Governor, the Administrator shall modify the requirements for public water systems in that State if the request of the Governor is in accordance with each of the requirements of this subsection that apply to alternative monitoring requirements established by States that have primary enforcement responsibility. A decision by the Administrator to approve a request under this clause shall be for a period of 3 years and may subsequently be extended for periods of 5 years.

''(c) TREATMENT AS NPDWR.—All monitoring relief granted by a State to a public water system for a regulated contaminant under subsection (a) or (b) shall be treated as part of the national primary drinking water regulation for that contaminant.

''(d) OTHER MONITORING RELIEF.—Nothing in this section shall be construed to affect the authority of the States under applicable national primary drinking water regulations to alter monitoring requirements through waivers or other existing authorities. The Administrator shall periodically review and, as appropriate, revise such authorities.''.

(c) UNREGULATED CONTAMINANTS.—Section 1445(a) (42 U.S.C. 300j–4(a)) is amended by striking paragraphs (2) through (8) and inserting the following:

''(2) MONITORING PROGRAM FOR UNREGULATED CONTAMINANTS.—

''(A) ESTABLISHMENT.—The Administrator shall promulgate regulations establishing the criteria for a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by public water systems and shall vary the frequency and schedule for monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found, ensuring that only a representative sample of systems serving 10,000 persons or fewer are required to monitor.

''(B) MONITORING PROGRAM FOR CERTAIN UNREGULATED CONTAMINANTS.—

''(i) INITIAL LIST.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and every 5 years thereafter, the Administrator shall issue a list pursuant to subparagraph (A) of not more than 30 unregulated contaminants to be monitored by public water systems and to be included in the national drinking water occurrence data base maintained pursuant to subsection (g).

''(ii) GOVERNORS' PETITION.—The Administrator shall include among the list of contaminants for which monitoring is required under this paragraph each contaminant recommended in a petition signed by the Governor of each of 7 or more States, unless the Administrator determines that the action would prevent the listing of other contaminants of a higher public health concern.

''(C) MONITORING PLAN FOR SMALL AND MEDIUM SYSTEMS.—

''(i) IN GENERAL.—Based on the regulations promulgated by the Administrator, each State may develop a representative monitoring plan to assess the occurrence of unregulated contaminants in public water systems that serve a population of 10,000 or fewer in that State. The plan shall require monitoring for systems representative of different sizes, types, and geographic locations in the State.

''(ii) GRANTS FOR SMALL SYSTEM COSTS.—From funds reserved under section 1452(o) or appropriated under subparagraph (H), the Administrator shall pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring under the plan.

''(D) MONITORING RESULTS.—Each public water system that conducts monitoring of unregulated contaminants pursuant to this paragraph shall provide the results of the monitoring to the primary enforcement authority for the system.

''(E) NOTIFICATION.—Notification of the availability of the results of monitoring programs required under paragraph (2)(A) shall be given to the persons served by the system.

''(F) WAIVER OF MONITORING REQUIREMENT.—The Administrator shall waive the requirement for monitoring for a contaminant under this paragraph in a State, if the State demonstrates that the criteria for listing the contaminant do not apply in that State.

''(G) ANALYTICAL METHODS.—The State may use screening methods approved by the Administrator under subsection (i) in lieu of monitoring for particular contaminants under this paragraph.

''(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $10,000,000 for each of the fiscal years 1997 through 2003.''.

(d) SCREENING METHODS.—Section 1445 (42 U.S.C. 300j–4) is amended by adding the following after subsection (h):

''(i) SCREENING METHODS.—The Administrator shall review new analytical methods to screen for regulated contaminants and may approve such methods as are more accurate or cost-effective than established reference methods for use in compliance monitoring.''.

SEC. 126. OCCURRENCE DATA BASE.

Section 1445 (42 U.S.C. 300j–4) is amended by adding the following new subsection after subsection (f):

''(g) OCCURRENCE DATA BASE.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall assemble and maintain a national drinking water contaminant occurrence data base, using information on the occurrence of both regulated and unregulated contaminants in public water systems obtained under subsection (a)(1)(A) or subsection (a)(2) and reliable information from other public and private sources.

''(2) PUBLIC INPUT.—In establishing the occurrence data base, the Administrator shall solicit recommendations from the Science Advisory Board, the States, and other interested parties concerning the development and maintenance of a national drinking water contaminant occurrence data base, including such issues as the structure and design of the data base, data input parameters and requirements, and the use and interpretation of data.

''(3) USE.—The data shall be used by the Administrator in making determinations under section 1412(b)(1) with respect to the occurrence of a contaminant in drinking water at a level of public health concern.

''(4) PUBLIC RECOMMENDATIONS.—The Administrator shall periodically solicit recommendations from the appropriate officials of the National Academy of Sciences and the States, and any person may submit recommendations to the Administrator, with respect to contaminants that should be included in the national drinking water contaminant occurrence data base, including recommendations with respect to additional unregulated contaminants that should be listed under subsection (a)(2). Any recommendation submitted under this clause shall be accompanied by reasonable documentation that—

''(A) the contaminant occurs or is likely to occur in drinking water; and

''(B) the contaminant poses a risk to public health.

''(5) PUBLIC AVAILABILITY.—The information from the data base shall be available to the public in readily accessible form.

''(6) REGULATED CONTAMINANTS.—With respect to each contaminant for which a national primary drinking water regulation has been established, the data base shall include information on the detection of the contaminant at a quantifiable level in public water systems (including

detection of the contaminant at levels not constituting a violation of the maximum contaminant level for the contaminant).

''(7) UNREGULATED CONTAMINANTS.—With respect to contaminants for which a national primary drinking water regulation has not been established, the data base shall include—

''(A) monitoring information collected by public water systems that serve a population of more than 10,000, as required by the Administrator under subsection (a);

''(B) monitoring information collected from a representative sampling of public water systems that serve a population of 10,000 or fewer; and

''(C) other reliable and appropriate monitoring information on the occurrence of the contaminants in public water systems that is available to the Administrator.''.

SEC. 127. DRINKING WATER ADVISORY COUNCIL.

The second sentence of section 1446(a) (42 U.S.C. 300j–6(a)) is amended by inserting before the period at the end the following: '', of which two such members shall be associated with small, rural public water systems''.

SEC. 128. NEW YORK CITY WATERSHED PROTECTION PROGRAM.

Section 1443 (42 U.S.C. 300j–2) is amended by adding at the end the following:

''(d) NEW YORK CITY WATERSHED PROTECTION PROGRAM.—

''(1) IN GENERAL.—The Administrator is authorized to provide financial assistance to the State of New York for demonstration projects implemented as part of the watershed program for the protection and enhancement of the quality of source waters of the New York City water supply system, including projects that demonstrate, assess, or provide for comprehensive monitoring and surveillance and projects necessary to comply with the criteria for avoiding filtration contained in 40 CFR 141.71. Demonstration projects which shall be eligible for financial assistance shall be certified to the Administrator by the State of New York as satisfying the purposes of this subsection. In certifying projects to the Administrator, the State of New York shall give priority to monitoring projects that have undergone peer review.

''(2) REPORT.—Not later than 5 years after the date on which the Administrator first provides assistance pursuant to this paragraph, the Governor of the State of New York shall submit a report to the Administrator on the results of projects assisted.

''(3) MATCHING REQUIREMENTS.—Federal assistance provided under this subsection shall not exceed 50 percent of the total cost of the protection program being carried out for any particular watershed or ground water recharge area.

''(4) AUTHORIZATION.—There are authorized to be appropriated to the Administrator to carry out this subsection for each of fiscal years 1997 through 2003, $15,000,000 for the purpose of providing assistance to the State of New York to carry out paragraph (1).''.

SEC. 129. FEDERAL AGENCIES.

(a) IN GENERAL.—Section 1447 (42 U.S.C. 300j–6) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following:

''(a) IN GENERAL.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government—

''(1) owning or operating any facility in a wellhead protection area;

''(2) engaged in any activity at such facility resulting, or which may result, in the contamination of water supplies in any such area;

''(3) owning or operating any public water system; or

''(4) engaged in any activity resulting, or which may result in, underground injection which endangers drinking water (within the meaning of section 1421(d)(2)),

shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting the protection of such wellhead areas, respecting such public water systems, and respecting any underground injection in the same manner and to the same extent as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local regulatory program respecting the protection of wellhead areas or public water systems or respecting any underground injection. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning the protection of wellhead areas or public water systems or concerning underground injection with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State requirement adopted pursuant to this title, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction. The President may exempt any facility of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods not to exceed 1 year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

''(b) ADMINISTRATIVE PENALTY ORDERS.—

''(1) IN GENERAL.—If the Administrator finds that a Federal agency has violated an applicable requirement under this title, the Administrator may issue a penalty order assessing a penalty against the Federal agency.

''(2) PENALTIES.—The Administrator may, after notice to the agency, assess a civil penalty against the agency in an amount not to exceed $25,000 per day per violation.

''(3) PROCEDURE.—Before an administrative penalty order issued under this subsection becomes final, the Administrator shall provide the agency an opportunity to confer with the Administrator and shall provide the agency notice and an opportunity for a hearing on the record in accordance with chapters 5 and 7 of title 5, United States Code.

''(4) PUBLIC REVIEW.—

''(A) IN GENERAL.—Any interested person may obtain review of an administrative penalty order issued under this subsection. The review may be obtained in the United States District Court for the District of Columbia or in the United States District Court for the district in which the violation is alleged to have occurred by the filing of a complaint with the court within the 30-day period beginning on the date the penalty order becomes final. The person filing the complaint shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General.

''(B) RECORD.—The Administrator shall promptly file in the court a certified copy of the record on which the order was issued.

''(C) STANDARD OF REVIEW.—The court shall not set aside or remand the order unless the court finds that there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

''(D) PROHIBITION ON ADDITIONAL PENALTIES.—The court may not impose an additional civil penalty for a violation that is subject to the order unless the court finds that the assessment constitutes an abuse of discretion by the Administrator.''

''(c) LIMITATION ON STATE USE OF FUNDS COLLECTED FROM FEDERAL GOVERNMENT.—Unless a State law in effect on the date of enactment of the Safe Drinking Water Act Amendments of 1996 or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government from penalties and fines imposed for violation of any substantive or procedural requirement referred to in subsection (a) shall be used by the State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.''.

(b) CITIZEN ENFORCEMENT.—(1) The first sentence of section 1449(a) (42 U.S.C. 300j–8(a)) is amended—

(A) in paragraph (1), by striking '', or'' and inserting a semicolon;

(B) in paragraph (2), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(3) for the collection of a penalty by the United States Government (and associated costs and interest) against any Federal agency that fails, by the date that is 18 months after the effective date of a final order to pay a penalty assessed by the Administrator under section 1429(b), to pay the penalty.''.

(2) Subsection (b) of section 1449 (42 U.S.C. 300j–8(b)) is amended by striking the period at the end of paragraph (2) and inserting ''; or'' and by adding the following new paragraph after paragraph (2):

''(3) under subsection (a)(3) prior to 60 days after the plaintiff has given notice of such action to the Attorney General and to the Federal agency.''.

(c) WASHINGTON AQUEDUCT.—Section 1447 (42 U.S.C. 300j–6) is amended by adding at the end the following:

''(e) WASHINGTON AQUEDUCT.—The Secretary of the Army shall not pass the cost of any penalty assessed under this title on to any customer, user, or other purchaser of drinking water from the Washington Aqueduct system, including finished water from the Dalecarlia or McMillan treatment plant.''.

SEC. 130. STATE REVOLVING LOAN FUNDS.

Part E (42 U.S.C. 300j et seq.) is amended by adding the following new section after section 1451:

''STATE REVOLVING LOAN FUNDS

''SEC. 1452. (a) GENERAL AUTHORITY.—

''(1) GRANTS TO STATES TO ESTABLISH STATE LOAN FUNDS.—

''(A) IN GENERAL.—The Administrator shall offer to enter into agreements with eligible States to make capitalization grants, including letters of credit, to the States under this subsection to further the health protection objectives of this title, promote the efficient use of fund resources, and for other purposes as are specified in this title.

''(B) ESTABLISHMENT OF FUND.—To be eligible to receive a capitalization grant under this section, a State shall establish a drinking water treatment revolving loan fund (referred to in this section as a 'State loan fund') and comply with the other requirements of this section. Each grant to a State under this section shall be deposited in the State loan fund established by the State, except as otherwise provided in this section and in other provisions of this title. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any State loan fund.

''(C) EXTENDED PERIOD.—The grant to a State shall be available to the State for obligation during the fiscal year for which the funds are authorized and during the following fiscal year, except that grants made available from funds provided prior to fiscal year 1997 shall be available for obligation during each of the fiscal years 1997 and 1998.

''(D) ALLOTMENT FORMULA.—Except as otherwise provided in this section, funds made available to carry out this section shall be allotted to States that have entered into an agreement pursuant to this section (other than the District of Columbia) in accordance with—

''(i) for each of fiscal years 1995 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 1443 in fiscal year 1995, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum proportionate share for the State of Wyoming and the District of Columbia; and

''(ii) for fiscal year 1998 and each subsequent fiscal year, a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to subsection (h), except that the minimum proportionate share provided to each State shall be the same as the minimum proportionate share provided under clause (i).

''(E) REALLOTMENT.—The grants not obligated by the last day of the period for which the grants are available shall be reallotted according to the appropriate criteria set forth in subparagraph (D), except that the Administrator may reserve and allocate 10 percent of the remaining amount for financial assistance to Indian Tribes in addition to the amount allotted under subsection (i) and none of the funds reallotted by the Administrator shall be reallotted to any State that has not obligated all sums allotted to the State pursuant to this section during the period in which the sums were available for obligation.

''(F) NONPRIMACY STATES.—The State allotment for a State not exercising primary enforcement responsibility for public water systems shall not be deposited in any such fund but shall be allotted by the Administrator under this subparagraph. Pursuant to section 1443(a)(9)(A) such sums allotted under this subparagraph shall be reserved as needed by the Administrator to exercise primary enforcement responsibility under this title in such State and the remainder shall be reallotted to States exercising primary enforcement responsibility for public water systems for deposit in such funds. Whenever the Administrator makes a final determination pursuant to section 1413(b) that the requirements of section 1413(a) are no longer being met by a State, additional grants for such State under this title shall be immediately terminated by the Administrator. This subparagraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of the date of enactment of the Safe Drinking Water Act Amendments of 1996.

''(G) OTHER PROGRAMS.—

''(i) NEW SYSTEM CAPACITY.—Beginning in fiscal year 1999, the Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section to a State unless the State has met the requirements of section 1420(a) (relating to capacity development) and shall withhold 10 percent for fiscal year 2001, 15 percent for fiscal year 2002, and 20 percent for fiscal year 2003 if the State has not complied with the provisions of section 1420(c) (relating to capacity development strategies). Not more than a total of 20 percent of the capitalization grants made to a State in any fiscal year may be withheld under the preceding provisions of this clause. All funds withheld by the Administrator pursuant to this clause shall be reallotted by the Administrator on the basis of the same ratio as is applicable to funds allotted under subparagraph (D). None of the funds reallotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1420 (relating to capacity development).

''(ii) OPERATOR CERTIFICATION.—The Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section unless the State has met the requirements of 1419 (relating to operator certification). All funds withheld by the Administrator pursuant to this clause shall be reallotted by the Administrator on the basis of the same ratio as applicable to funds allotted under subparagraph (D). None of the funds reallotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1419 (relating to operator certification).

''(2) USE OF FUNDS.—Except as otherwise authorized by this title, amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State loan fund established under paragraph (1), or other financial assistance authorized under this section to community water systems and nonprofit noncommunity water systems, other than systems owned by Federal agencies. Financial assistance under this section may be used by a public water system only for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which the Administrator has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to the system under section 1412 or otherwise significantly further the health protection objectives of this title. The funds may also be used to provide loans to a system referred to in section 1401(4)(B) for the purpose of providing the treatment described in section 1401(4)(B)(i)(III). The funds shall not be used for the acquisition of real property or interests therein, unless the acquisition is integral to a project authorized by this paragraph and the purchase is from a willing seller. Of the amount credited to any State loan fund established under this section in any fiscal year, 15 percent shall be available solely for providing loan assistance to public water systems which regularly serve fewer than 10,000 persons to the extent such funds can be obligated for eligible projects of public water systems.

''(3) LIMITATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no assistance under this section shall be provided to a public water system that—

''(i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this title; or

''(ii) is in significant noncompliance with any requirement of a national primary drinking water regulation or variance.

''(B) RESTRUCTURING.—A public water system described in subparagraph (A) may receive assistance under this section if—

''(i) the use of the assistance will ensure compliance; and

''(ii) if subparagraph (A)(i) applies to the system, the owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) if the State determines that the measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with the requirements of this title over the long term.

''(C) REVIEW.—Prior to providing assistance under this section to a public water system that is in significant noncompliance with any requirement of a national primary drinking water regulation or variance, the State shall conduct a review to determine whether subparagraph (A)(i) applies to the system.

''(b) INTENDED USE PLANS.—

''(1) IN GENERAL.—After providing for public review and comment, each State that has entered into a capitalization agreement pursuant to this section shall annually prepare a plan that identifies the intended uses of the amounts available to the State loan fund of the State.

''(2) CONTENTS.—An intended use plan shall include—

''(A) a list of the projects to be assisted in the first fiscal year that begins after the date of the plan, including a description of the project, the expected terms of financial assistance, and the size of the community served;

''(B) the criteria and methods established for the distribution of funds; and

''(C) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

''(3) USE OF FUNDS.—

''(A) IN GENERAL.—An intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to projects that—

''(i) address the most serious risk to human health;

''(ii) are necessary to ensure compliance with the requirements of this title (including requirements for filtration); and

''(iii) assist systems most in need on a per household basis according to State affordability criteria.

''(B) LIST OF PROJECTS.—Each State shall, after notice and opportunity for public comment, publish and periodically update a list of projects in the State that are eligible for assistance under this section, including the priority assigned to each project and, to the extent known, the expected funding schedule for each project.

''(c) FUND MANAGEMENT.—Each State loan fund under this section shall be established, maintained, and credited with repayments and interest. The fund corpus shall be available in perpetuity for providing financial assistance under this section. To the extent amounts in the fund are not required for current obligation or expenditure, such amounts shall be invested in interest bearing obligations.

''(d) ASSISTANCE FOR DISADVANTAGED COMMUNITIES.—

''(1) LOAN SUBSIDY.—Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

''(2) TOTAL AMOUNT OF SUBSIDIES.—For each fiscal year, the total amount of loan subsidies

made by a State pursuant to paragraph (1) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.

''(3) DEFINITION OF DISADVANTAGED COMMUNITY.—In this subsection, the term 'disadvantaged community' means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria.

''(e) STATE CONTRIBUTION.—Each agreement under subsection (a) shall require that the State deposit in the State loan fund from State moneys an amount equal to at least 20 percent of the total amount of the grant to be made to the State on or before the date on which the grant payment is made to the State, except that a State shall not be required to deposit such amount into the fund prior to the date on which each grant payment is made for fiscal years 1994, 1995, 1996, and 1997 if the State deposits the State contribution amount into the State loan fund prior to September 30, 1999.

''(f) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, the amounts deposited into a State loan fund under this section may be used only—

''(1) to make loans, on the condition that—

''(A) the interest rate for each loan is less than or equal to the market interest rate, including an interest free loan;

''(B) principal and interest payments on each loan will commence not later than 1 year after completion of the project for which the loan was made, and each loan will be fully amortized not later than 20 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (d)(3)), a State may provide an extended term for a loan, if the extended term—

''(i) terminates not later than the date that is 30 years after the date of project completion; and

''(ii) does not exceed the expected design life of the project;

''(C) the recipient of each loan will establish a dedicated source of revenue (or, in the case of a privately owned system, demonstrate that there is adequate security) for the repayment of the loan; and

''(D) the State loan fund will be credited with all payments of principal and interest on each loan;

''(2) to buy or refinance the debt obligation of a municipality or an intermunicipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a debt obligation is incurred after July 1, 1993;

''(3) to guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this section) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation;

''(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund; and

''(5) to earn interest on the amounts deposited into the State loan fund.

''(g) ADMINISTRATION OF STATE LOAN FUNDS.—

''(1) COMBINED FINANCIAL ADMINISTRATION.—Notwithstanding subsection (c), a State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a State loan fund established under this section with the financial administration of any other revolving fund established by the State if otherwise not prohibited by the law under which the State loan fund was established and if the Administrator determines that—

''(A) the grants under this section, together with loan repayments and interest, will be separately accounted for and used solely for the purposes specified in subsection (a); and

''(B) the authority to establish assistance priorities and carry out oversight and related activities (other than financial administration) with respect to assistance remains with the State agency having primary responsibility for administration of the State program under section 1413, after consultation with other appropriate State agencies (as determined by the State): Provided, That in nonprimacy States eligible to receive assistance under this section, the Governor shall determine which State agency will have authority to establish priorities for financial assistance from the State loan fund.

''(2) COST OF ADMINISTERING FUND.—Each State may annually use up to 4 percent of the funds allotted to the State under this section to cover the reasonable costs of administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund which are incurred after the date of enactment of this section, and to provide technical assistance to public water systems within the State. For fiscal year 1995 and each fiscal year thereafter, each State may use up to an additional 10 percent of the funds allotted to the State under this section—

''(A) for public water system supervision programs under section 1443(a);

''(B) to administer or provide technical assistance through source water protection programs;

''(C) to develop and implement a capacity development strategy under section 1420(c); and

''(D) for an operator certification program for purposes of meeting the requirements of section 1419,

if the State matches the expenditures with at least an equal amount of State funds. At least half of the match must be additional to the amount expended by the State for public water supervision in fiscal year 1993. An additional 2 percent of the funds annually allotted to each State under this section may be used by the State to provide technical assistance to public water systems serving 10,000 or fewer persons in the State. Funds utilized under subparagraph (B) shall not be used for enforcement actions.

''(3) GUIDANCE AND REGULATIONS.—The Administrator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including—

''(A) provisions to ensure that each State commits and expends funds allotted to the State under this section as efficiently as possible in accordance with this title and applicable State laws;

''(B) guidance to prevent waste, fraud, and abuse; and

''(C) guidance to avoid the use of funds made available under this section to finance the expansion of any public water system in anticipation of future population growth.

The guidance and regulations shall also ensure that the States, and public water systems receiving assistance under this section, use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

''(4) STATE REPORT.—Each State administering a loan fund and assistance program under this subsection shall publish and submit to the Administrator a report every 2 years on its activities under this section, including the findings of the most recent audit of the fund and the entire State allotment. The Administrator shall periodically audit all State loan funds established by, and all other amounts allotted to, the States pursuant to this section in accordance with procedures established by the Comptroller General.

''(h) NEEDS SURVEY.—The Administrator shall conduct an assessment of water system capital improvement needs of all eligible public water systems in the United States and submit a report to the Congress containing the results of the assessment within 180 days after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and every 4 years thereafter.

''(i) INDIAN TRIBES.—

''(1) IN GENERAL.—1½ percent of the amounts appropriated annually to carry out this section may be used by the Administrator to make grants to Indian Tribes and Alaska Native villages that have not otherwise received either grants from the Administrator under this section or assistance from State loan funds established under this section. The grants may only be used for expenditures by tribes and villages for public water system expenditures referred to in subsection (a)(2).

''(2) USE OF FUNDS.—Funds reserved pursuant to paragraph (1) shall be used to address the most significant threats to public health associated with public water systems that serve Indian Tribes, as determined by the Administrator in consultation with the Director of the Indian Health Service and Indian Tribes.

''(3) ALASKA NATIVE VILLAGES.—In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

''(4) NEEDS ASSESSMENT.—The Administrator, in consultation with the Director of the Indian Health Service and Indian Tribes, shall, in accordance with a schedule that is consistent with the needs surveys conducted pursuant to subsection (h), prepare surveys and assess the needs of drinking water treatment facilities to serve Indian Tribes, including an evaluation of the public water systems that pose the most significant threats to public health.

''(j) OTHER AREAS.—Of the funds annually available under this section for grants to States, the Administrator shall make allotments in accordance with section 1443(a)(4) for the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam. The grants allotted as provided in this subsection may be provided by the Administrator to the governments of such areas, to public water systems in such areas, or to both, to be used for the public water system expenditures referred to in subsection (a)(2). The grants, and grants for the District of Columbia, shall not be deposited in State loan funds. The total allotment of grants under this section for all areas described in this subsection in any fiscal year shall not exceed 0.33 percent of the aggregate amount made available to carry out this section in that fiscal year.

''(k) OTHER AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—Notwithstanding subsection (a)(2), a State may take each of the following actions:

''(A) Provide assistance, only in the form of a loan, to one or more of the following:

''(i) Any public water system described in subsection (a)(2) to acquire land or a conservation easement from a willing seller or grantor, if the purpose of the acquisition is to protect the source water of the system from contamination and to ensure compliance with national primary drinking water regulations.

''(ii) Any community water system to implement local, voluntary source water protection measures to protect source water in areas delineated pursuant to section 1453, in order to facilitate compliance with national primary drinking water regulations applicable to the system under section 1412 or otherwise significantly further the health protection objectives of this title. Funds authorized under this clause may be used to fund only voluntary, incentive-based mechanisms.

''(iii) Any community water system to provide funding in accordance with section 1454(a)(1)(B)(i).

''(B) Provide assistance, including technical and financial assistance, to any public water

system as part of a capacity development strategy developed and implemented in accordance with section 1420(c).

''(C) Make expenditures from the capitalization grant of the State for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 1453, except that funds set aside for such expenditure shall be obligated within 4 fiscal years.

''(D) Make expenditures from the fund for the establishment and implementation of wellhead protection programs under section 1428.

''(2) LIMITATION.—For each fiscal year, the total amount of assistance provided and expenditures made by a State under this subsection may not exceed 15 percent of the amount of the capitalization grant received by the State for that year and may not exceed 10 percent of that amount for any one of the following activities:

''(A) To acquire land or conservation easements pursuant to paragraph (1)(A)(i).

''(B) To provide funding to implement voluntary, incentive-based source water quality protection measures pursuant to clauses (ii) and (iii) of paragraph (1)(A).

''(C) To provide assistance through a capacity development strategy pursuant to paragraph (1)(B).

''(D) To make expenditures to delineate or assess source water protection areas pursuant to paragraph (1)(C).

''(E) To make expenditures to establish and implement wellhead protection programs pursuant to paragraph (1)(D).

''(3) STATUTORY CONSTRUCTION.—Nothing in this section creates or conveys any new authority to a State, political subdivision of a State, or community water system for any new regulatory measure, or limits any authority of a State, political subdivision of a State or community water system.

''(l) SAVINGS.—The failure or inability of any public water system to receive funds under this section or any other loan or grant program, or any delay in obtaining the funds, shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of this title.

''(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section $599,000,000 for the fiscal year 1994 and $1,000,000,000 for each of the fiscal years 1995 through 2003. To the extent amounts authorized to be appropriated under this subsection in any fiscal year are not appropriated in that fiscal year, such amounts are authorized to be appropriated in a subsequent fiscal year (prior to the fiscal year 2004). Such sums shall remain available until expended.

''(n) HEALTH EFFECTS STUDIES.—From funds appropriated pursuant to this section for each fiscal year, the Administrator shall reserve $10,000,000 for health effects studies on drinking water contaminants authorized by the Safe Drinking Water Act Amendments of 1996. In allocating funds made available under this subsection, the Administrator shall give priority to studies concerning the health effects of cryptosporidium (as authorized by section 1458(c)), disinfection byproducts (as authorized by section 1458(c)), and arsenic (as authorized by section 1412(b)(12)(A)), and the implementation of a plan for studies of subpopulations at greater risk of adverse effects (as authorized by section 1458(a)).

''(o) MONITORING FOR UNREGULATED CONTAMINANTS.—From funds appropriated pursuant to this section for each fiscal year beginning with fiscal year 1998, the Administrator shall reserve $2,000,000 to pay the costs of monitoring for unregulated contaminants under section 1445(a)(2)(C).

''(p) DEMONSTRATION PROJECT FOR STATE OF VIRGINIA.—Notwithstanding the other provisions of this section limiting the use of funds deposited in a State loan fund from any State allotment, the State of Virginia may, as a single demonstration and with the approval of the Virginia General Assembly and the Administrator, conduct a program to demonstrate alternative approaches to intergovernmental coordination to assist in the financing of new drinking water facilities in the following rural communities in southwestern Virginia where none exists on the date of enactment of the Safe Drinking Water Act Amendments of 1996 and where such communities are experiencing economic hardship: Lee County, Wise County, Scott County, Dickenson County, Russell County, Buchanan County, Tazewell County, and the city of Norton, Virginia. The funds allotted to that State and deposited in the State loan fund may be loaned to a regional endowment fund for the purpose set forth in this subsection under a plan to be approved by the Administrator. The plan may include an advisory group that includes representatives of such counties.

''(q) SMALL SYSTEM TECHNICAL ASSISTANCE.—The Administrator may reserve up to 2 percent of the total funds appropriated pursuant to subsection (m) for each of the fiscal years 1997 through 2003 to carry out the provisions of section 1442(e) (relating to technical assistance for small systems), except that the total amount of funds made available for such purpose in any fiscal year through appropriations (as authorized by section 1442(e)) and reservations made pursuant to this subsection shall not exceed the amount authorized by section 1442(e).

''(r) EVALUATION.—The Administrator shall conduct an evaluation of the effectiveness of the State loan funds through fiscal year 2001. The evaluation shall be submitted to the Congress at the same time as the President submits to the Congress, pursuant to section 1108 of title 31, United States Code, an appropriations request for fiscal year 2003 relating to the budget of the Environmental Protection Agency.''.

SEC. 131. STATE GROUND WATER PROTECTION GRANTS.

Part C (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

''STATE GROUND WATER PROTECTION GRANTS

''SEC. 1429. (a) IN GENERAL.—The Administrator may make a grant to a State for the development and implementation of a State program to ensure the coordinated and comprehensive protection of ground water resources within the State.

''(b) GUIDANCE.—Not later than 1 year after the date of enactment of the Safe Drinking Water Act Amendments of 1996, and annually thereafter, the Administrator shall publish guidance that establishes procedures for application for State ground water protection program assistance and that identifies key elements of State ground water protection programs.

''(c) CONDITIONS OF GRANTS.—

''(1) IN GENERAL.—The Administrator shall award grants to States that submit an application that is approved by the Administrator. The Administrator shall determine the amount of a grant awarded pursuant to this paragraph on the basis of an assessment of the extent of ground water resources in the State and the likelihood that awarding the grant will result in sustained and reliable protection of ground water quality.

''(2) INNOVATIVE PROGRAM GRANTS.—The Administrator may also award a grant pursuant to this subsection for innovative programs proposed by a State for the prevention of ground water contamination.

''(3) ALLOCATION OF FUNDS.—The Administrator shall, at a minimum, ensure that, for each fiscal year, not less than 1 percent of funds made available to the Administrator by appropriations to carry out this section are allocated to each State that submits an application that is approved by the Administrator pursuant to this section.

''(4) LIMITATION ON GRANTS.—No grant awarded by the Administrator may be used for a project to remediate ground water contamination.

''(d) AMOUNT OF GRANTS.—The amount of a grant awarded pursuant to paragraph (1) shall not exceed 50 percent of the eligible costs of carrying out the ground water protection program that is the subject of the grant (as determined by the Administrator) for the 1-year period beginning on the date that the grant is awarded. The State shall pay a State share to cover the costs of the ground water protection program from State funds in an amount that is not less than 50 percent of the cost of conducting the program.

''(e) EVALUATIONS AND REPORTS.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, and every 3 years thereafter, the Administrator shall evaluate the State ground water protection programs that are the subject of grants awarded pursuant to this section and report to the Congress on the status of ground water quality in the United States and the effectiveness of State programs for ground water protection.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 1997 through 2003.''.

SEC. 132. SOURCE WATER ASSESSMENT.

(a) IN GENERAL.—Part E (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

''SOURCE WATER QUALITY ASSESSMENT

''SEC. 1453. (a) SOURCE WATER ASSESSMENT.—

''(1) GUIDANCE.—Within 12 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996, after notice and comment, the Administrator shall publish guidance for States exercising primary enforcement responsibility for public water systems to carry out directly or through delegation (for the protection and benefit of public water systems and for the support of monitoring flexibility) a source water assessment program within the State's boundaries. Each State adopting modifications to monitoring requirements pursuant to section 1418(b) shall, prior to adopting such modifications, have an approved source water assessment program under this section and shall carry out the program either directly or through delegation.

''(2) PROGRAM REQUIREMENTS.—A source water assessment program under this subsection shall—

''(A) delineate the boundaries of the assessment areas in such State from which one or more public water systems in the State receive supplies of drinking water, using all reasonably available hydrogeologic information on the sources of the supply of drinking water in the State and the water flow, recharge, and discharge and any other reliable information as the State deems necessary to adequately determine such areas; and

''(B) identify for contaminants regulated under this title for which monitoring is required under this title (or any unregulated contaminants selected by the State, in its discretion, which the State, for the purposes of this subsection, has determined may present a threat to public health), to the extent practical, the origins within each delineated area of such contaminants to determine the susceptibility of the public water systems in the delineated area to such contaminants.

''(3) APPROVAL, IMPLEMENTATION, AND MONITORING RELIEF.—A State source water assessment program under this subsection shall be submitted to the Administrator within 18 months after the Administrator's guidance is issued under this subsection and shall be deemed approved 9 months after the date of such submittal unless the Administrator disapproves the program as provided in section 1428(c). States shall begin implementation of the program immediately after its approval. The Administrator's approval of a State program under this subsection shall include a timetable, established in consultation with the State, allowing not more

than 2 years for completion after approval of the program. Public water systems seeking monitoring relief in addition to the interim relief provided under section 1418(a) shall be eligible for monitoring relief, consistent with section 1418(b), upon completion of the assessment in the delineated source water assessment area or areas concerned.

''(4) TIMETABLE.—The timetable referred to in paragraph (3) shall take into consideration the availability to the State of funds under section 1452 (relating to State loan funds) for assessments and other relevant factors. The Administrator may extend any timetable included in a State program approved under paragraph (3) to extend the period for completion by an additional 18 months.

''(5) DEMONSTRATION PROJECT.—The Administrator shall, as soon as practicable, conduct a demonstration project, in consultation with other Federal agencies, to demonstrate the most effective and protective means of assessing and protecting source waters serving large metropolitan areas and located on Federal lands.

''(6) USE OF OTHER PROGRAMS.—To avoid duplication and to encourage efficiency, the program under this section may make use of any of the following:

''(A) Vulnerability assessments, sanitary surveys, and monitoring programs.

''(B) Delineations or assessments of ground water sources under a State wellhead protection program developed pursuant to this section.

''(C) Delineations or assessments of surface or ground water sources under a State pesticide management plan developed pursuant to the Pesticide and Ground Water State Management Plan Regulation (subparts I and J of part 152 of title 40, Code of Federal Regulations), promulgated under section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(d)).

''(D) Delineations or assessments of surface water sources under a State watershed initiative or to satisfy the watershed criterion for determining if filtration is required under the Surface Water Treatment Rule (section 141.70 of title 40, Code of Federal Regulations).

''(E) Delineations or assessments of surface or ground water sources under programs or plans pursuant to the Federal Water Pollution Control Act.

''(7) PUBLIC AVAILABILITY.—The State shall make the results of the source water assessments conducted under this subsection available to the public.

''(b) APPROVAL AND DISAPPROVAL.—For provisions relating to program approval and disapproval, see section 1428(c).''.

(b) APPROVAL AND DISAPPROVAL OF STATE PROGRAMS.—Section 1428 (42 U.S.C. 300h–7) is amended as follows:

(1) Amend the first sentence of subsection (c)(1) to read as follows: ''If, in the judgment of the Administrator, a State program or portion thereof under subsection (a) is not adequate to protect public water systems as required by subsection (a) or a State program under section 1453 or section 1418(b) does not meet the applicable requirements of section 1453 or section 1418(b), the Administrator shall disapprove such program or portion thereof.''.

(2) Add after the second sentence of subsection (c)(1) the following: ''A State program developed pursuant to section 1453 or section 1418(b) shall be deemed to meet the applicable requirements of section 1453 or section 1418(b) unless the Administrator determines within 9 months of the receipt of the program that such program (or portion thereof) does not meet such requirements.''.

(3) In the third sentence of subsection (c)(1) and in subsection (c)(2), strike ''is inadequate'' and insert ''is disapproved''.

(4) In subsection (b), add the following before the period at the end of the first sentence: ''and source water assessment programs under section 1453''.

SEC. 133. SOURCE WATER PETITION PROGRAM.

(a) IN GENERAL.—Part E (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

''SOURCE WATER PETITION PROGRAM

''SEC. 1454. (a) PETITION PROGRAM.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—A State may establish a program under which an owner or operator of a community water system in the State, or a municipal or local government or political subdivision of a State, may submit a source water quality protection partnership petition to the State requesting that the State assist in the local development of a voluntary, incentive-based partnership, among the owner, operator, or government and other persons likely to be affected by the recommendations of the partnership, to—

''(i) reduce the presence in drinking water of contaminants that may be addressed by a petition by considering the origins of the contaminants, including to the maximum extent practicable the specific activities that affect the drinking water supply of a community;

''(ii) obtain financial or technical assistance necessary to facilitate establishment of a partnership, or to develop and implement recommendations of a partnership for the protection of source water to assist in the provision of drinking water that complies with national primary drinking water regulations with respect to contaminants addressed by a petition; and

''(iii) develop recommendations regarding voluntary and incentive-based strategies for the long-term protection of the source water of community water systems.

''(B) FUNDING.—Each State may—

''(i) use funds set aside pursuant to section 1452(k)(1)(A)(iii) by the State to carry out a program described in subparagraph (A), including assistance to voluntary local partnerships for the development and implementation of partnership recommendations for the protection of source water such as source water quality assessment, contingency plans, and demonstration projects for partners within a source water area delineated under section 1453(a); and

''(ii) provide assistance in response to a petition submitted under this subsection using funds referred to in subsection (b)(2)(B).

''(2) OBJECTIVES.—The objectives of a petition submitted under this subsection shall be to—

''(A) facilitate the local development of voluntary, incentive-based partnerships among owners and operators of community water systems, governments, and other persons in source water areas; and

''(B) obtain assistance from the State in identifying resources which are available to implement the recommendations of the partnerships to address the origins of drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) that affect the drinking water supply of a community.

''(3) CONTAMINANTS ADDRESSED BY A PETITION.—A petition submitted to a State under this subsection may address only those contaminants—

''(A) that are pathogenic organisms for which a national primary drinking water regulation has been established or is required under section 1412; or

''(B) for which a national primary drinking water regulation has been promulgated or proposed and that are detected by adequate monitoring methods in the source water at the intake structure or in any collection, treatment, storage, or distribution facilities by the community water systems at levels—

''(i) above the maximum contaminant level; or

''(ii) that are not reliably and consistently below the maximum contaminant level.

''(4) CONTENTS.—A petition submitted under this subsection shall, at a minimum—

''(A) include a delineation of the source water area in the State that is the subject of the petition;

''(B) identify, to the maximum extent practicable, the origins of the drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) in the source water area delineated under section 1453;

''(C) identify any deficiencies in information that will impair the development of recommendations by the voluntary local partnership to address drinking water contaminants that may be addressed by a petition;

''(D) specify the efforts made to establish the voluntary local partnership and obtain the participation of—

''(i) the municipal or local government or other political subdivision of the State with jurisdiction over the source water area delineated under section 1453; and

''(ii) each person in the source water area delineated under section 1453—

''(I) who is likely to be affected by recommendations of the voluntary local partnership; and

''(II) whose participation is essential to the success of the partnership;

''(E) outline how the voluntary local partnership has or will, during development and implementation of recommendations of the voluntary local partnership, identify, recognize and take into account any voluntary or other activities already being undertaken by persons in the source water area delineated under section 1453 under Federal or State law to reduce the likelihood that contaminants will occur in drinking water at levels of public health concern; and

''(F) specify the technical, financial, or other assistance that the voluntary local partnership requests of the State to develop the partnership or to implement recommendations of the partnership.

''(b) APPROVAL OR DISAPPROVAL OF PETITIONS.—

''(1) IN GENERAL.—After providing notice and an opportunity for public comment on a petition submitted under subsection (a), the State shall approve or disapprove the petition, in whole or in part, not later than 120 days after the date of submission of the petition.

''(2) APPROVAL.—The State may approve a petition if the petition meets the requirements established under subsection (a). The notice of approval shall, at a minimum, include for informational purposes—

''(A) an identification of technical, financial, or other assistance that the State will provide to assist in addressing the drinking water contaminants that may be addressed by a petition based on—

''(i) the relative priority of the public health concern identified in the petition with respect to the other water quality needs identified by the State;

''(ii) any necessary coordination that the State will perform of the program established under this section with programs implemented or planned by other States under this section; and

''(iii) funds available (including funds available from a State revolving loan fund established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or section 1452;

''(B) a description of technical or financial assistance pursuant to Federal and State programs that is available to assist in implementing recommendations of the partnership in the petition, including—

''(i) any program established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

''(ii) the program established under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b);

''(iii) the agricultural water quality protection program established under chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.);

''(iv) the sole source aquifer protection program established under section 1427;

''(v) the community wellhead protection program established under section 1428;

''(vi) any pesticide or ground water management plan;

''(vii) any voluntary agricultural resource management plan or voluntary whole farm or whole ranch management plan developed and implemented under a process established by the Secretary of Agriculture; and

''(viii) any abandoned well closure program; and

''(C) a description of activities that will be undertaken to coordinate Federal and State programs to respond to the petition.

''(3) DISAPPROVAL.—If the State disapproves a petition submitted under subsection (a), the State shall notify the entity submitting the petition in writing of the reasons for disapproval. A petition may be resubmitted at any time if—

''(A) new information becomes available;

''(B) conditions affecting the source water that is the subject of the petition change; or

''(C) modifications are made in the type of assistance being requested.

''(c) GRANTS TO SUPPORT STATE PROGRAMS.—

''(1) IN GENERAL.—The Administrator may make a grant to each State that establishes a program under this section that is approved under paragraph (2). The amount of each grant shall not exceed 50 percent of the cost of administering the program for the year in which the grant is available.

''(2) APPROVAL.—In order to receive grant assistance under this subsection, a State shall submit to the Administrator for approval a plan for a source water quality protection partnership program that is consistent with the guidance published under subsection (d). The Administrator shall approve the plan if the plan is consistent with the guidance published under subsection (d).

''(d) GUIDANCE.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator, in consultation with the States, shall publish guidance to assist—

''(A) States in the development of a source water quality protection partnership program; and

''(B) municipal or local governments or political subdivisions of a State and community water systems in the development of source water quality protection partnerships and in the assessment of source water quality.

''(2) CONTENTS OF THE GUIDANCE.—The guidance shall, at a minimum—

''(A) recommend procedures for the approval or disapproval by a State of a petition submitted under subsection (a);

''(B) recommend procedures for the submission of petitions developed under subsection (a);

''(C) recommend criteria for the assessment of source water areas within a State; and

''(D) describe technical or financial assistance pursuant to Federal and State programs that is available to address the contamination of sources of drinking water and to develop and respond to petitions submitted under subsection (a).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of the fiscal years 1997 through 2003. Each State with a plan for a program approved under subsection (b) shall receive an equitable portion of the funds available for any fiscal year.

''(f) STATUTORY CONSTRUCTION.—Nothing in this section—

''(1)(A) creates or conveys new authority to a State, political subdivision of a State, or community water system for any new regulatory measure; or

''(B) limits any authority of a State, political subdivision, or community water system; or

''(2) precludes a community water system, municipal or local government, or political subdivision of a government from locally developing and carrying out a voluntary, incentive-based, source water quality protection partnership to address the origins of drinking water contaminants of public health concern.''.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that each State in establishing priorities under section 606(c)(1) of the Federal Water Pollution Control Act should give special consideration to projects that are eligible for funding under that Act and have been recommended pursuant to a petition submitted under section 1454 of the Safe Drinking Water Act.

SEC. 134. WATER CONSERVATION PLAN.

Part E (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

''WATER CONSERVATION PLAN

''SEC. 1455. (a) GUIDELINES.—Not later than 2 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall publish in the Federal Register guidelines for water conservation plans for public water systems serving fewer than 3,300 persons, public water systems serving between 3,300 and 10,000 persons, and public water systems serving more than 10,000 persons, taking into consideration such factors as water availability and climate.

''(b) LOANS OR GRANTS.—Within 1 year after publication of the guidelines under subsection (a), a State exercising primary enforcement responsibility for public water systems may require a public water system, as a condition of receiving a loan or grant from a State loan fund under section 1452, to submit with its application for such loan or grant a water conservation plan consistent with such guidelines.''.

SEC. 135. DRINKING WATER ASSISTANCE TO COLONIAS.

Part E (42 U.S.C. 300j et seq.) is amended by adding the following new section at the end thereof:

''ASSISTANCE TO COLONIAS

''SEC. 1456. (a) DEFINITIONS.—As used in this section:

''(1) BORDER STATE.—The term 'border State' means Arizona, California, New Mexico, and Texas.

''(2) ELIGIBLE COMMUNITY.—The term 'eligible community' means a low-income community with economic hardship that—

''(A) is commonly referred to as a colonia;

''(B) is located along the United States-Mexico border (generally in an unincorporated area); and

''(C) lacks a safe drinking water supply or adequate facilities for the provision of safe drinking water for human consumption.

''(b) GRANTS TO ALLEVIATE HEALTH RISKS.—The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to a border State to provide assistance to eligible communities to facilitate compliance with national primary drinking water regulations or otherwise significantly further the health protection objectives of this title.

''(c) USE OF FUNDS.—Each grant awarded pursuant to subsection (b) shall be used to provide assistance to one or more eligible communities with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable drinking water supply system.

''(d) COST SHARING.—The amount of a grant awarded pursuant to this section shall not exceed 50 percent of the costs of carrying out the project that is the subject of the grant.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 1997 through 1999.''.

SEC. 136. ESTROGENIC SUBSTANCES SCREENING PROGRAM.

Part E (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

''ESTROGENIC SUBSTANCES SCREENING PROGRAM

''SEC. 1457. In addition to the substances referred to in section 408(p)(3)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(p)(3)(B)) the Administrator may provide for testing under the screening program authorized by section 408(p) of such Act, in accordance with the provisions of section 408(p) of such Act, of any other substance that may be found in sources of drinking water if the Administrator determines that a substantial population may be exposed to such substance.''.

SEC. 137. DRINKING WATER STUDIES.

Part E (42 U.S.C. 300j et seq.) is amended by adding after section 1457 the following:

''DRINKING WATER STUDIES

''SEC. 1458. (a) SUBPOPULATIONS AT GREATER RISK.—

''(1) IN GENERAL.—The Administrator shall conduct a continuing program of studies to identify groups within the general population that may be at greater risk than the general population of adverse health effects from exposure to contaminants in drinking water. The study shall examine whether and to what degree infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that can be identified and characterized are likely to experience elevated health risks, including risks of cancer, from contaminants in drinking water.

''(2) REPORT.—Not later than 4 years after the date of enactment of this subsection and periodically thereafter as new and significant information becomes available, the Administrator shall report to the Congress on the results of the studies.

''(b) BIOLOGICAL MECHANISMS.—The Administrator shall conduct biomedical studies to—

''(1) understand the mechanisms by which chemical contaminants are absorbed, distributed, metabolized, and eliminated from the human body, so as to develop more accurate physiologically based models of the phenomena;

''(2) understand the effects of contaminants and the mechanisms by which the contaminants cause adverse effects (especially noncancer and infectious effects) and the variations in the effects among humans, especially subpopulations at greater risk of adverse effects, and between test animals and humans; and

''(3) develop new approaches to the study of complex mixtures, such as mixtures found in drinking water, especially to determine the prospects for synergistic or antagonistic interactions that may affect the shape of the dose-response relationship of the individual chemicals and microbes, and to examine noncancer endpoints and infectious diseases, and susceptible individuals and subpopulations.

''(c) STUDIES ON HARMFUL SUBSTANCES IN DRINKING WATER.—

''(1) DEVELOPMENT OF STUDIES.—The Administrator shall, not later than 180 days after the date of enactment of this section and after consultation with the Secretary of Health and Human Services, the Secretary of Agriculture, and, as appropriate, the heads of other Federal agencies, conduct the studies described in paragraph (2) to support the development and implementation of the most current version of each of the following:

''(A) Enhanced Surface Water Treatment Rule (59 Fed. Reg. 38832 (July 29, 1994)).

''(B) Disinfectant and Disinfection Byproducts Rule (59 Fed. Reg. 38668 (July 29, 1994)).

''(C) Ground Water Disinfection Rule (availability of draft summary announced at (57 Fed. Reg. 33960; July 31, 1992)).

''(2) CONTENTS OF STUDIES.—The studies required by paragraph (1) shall include, at a minimum, each of the following:

''(A) Toxicological studies and, if warranted, epidemiological studies to determine what levels of exposure from disinfectants and disinfection byproducts, if any, may be associated with developmental and birth defects and other potential toxic end points.

''(B) Toxicological studies and, if warranted, epidemiological studies to quantify the carcinogenic potential from exposure to disinfection by-products resulting from different disinfectants.

''(C) The development of dose-response curves for pathogens, including cryptosporidium and the Norwalk virus.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $12,500,000 for each of fiscal years 1997 through 2003.

''(d) WATERBORNE DISEASE OCCURRENCE STUDY.—

''(1) SYSTEM.—The Director of the Centers for Disease Control and Prevention, and the Administrator shall jointly—

''(A) within 2 years after the date of enactment of this section, conduct pilot waterborne disease occurrence studies for at least 5 major United States communities or public water systems; and

''(B) within 5 years after the date of enactment of this section, prepare a report on the findings of the pilot studies, and a national estimate of waterborne disease occurrence.

''(2) TRAINING AND EDUCATION.—The Director and Administrator shall jointly establish a national health care provider training and public education campaign to inform both the professional health care provider community and the general public about waterborne disease and the symptoms that may be caused by infectious agents, including microbial contaminants. In developing such a campaign, they shall seek comment from interested groups and individuals, including scientists, physicians, State and local governments, environmental groups, public water systems, and vulnerable populations.

''(3) FUNDING.—There are authorized to be appropriated for each of the fiscal years 1997 through 2001, $3,000,000 to carry out this subsection. To the extent funds under this subsection are not fully appropriated, the Administrator may use not more than $2,000,000 of the funds from amounts reserved under section 1452(n) for health effects studies for purposes of this subsection. The Administrator may transfer a portion of such funds to the Centers for Disease Control and Prevention for such purposes.''.

TITLE II—DRINKING WATER RESEARCH

SEC. 201. DRINKING WATER RESEARCH AUTHORIZATION.

Other than amounts authorized to be appropriated to the Administrator of the Environmental Protection Agency under other titles of this Act, there are authorized to be appropriated such additional sums as may be necessary for drinking water research for fiscal years 1997 through 2003. The annual total of such additional sums authorized to be appropriated under this section shall not exceed $26,593,000.

SEC. 202. SCIENTIFIC RESEARCH REVIEW.

(a) IN GENERAL.—The Administrator shall—

(1) develop a strategic plan for drinking water research activities throughout the Environmental Protection Agency (in this section referred to as the ''Agency'');

(2) integrate that strategic plan into ongoing Agency planning activities; and

(3) review all Agency drinking water research to ensure the research—

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. WATER RETURN FLOWS.

Section 3013 of Public Law 102–486 (42 U.S.C. 13551) is repealed.

SEC. 302. TRANSFER OF FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, at any time after the date 1 year after a State establishes a State loan fund pursuant to section 1452 of the Safe Drinking Water Act but prior to fiscal year 2002, a Governor of the State may—

(1) reserve up to 33 percent of a capitalization grant made pursuant to such section 1452 and add the funds reserved to any funds provided to the State pursuant to section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381); and

(2) reserve in any year a dollar amount up to the dollar amount that may be reserved under paragraph (1) for that year from capitalization grants made pursuant to section 601 of such Act (33 U.S.C. 1381) and add the reserved funds to any funds provided to the State pursuant to section 1452 of the Safe Drinking Water Act.

(b) REPORT.—Not later than 4 years after the date of enactment of this Act, the Administrator shall submit a report to the Congress regarding the implementation of this section, together with the Administrator's recommendations, if any, for modifications or improvement.

(c) STATE MATCH.—Funds reserved pursuant to this section shall not be considered to be a State match of a capitalization grant required pursuant to section 1452 of the Safe Drinking Water Act or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

SEC. 303. GRANTS TO ALASKA TO IMPROVE SANITATION IN RURAL AND NATIVE VILLAGES.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency may make grants to the State of Alaska for the benefit of rural and Native villages in Alaska to pay the Federal share of the cost of—

(1) the development and construction of public water systems and wastewater systems to improve the health and sanitation conditions in the villages; and

(2) training, technical assistance, and educational programs relating to the operation and management of sanitation services in rural and Native villages.

(b) FEDERAL SHARE.—The Federal share of the cost of the activities described in subsection (a) shall be 50 percent.

(c) ADMINISTRATIVE EXPENSES.—The State of Alaska may use an amount not to exceed 4 percent of any grant made available under this subsection for administrative expenses necessary to carry out the activities described in subsection (a).

(d) CONSULTATION WITH THE STATE OF ALASKA.—The Administrator shall consult with the State of Alaska on a method of prioritizing the allocation of grants under subsection (a) according to the needs of, and relative health and sanitation conditions in, each eligible village.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of the fiscal years 1997 through 2000 to carry out this section.

SEC. 304. SENSE OF THE CONGRESS.

It is the sense of the Congress that appropriations for grants under section 130 (relating to New York City watershed), section 137 (relating to colonias), and section 303 (relating to Alaska Native villages) should not be provided if such appropriations would prevent the adequate capitalization of State revolving loan funds.

SEC. 305. BOTTLED DRINKING WATER STANDARDS.

Section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) is amended as follows:

(1) By striking ''Whenever'' and inserting ''(a) Except as provided in subsection (b), whenever''.

(2) By adding at the end the following new subsection:

''(b)(1) Not later than 180 days before the effective date of a national primary drinking water regulation promulgated by the Administrator of the Environmental Protection Agency for a contaminant under section 1412 of the Safe Drinking Water Act (42 U.S.C. 300g–1), the Secretary shall promulgate a standard of quality regulation under this subsection for that contaminant in bottled water or make a finding that such a regulation is not necessary to protect the public health because the contaminant is contained in water in public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 300f(4))) but not in water used for bottled drinking water. The effective date for any such standard of quality regulation shall be the same as the effective date for such national primary drinking water regulation, except for any standard of quality of regulation promulgated by the Secretary before the date of enactment of the Safe Drinking Water Act Amendments of 1996 for which (as of such date of enactment) an effective date had not been established. In the case of a standard of quality regulation to which such exception applies, the Secretary shall promulgate monitoring requirements for the contaminants covered by the regulation not later than 2 years after such date of enactment.

''(2) A regulation issued by the Secretary as provided in this subsection shall include any monitoring requirements that the Secretary determines appropriate for bottled water.

''(3) A regulation issued by the Secretary as provided in this subsection shall require the following:

''(A) In the case of contaminants for which a maximum contaminant level is established in a national primary drinking water regulation under section 1412 of the Safe Drinking Water Act (42 U.S.C. 300g–1), the regulation under this subsection shall establish a maximum contaminant level for the contaminant in bottled water which is no less stringent than the maximum contaminant level provided in the national primary drinking water regulation.

''(B) In the case of contaminants for which a treatment technique is established in a national primary drinking water regulation under section 1412 of the Safe Drinking Water Act (42 U.S.C. 300g–1), the regulation under this subsection shall require that bottled water be subject to requirements no less protective of the public health than those applicable to water provided by public water systems using the treatment technique required by the national primary drinking water regulation.

''(4)(A) If the Secretary does not promulgate a regulation under this subsection within the period described in paragraph (1), the national primary drinking water regulation referred to in paragraph (1) shall be considered, as of the date on which the Secretary is required to establish a regulation under paragraph (1), as the regulation applicable under this subsection to bottled water.

''(B) In the case of a national primary drinking water regulation that pursuant to subparagraph (A) is considered to be a standard of quality regulation, the Secretary shall, not later than the applicable date referred to in such subparagraph, publish in the Federal Register a notice—

''(i) specifying the contents of such regulation, including monitoring requirements; and

''(ii) providing that for purposes of this paragraph the effective date for such regulation is the same as the effective date for the regulation for purposes of the Safe Drinking Water Act (or, if the exception under paragraph (1) applies to the regulation, that the effective date for the regulation is not later than 2 years and 180 days after the date of enactment of the Safe Drinking Water Act Amendments of 1996).''.

SEC. 306. WASHINGTON AQUEDUCT.

(a) DEFINITIONS.—In this section:

(1) NON-FEDERAL PUBLIC WATER SUPPLY CUSTOMER.—The terms ''non-Federal public water supply customer'' and ''customer'' mean—

(A) the District of Columbia;

(B) Arlington County, Virginia; and

(C) the city of Falls Church, Virginia.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Army, acting through the Chief of Engineers.

(3) VALUE TO THE GOVERNMENT.—The term ''value to the Government'' means the net present value of a contract entered into under subsection (e)(2), calculated in accordance with subparagraphs (A) and (B) of section 502(5) of

the Congressional Budget Act of 1974 (2 U.S.C. 66la(5)), other than section 502(5)(B)(I) of the Act, as though the contract provided for repayment of a direct loan to a customer.

(4) WASHINGTON AQUEDUCT.—The term ''Washington Aqueduct'' means the Washington Aqueduct facilities and related facilities owned by the Federal Government as of the date of enactment of this Act, including—

(A) the dams, intake works, conduits, and pump stations that capture and transport raw water from the Potomac River to the Dalecarlia Reservoir;

(B) the infrastructure and appurtenances used to treat water taken from the Potomac River to potable standards; and

(C) related water distribution facilities.

(b) REGIONAL ENTITY.—

(1) IN GENERAL.—The Congress encourages and grants consent to the customers to establish a non-Federal public or private entity, or to enter into an agreement with an existing non-Federal public or private entity, to—

(A) receive title to the Washington Aqueduct; and

(B) operate, maintain, and manage the Washington Aqueduct in a manner that adequately represents all interests of its customers.

(2) CONSIDERATION.—If an entity receiving title to the Washington Aqueduct is not composed entirely of non-Federal public water supply customers, the entity shall consider the customers' historical provision of equity for the Aqueduct.

(3) PRIORITY ACCESS.—The customers shall have priority access to any water produced by the Washington Aqueduct.

(4) CONSENT OF THE CONGRESS.—The Congress grants consent to the customers to enter into any interstate agreement or compact required to carry out this section.

(5) STATUTORY CONSTRUCTION.—This section shall not preclude the customers from pursuing any option regarding ownership, operation, maintenance, and management of the Washington Aqueduct.

(c) PROGRESS REPORT AND PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on any progress in achieving the objectives of subsection (b)(1) and shall submit a plan for the transfer of ownership, operation, maintenance, and management of the Washington Aqueduct to a non-Federal public or private entity. Such plan shall include a detailed consideration of any proposal to transfer such ownership, maintenance, or management to a private entity.

(d) TRANSFER.—

(1) IN GENERAL.—Subject to subsection (b)(2), the other provisions of this subsection, and any other terms and conditions the Secretary considers appropriate to protect the interests of the United States, the Secretary shall, not later than 3 years after the date of enactment of this Act and with the consent of a majority of the customers and without consideration to the Federal Government, transfer all right, title, and interest of the United States in the Washington Aqueduct, and its real property, facilities, and personalty, to a non-Federal, public or private entity. Approval of such transfer shall not be unreasonably withheld by the Secretary.

(2) ADEQUATE CAPABILITIES.—The Secretary shall transfer ownership of the Washington Aqueduct under paragraph (1) only if the Secretary determines, after opportunity for public input, that the entity to receive ownership of the Aqueduct has the technical, managerial, and financial capability to operate, maintain, and manage the Aqueduct.

(3) RESPONSIBILITIES.—The Secretary shall not transfer title under this subsection unless the entity to receive title assumes full responsibility for performing and financing the operation, maintenance, repair, replacement, rehabilitation, and necessary capital improvements of the Washington Aqueduct so as to ensure the continued operation of the Washington Aqueduct consistent with the Aqueduct's intended purpose of providing an uninterrupted supply of potable water sufficient to meet the current and future needs of the Aqueduct's service area.

(e) BORROWING AUTHORITY.—

(1) BORROWING.—

(A) IN GENERAL.—Subject to the other provisions of this paragraph and paragraph (2), the Secretary is authorized to borrow from the Treasury of the United States such amounts for fiscal years 1997, 1998, and 1999 as are sufficient to cover any obligations that the Army Corps of Engineers is required to incur in carrying out capital improvements during fiscal years 1997, 1998, and 1999 for the Washington Aqueduct to ensure continued operation of the Aqueduct until such time as a transfer of title to the Aqueduct has taken place.

(E) LIMITATION.—The amount borrowed by the Secretary under subparagraph (A) may not exceed $29,000,000 for fiscal year 1997, $24,000,000 for fiscal year 1998, and $22,000,000 for fiscal year 1999.

(C) AGREEMENT.—Amounts borrowed under subparagraph (A) may only be used for capital improvements agreed to by the Army Corps of Engineers and the customers.

(D) TERMS OF BORROWING.—

(i) IN GENERAL.—The Secretary of the Treasury shall provide the funds borrowed under subparagraph (A) under such terms and conditions as the Secretary of Treasury determines to be necessary and in the public interest and subject to the contracts required under paragraph (2).

(ii) TERM.—The term of any loan made under subparagraph (A) shall be for a period of not less than 20 years.

(iii) PREPAYMENT.—There shall be no penalty for the prepayment of any amounts borrowed under subparagraph (A).

(2) CONTRACTS WITH CUSTOMERS.—

(A) IN GENERAL.—The borrowing authority under paragraph (1)(A) shall be effective only after the Chief of Engineers has entered into contracts with each customer under which the customer commits to repay a pro rata share (based on water purchase) of the principal and interest owed by the Secretary to the Secretary of the Treasury under paragraph (1).

(B) PREPAYMENT.—Any customer may repay, at any time, the pro rata share of the principal and interest then owed by the customer and outstanding, or any portion thereof, without penalty.

(C) RISK OF DEFAULT.—Under each of the contracts, the customer that enters into the contract shall commit to pay any additional amount necessary to fully offset the risk of default on the contract.

(D) OBLIGATIONS.—Each contract under subparagraph (A) shall include such terms and conditions as the Secretary of the Treasury may require so that the value to the Government of the contracts entered into under subparagraph (A) is estimated to be equal to the obligations of the Army Corps of Engineers for carrying out capital improvements at the Washington Aqueduct at the time that each series of contracts is entered into.

(E) OTHER CONDITIONS.—Each contract entered into under subparagraph (A) shall—

(i) provide that the customer pledges future income only from fees assessed for principal and interest payments required by such contracts and costs to operate and maintain the Washington Aqueduct;

(ii) provide the United States priority in regard to income from fees assessed to operate and maintain the Washington Aqueduct; and

(iii) include other conditions consistent with this section that the Secretary of the Treasury determines to be appropriate.

(3) LIMITATIONS.—

(A) BORROWING AUTHORITY.—The Secretary's borrowing authority for making capital improvements at the Washington Aqueduct under paragraph (1) shall not extend beyond fiscal year 1999.

(B) OBLIGATION AUTHORITY.—Upon expiration of the borrowing authority exercised under paragraph (1), the Secretary shall not obligate funds for making capital improvements at the Washington Aqueduct except funds which are provided in advance by the customers. This limitation does not affect the Secretary's authority to conduct normal operation and maintenance activities, including minor repair and replacement work.

(4) IMPACT ON IMPROVEMENT PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with other Federal agencies, shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the impact of the borrowing authority provided under this subsection on the near-term improvement projects in the Washington Aqueduct Improvement Program, work scheduled, and the financial liability to be incurred.

(f) REISSUANCE OF NPDES PERMIT.—Prior to reissuing a National Pollutant Discharge Elimination System (NPDES) permit for the Washington Aqueduct, the Administrator of the Environmental Protection Agency shall consult with the customers and the Secretary regarding opportunities for more efficient water facility configurations that might be achieved through various possible transfers of the Washington Aqueduct. Such consultation shall include specific consideration of concerns regarding a proposed solids recovery facility, and may include a public hearing.

SEC. 307. WASTEWATER ASSISTANCE TO COLONIAS.

(a) DEFINITIONS.—As used in this section:

(1) BORDER STATE.—The term ''border State'' means Arizona, California, New Mexico, and Texas.

(2) ELIGIBLE COMMUNITY.—The term ''eligible community'' means a low-income community with economic hardship that—

(A) is commonly referred to as a colonia;

(B) is located along the United States-Mexico border (generally in an unincorporated area); and

(C) lacks basic sanitation facilities such as household plumbing or a proper sewage disposal system.

(3) TREATMENT WORKS.—The term ''treatment works'' has the meaning provided in section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

(b) GRANTS FOR WASTEWATER ASSISTANCE.—The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to a border State to provide assistance to eligible communities for the planning, design, and construction or improvement of sewers, treatment works, and appropriate connections for wastewater treatment.

(c) USE OF FUNDS.—Each grant awarded pursuant to subsection (b) shall be used to provide assistance to one or more eligible communities with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable treatment works for wastewater.

(d) COST SHARING.—The amount of a grant awarded pursuant to this section shall not exceed 50 percent of the costs of carrying out the project that is the subject of the grant.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 1997 through 1999.

SEC. 308. PREVENTION AND CONTROL OF ZEBRA MUSSEL INFESTATION OF LAKE CHAMPLAIN.

(a) FINDINGS.—Section 1002(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701(a)) is amended as follows:

(1) By striking ''and'' at the end of paragraph (3).

(2) By striking the period at the end of paragraph (4) and inserting ''; and''.

(3) By adding at the end the following new paragraph;

''(5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate.''.

(b) EX OFFICIO MEMBERS OF AQUATIC NUISANCE SPECIES TASK FORCE.—Section 1201(c) of such Act (16 U.S.C. 4721(c)) is amended by inserting '', the Lake Champlain Basin Program,'' after ''Great Lakes Commission''.

TITLE IV—ADDITIONAL ASSISTANCE FOR WATER INFRASTRUCTURE AND WATERSHEDS

SEC. 401. NATIONAL PROGRAM.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—The Administrator of the Environmental Protection Agency may provide technical and financial assistance in the form of grants to States (1) for the construction, rehabilitation, and improvement of water supply systems, and (2) consistent with nonpoint source management programs established under section 319 of the Federal Water Pollution Control Act, for source water quality protection programs to address pollutants in navigable waters for the purpose of making such waters usable by water supply systems.

(b) LIMITATION.—Not more than 30 percent of the amounts appropriated to carry out this section in a fiscal year may be used for source water quality protection programs described in subsection (a)(2).

(c) CONDITION.—As a condition to receiving assistance under this section, a State shall ensure that such assistance is carried out in the most cost-effective manner, as determined by the State.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) UNCONDITIONAL AUTHORIZATION.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 1997 through 2003. Such sums shall remain available until expended.

(2) CONDITIONAL AUTHORIZATION.—In addition to amounts authorized under paragraph (1), there are authorized to be appropriated to carry out this title $25,000,000 for each of fiscal years 1997 through 2003, provided that such authorization shall be in effect for a fiscal year only if at least 75 percent of the total amount of funds authorized to be appropriated for such fiscal year by section 1452(m) of the Safe Drinking Water Act are appropriated.

(e) ACQUISITION OF LANDS.—Assistance provided with funds made available under this title may be used for the acquisition of lands and other interests in lands; however, nothing in this title authorizes the acquisition of lands or other interests in lands from other than willing sellers.

(f) FEDERAL SHARE.—The Federal share of the cost of activities for which grants are made under this title shall be 50 percent.

(g) DEFINITIONS.—In this section, the following definitions apply:

(1) STATE.—The term ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(2) WATER SUPPLY SYSTEM.—The term ''water supply system'' means a system for the provision to the public of piped water for human consumption if such system has at least 15 service connections or regularly serves at least 25 individuals and a draw and fill system for the provision to the public of water for human consumption. Such term does not include a system owned by a Federal agency. Such term includes (A) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment facilities not under such control that are used primarily in connection with such system.

TITLE V—CLERICAL AMENDMENTS

SEC. 501. CLERICAL AMENDMENTS.

(a) PART B.—Part B (42 U.S.C. 300g et seq.) is amended as follows:

(1) In section 1412(b), move the margins of paragraph (11) 2 ems to the right.

(2) In section 1412(b)(8), strike ''1442(g)'' and insert ''1442(e)''.

(3) In section 1415(a)(1)(A), insert ''the'' before ''time the variance is granted''.

(b) PART C.—Part C (42 U.S.C. 300h et seq.) is amended as follows:

(1) In section 1421(b)(3)(B)(i), strike ''number or States'' and inserting ''number of States''.

(2) In section 1427(k), strike ''this subsection'' and inserting ''this section''.

(c) PART E.—Section 1441(f) (42 U.S.C. 300j(f)) is amended by inserting a period at the end.

(d) SECTION 1465(b).—Section 1465(b) (42 U.S.C. 300j–25(b)) is amended by striking ''as by'' and inserting ''by''.

(e) SHORT TITLE.—Section 1 of Public Law 93–523 (88 Stat. 1600) is amended by inserting ''of 1974'' after ''Act'' the second place it appears and title XIV of the Public Health Service Act is amended by inserting the following immediately before part A:

''SHORT TITLE

''SEC. 1400. This title may be cited as the 'Safe Drinking Water Act'.''.

(f) TECHNICAL AMENDMENTS TO SECTION HEADINGS.—

(1) The section heading and subsection designation of subsection (a) of section 1417 (42 U.S.C. 300g–6) are amended to read as follows:

''PROHIBITION ON USE OF LEAD PIPES, SOLDER, AND FLUX

''SEC. 1417. (a)''.

(2) The section heading and subsection designation of subsection (a) of section 1426 (42 U.S.C. 300h–5) are amended to read as follows:

''REGULATION OF STATE PROGRAMS

''SEC. 1426. (a)''.

(3) The section heading and subsection designation of subsection (a) of section 1427 (42 U.S.C. 300h–6) are amended to read as follows:

''SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

''SEC. 1427. (a)''.

(4) The section heading and subsection designation of subsection (a) of section 1428 (42 U.S.C. 300h–7) are amended to read as follows:

''STATE PROGRAMS TO ESTABLISH WELLHEAD PROTECTION AREAS

''SEC. 1428. (a)''.

(5) The section heading and subsection designation of subsection (a) of section 1432 (42 U.S.C. 300i–1) are amended to read as follows:

''TAMPERING WITH PUBLIC WATER SYSTEMS

''SEC. 1432. (a)''.

(6) The section heading and subsection designation of subsection (a) of section 1451 (42 U.S.C. 300j–11) are amended to read as follows:

''INDIAN TRIBES

''SEC. 1451. (a)''.

(7) The section heading and first word of section 1461 (42 U.S.C. 300j–21) are amended to read as follows:

''DEFINITIONS

''SEC. 1461. As''.

(8) The section heading and first word of section 1462 (42 U.S.C. 300j–22) are amended to read as follows:

''RECALL OF DRINKING WATER COOLERS WITH LEAD-LINED TANKS

''SEC. 1462. For''.

(9) The section heading and subsection designation of subsection (a) of section 1463 (42 U.S.C. 300j–23) are amended to read as follows:

''DRINKING WATER COOLERS CONTAINING LEAD

''SEC. 1463. (a)''.

(10) The section heading and subsection designation of subsection (a) of section 1464 (42 U.S.C. 300j–24) are amended to read as follows:

''LEAD CONTAMINATION IN SCHOOL DRINKING WATER

''SEC. 1464. (a)''.

(11) The section heading and subsection designation of subsection (a) of section 1465 (42 U.S.C. 300j–25) are amended to read as follows:

''FEDERAL ASSISTANCE FOR STATE PROGRAMS REGARDING LEAD CONTAMINATION IN SCHOOL DRINKING WATER

''SEC. 1465. (a)''.

And the House agree to the same.

From the Committee on Commerce, for consideration of the Senate bill (except for secs. 28(a) and 28(e)) and the House amendment (except for title V), and modifications committed to conference:

TOM BLILEY,
MIKE BILIRAKIS,
MIKE CRAPO,
BRIAN P. BILBRAY,

From the Committee on Commerce, for consideration of secs. 28(a) and 28(e) of the Senate bill, and modifications committed to conference:

TOM BLILEY,
MIKE BILIRAKIS,

As additional conferees from the Committee on Science, for the consideration of that portion of section 3 that adds a new sec. 1478 and secs. 23, 25(f), and 28(f) of the Senate bill, and that portion of sec. 308 that adds a new sec. 1452(n) and sec. 402 and title VI of the House amendment, and modifications committed to conference:

ROBERT S. WALKER,
DANA ROHRABACHER,
TIM ROEMER,

As additional conferees from the Committee on Transportation and Infrastructure, for the consideration of that portion of sec. 3 that adds a new sec. 1471(c) and secs. 9, 17, 22(d), 25(a), 25(g), 28(a), 28(e), 28(h), and 28(i) of the Senate bill, and title V of the House amendment and modifications committed to conference:

BUD SHUSTER,
SHERWOOD BOEHLERT,
ZACH WAMP,
ROBERT A. BORSKI,
ROBERT MENENDEZ,

Provided, Mr. Blute is appointed in lieu of Mr. Wamp for consideration of title V of the House amendment:

PETER BLUTE,
Managers on the Part of the House.

JOHN H. CHAFEE,
DIRK KEMPTHORNE,
CRAIG THOMAS,
JOHN WARNER,
MAX BAUCUS,
HARRY REID,
FRANK LAUTENBERG,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee on Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 1316, to reauthorize and amend Title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act''), and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the Senate bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment.

The conference agreement on S. 1316, the Safe Drinking Water Act Amendments of 1996, provides (1) revisions to the procedures, process, and criteria for regulating contaminants in drinking water to protect the public health; (2) special programs to help small public water systems meet the requirements of the Act; (3) provisions to promote cost-effectiveness in new drinking water regulations; (4) increased flexibility for water suppliers where consistent with public health; (5) new programs to promote the proper operation of public water systems; (6) substantial new Federal financial and technical assistance to help water suppliers meet the requirements of the Act and to help States in carrying out programs under the Act; (7) refinements and new programs to improve protection of public health from drinking water contamination; and (8) consumers with information on the source of the water they are drinking and its quality and safety.

Certain matters agreed to in conference are noted below.

TITLE I—AMENDMENTS TO SAFE DRINKING WATER ACT

Maximum contaminant level goals (sec. 104(a))

The Senate recedes from its legislative provision and report language (found in Senate Report 104–169, pages 30–33) with respect to maximum contaminant level goals for carcinogens. The House recedes from all its report language on the same subject (House Report 104–632, the first paragraph on page 28). The Conferees agree that the Safe Drinking Water Act Amendments of 1996 make no changes to the provision or legislative history for maximum contaminant level goals.

Disinfectants and disinfection by-products (sec. 104(b))

The conference agreement addresses the application of amended section 1412(b)(5) to the Environmental protection Agency's proposed Stage I and Stage II regulations for disinfectants and disinfection byproducts. Public water systems use disinfectants to kill harmful microbial contaminants that can cause serious illness or even death. However, disinfectants and their resulting byproducts also may pose risks, including potential increases in cancer rates and liver and kidney damage. The regulation of both risks from microbial contaminants and risks from disinfectants and disinfection byproducts presents the Environmental Protection Agency (EPA) with a unique challenge. Nonetheless, controls for cryptosporidium and disinfection byproducts are widely considered to be a pressing and high priority for improving drinking water safety.

In November 1992, EPA convened a negotiated rulemaking to examine both the proper strategy for combating cryptosporidium and other microbial contaminants and to consider threats to human health from the use of disinfectants commonly employed to combat microbial contaminants. EPA had determined to use the negotiated rulemaking process because the Agency believed that ''the available occurrence, treatment and health effects data were inadequate to address EPA's concern about the tradeoff between risks from disinfectants and disinfection byproducts and microbial pathogen risk, and wanted all stakeholders to participate in the decision-making on setting proposed standards.'' (59 Fed. Reg. 38670, July 29, 1994).

Representatives from EPA, State and local government, water suppliers, public health organizations and environmental groups, among others, worked for nearly two years to reach agreement on a framework for regulating both microbial contaminants and disinfection byproducts. The framework will result in rules for controlling disinfection byproducts and an Enhanced Surface Water Treatment Rule to address risks posed from microbial organisms. The package of rules when fully implemented is expected to minimize exposures to harmful microbial contaminants while reducing exposure to disinfection byproducts that present a health risk by optimizing the use of disinfectants and other means of water treatment.

The negotiating committee agreed that a two-step process was necessary to address the microbial and disinfectants and disinfection by-products issues. The July 29, 1994 *Federal Register* notice thus proposes both Stage I and Stage II levels of control. The Stage I provisions set limits for two principal classes of chlorination byproducts, as well as limits for specific byproducts resulting from other disinfection processes, at levels deemed appropriate as a first step standard based on current information. More stringent Stage II controls were also proposed for the two classes of chlorination byproducts but a second round of negotiations is envisioned. In the meantime, EPA is conducting an agreed-upon regime of health effects research and water quality monitoring which will be used both to finalize the disinfection byproduct rule and the Enhanced Surface Water Treatment Rule (as provided for by the parties' agreement) and for the second round of negotiations. ''Based on this information and new data generated through research,'' EPA ''will reevaluate the Stage 2 regulations and repropose, as appropriate, depending on criteria agreed on in a second regulatory negotiation (or similar rule development process)'' (59 Fed. Reg. 38743).

The Conferees acknowledge the delicate balance that was struck by the parties in structuring the settlement of these complicated and difficult issues, and encourages the parties to continue according to the negotiated agreement. The negotiated agreement contains an over-arching set of principles to guide the individual rulemakings which incorporated consideration of various factors. The Conferees intend that all additional negotiations weigh the same factors that guided the development of the proposed rule. Specifically, all further negotiations for the Stage II regulations for the control of disinfection byproducts should follow and be consistent with the considerations that led to an agreement regarding the proposed rule for Stage I.

In order to preserve the progress made, there has been considerable care taken to ensure that the new provisions of this conference agreement not conflict with the parties' agreement nor disrupt the implementation of the regulatory actions. To do otherwise would substantially disrupt, if not destroy, the next round of negotiations and lead to unnecessary delays in protecting public health. For this reason, the conference agreement precludes the use of the new authority in section 1412(b)(6) to establish maximum contaminant levels for the Stage I and Stage II rulemakings for disinfectants or disinfection byproducts or to establish a national primary drinking water maximum contaminant level or treatment technique for cryptosporidium.

The Conferees recognize, however, that the development of this regulatory package has required the negotiators to consider complex issues of risk, costs, affordability, feasible technology, and health benefits. It is the Conferees' view that the proposed rule that has been produced is consistent with the ''risk-risk'' provision set out in new section 1412(b)(5). Therefore, Section 104(b) makes clear that the Administrator may use the authority of section 1412(b)(5) to promulgate Stage I and Stage II rules. However, it is also the Conferees' intent that no provision of Section 1412(b)(5) be interpreted to force an alteration of the negotiated agreement.

Finally, Section 104(b) of the conference agreement provides that for the purpose of promulgating Stage I and Stage II regulations for disinfection and disinfection byproducts, the consideration that the Administrator used in the development of the July 29, 1994 proposal for such regulation are to be considered consistent with section 1412(b)(5). These considerations included risk, cost, affordability, feasible technology, and health benefits. The Conferees intend with this language to ensure that the negotiators and ultimately the Administrator are authorized to consider these factors in the same manner as these considerations were used in developing the Stage I proposed rule.

In the convening process for both the negotiating and technical advisory committees for Stage II of the Disinfectant/Disinfection By-Products rulemaking, the Administrator should consider for inclusion appropriate representatives of all interested parties, including State and local governments, public water systems, public interest groups, public health organizations, and experts on chemical disinfectants, their use and alternative disinfection process and their technologies.

Arsenic (sec. 109)

The Conferees encourage EPA to work with the American Water Works Association Research Foundation (AWWARF) to carry out the study projects authorized by new section 1412(b)(12)(A) if AWWARF contributes matching funds.

Consumer confidence reports (sec. 114(a))

The Administrator may, in regulations, permit the notification requirement of subparagraph (A) to be satisfied by a means other than postal delivery, such as personal delivery or electronic mail, if the Administrator determines that the alternative means will provide equivalent notice to individual customers.

EPA regulations should include a clear statement that all drinking water, including bottled water, contains contaminants, usually at levels below the threshold that would present a health risk to humans. The presence of contaminants in drinking water does not necessarily indicate that the drinking water is unsafe for human consumption. If consumers have any questions regarding the levels of contaminants detected in their drinking water or the safety of their drinking water, they should be directed to contact either their drinking water supplier or EPA at the toll-free hotline number.

Bottled water study (sec. 114(b))

The conference agreement provides that the Administrator of the FDA shall provide a study of the feasibility of appropriate methods, if any, of informing customers of the contents of bottled water. The study is intended to provide information on the feasibility of informing customers concerning the contents of bottled water, and is not intended to prejudge the question of whether such information requirements are necessary.

Exemptions (sec. 117)

Management changes referred to in the conference agreement may include rate increases, accounting changes, the hiring of consultants, the appointment of a technician with expertise in operating such systems, contractual arrangements for a more efficient and capable system for joint operation, or other reasonable strategies to improve capacity. Restructuring changes referred in the conference agreement may include ownership change, physical consolidation with another system, or other measures to otherwise improve customer base and gain economies of scale.

Capacity development (sec. 119)

The phrase ''legal authority or other means'' is intended to require a State to have the actual authority to ensure that all new community water systems demonstrate the technical, managerial and financial capacity to comply with the Safe Drinking Water Act. These could include regulations, training, and bonding requirements.

States are also to adopt and implement a capacity development strategy. This is intended to encourage States to continue to focus resources on capacity development initiatives. States are required to consider, solicit public comment on, and include as deemed appropriate by the State, a number of elements and criteria.

The Conferees do not expect that every State will adopt the same capacity development strategy and do not expect States to include elements in section 142(c) that the States determine are not appropriate. It is not expected that every State will give the same consideration to each of the elements listed in section 1420(c). Rather, the Conferees expect that, as suggested by existing State capacity development programs, State capacity development strategies developed under this section will very according to the unique needs of the State. The Conferees encourage this diversity and indicate that EPA should give deference to a State's determination as to content and manner of implementation of a State plan, so long as the State has solicited and considered public comment on the listed elements and has adopted a strategy that incorporates appropriate provisions.

Operator certification reimbursement (sec. 123)

New subsection 1419(c) requires the Administrator to provide reimbursement for the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating systems serving 3,300 persons or fewer that are required to undergo training pursuant to section 1419. The Conferees do not consider the term ''unsalaried operators'' to include the persons who receive compensation at an hourly rate, professional consultants, and employees of circuit-rider programs.

State revolving loan funds (sec. 130)

The administrator is to include, in the guidance for State loan fund programs to avoid use of the funds to finance expansion of any public water system in anticipation of future population growth. The Administrator is not to preclude the use of SRF financing for facilities with the capacity necessary to meet the objectives of the Safe Drinking Water Act for the population to be served by the facility over its useful life.

States are allowed to jointly manage the corpus of the new drinking water State loan fund with other revolving loan funds. The requirement that the funds be used solely for purposes that meet the objectives of the Safe Drinking Water Act does not preclude bond pooling arrangements, including cross-collateralization, provided that revenues from the bonds are allocated to the purposes of the Safe Drinking Water Act in the same portion as the funds are used as security for the bonds.

Estrogenic substances screening program (sec. 136)

Section 404 of H.R. 3604 as reported out of the House Committee on Commerce formed the basis for section 408(p)(3)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(p)(3) (an estrogenic substances screening program). Section 136 of the Safe Drinking Water Act Amendments of 1996 adds to the authority of the Administrator to provide for testing of substances that may be found in sources of drinking water if the Administrator determines that a substantial population may be exposed to such substances. The Conferees agree that the treatment of substances addressed under this section shall be consistent with the Report of the Commerce Committee (House Rep. 104–632, Part I, pp. 55–58).

TITLE II—DRINKING WATER RESEARCH

Clarifications made in conference

The House Committee on Commerce and the House Committee on Science have the following understanding on clarifications made in conference. This understanding has no impact on the operation of law.

In reconciling the text of H.R. 3604, the Safe Drinking Water Act Amendments of 1996, with the text of S. 1316, the Safe Drinking Water Act Amendments of 1995, the Conference Committee agreed to minor word changes, such as from ''research'' to ''study'', and citation changes and deletions, including the deletion of references in the House passed version of section 601. None of these minor changes should be considered to lessen or enhance the House Committee on Science's jurisdictional claim to environmental research involving drinking water issues. None of these minor changes should be considered to lessen or enhance the House Committee on Commerce's jurisdictional claim to biomedical research involving drinking water issues.

TITLE III—MISCELLANEOUS PROVISIONS

Transfer of funds (sec. 302)

The following represents an understanding between the House Committee on Commerce and the House Committee on Transportation and Infrastructure. This understanding has no impact on the operation of law.

The House Commerce Committee, which has jurisdiction over the Safe Drinking Water Act, and the House Transportation and Infrastructure Committee, which has jurisdiction over the Federal Water Pollution Control Act, agree to share jurisdiction over the free-standing provision in section 302 of the Safe Drinking Water Act Amendments of 1996 involving transfer of revolving loan funds. This provision allows for the transfer of funds, under specified terms and conditions, between the Safe Drinking Water State Revolving Loan Fund which is under the exclusive jurisdiction of the Commerce Committee and the Clean Water State Revolving Fund which is under the exclusive jurisdiction of the Transportation and Infrastructure Committee.

For matters directly amending section 302, the two Committees agree that each should be given equal weight in bill referrals, conference appointments, and other jurisdictional assignments. For instance, a bill to amend section 302 to increase the percentage amount that may be transferred between the two revolving funds would be in the joint jurisdiction of the two Committees. Likewise, a direct or indirect amendment to the provisions of section 302 would be in the committees' joint jurisdiction.

Enactment of this freestanding section does not give the Commerce Committee any jurisdiction over the Federal Water Pollution Control Act, nor does it give the Transportation and Infrastructure Committee any jurisdiction over the Safe Drinking Water Act. Jurisdiction for changes that amend provisions of the Federal Water Pollution Control Act or the Safe Drinking Water Act should be determined without regard to section 302. Thus, for example, a bill to change or impose conditions or limitations on the criteria applicable to a State for the receipt or expenditure of revolving funds under the Safe Drinking Water Act or Federal Pollution Control Act would be in the sole jurisdiction of the Committee on Commerce or the Committee on Transportation and Infrastructure respectively.

Washington Aqueduct (sec. 306)

The Senate bill authorized the Secretary of the Army acting through the Chief of Engineers to borrow from the Secretary of the Treasury funds necessary to make capital improvements to the Washington Aqueduct. The Washington Aqueduct provides drinking water to the three wholesale customers of the District of Columbia and the Virginia jurisdictions of Arlington County and the City of Falls Church. Amounts borrowed from the Treasury are to be repaid by the customers.

The Washington Aqueduct system consists of the Dalecarlia and McMillan water treatment plants located in Washington, D.C. The system was constructed in 1853 and is under the control of the U.S. Army Corps of Engineers for appropriate management and maintenance.

The conference agreement modifies the Senate provision to authorize for three years the Secretary of the Army to borrow from the Secretary of the Treasury funds to finance capital improvements necessary to assure continued operation of the Washington Aqueduct.

The conference agreement encourages and provides a process for the establishment of a regional entity—or the use of an existing entity—to own, operate, maintain and manage the Washington Aqueduct in a manner that fully represents all interests of the non-Federal public water supply customers. The Secretary of the Army is directed to transfer within the three year period all right, title, and interest in Washington Aqueduct after receiving the consent of a majority of the customers. The Conferees express a strong preference for a consensus among all of the customers prior to any transfer of the Washington Aqueduct under this section.

TITLE IV—ADDITIONAL ASSISTANCE FOR WATER INFRASTRUCTURE AND WATERSHEDS

The conference agreement includes the House provision regarding the national grants program for water infrastructure and watershed, with a modification to provide that $25 million per year is conditioned on the appropriation of 75 percent for the amounts authorized per year for the drinking water state loan fund. Provisions on the New York City Watershed and Alaska rural and Native villages are contained in other titles of the conference agreement.

As in the House bill, section 401(a) establishes a national program for technical and financial assistance grants for water supply systems and source water quality protection programs. The Administrator is directed to provide priority consideration to the following:

(1) Drinking water infrastructure projects for areas described in section 313 of the Water Resources Development Act of 1992 (P.L. 102–580);

(2) Construction of an alternative water supply system for the area referred to in section 219(c)(5) of the Water Resources Development Act of 1992 (P.L. 102–580);

(3) Attleboro, Massachusetts, and Worcester, Massachusetts, for ratepayer assistance relating to water infrastructure facilities, in addition to other assistance in the form of low interest loans and negative interest rates;

(4) Buffalo, New York, for construction, rehabilitation, and improvement of water treatment facilities;

(5) Bad Axe, Michigan, for connection of its drinking water system to the municipal system in Port Austin, Michigan;

(6) Georgetown, Illinois, for construction and related activities intended to increase the capacity of the City's water supply reservoir and enhance source water quality protection;

(7) Morgan County, Tennessee, for water line extensions and related infrastructure assistance;

(8) Northwest Iowa, for water infrastructure facilities that are either part of or separate from the proposed Lewis and Clark Rural Water System;

(9) Olney, Illinois for construction of new water tower and Millstone Water District, Harrisburg, Illinois for completion of Phase I of a water line extension project;

(10) Philadelphia, Pennsylvania, acting through the Fairmount Park Commission, for improvement and restoration of aquatic systems at Pennypack Park;

(11) San Bernardino County, California, for water infrastructure assistance related to the Mojave River Pipeline;

(12) Springfield, Illinois, for financial and technical assistance to complete the planning, design, and construction of a water supply reservoir;

(13) Tenino, Washington, for water supply infrastructure, including work related to wells, hydrants, and water lines;

(14) Madison, Ohio, for waterline replacement and booster station needs;

(15) Bridger Valley Joint Board, Wyoming, for the study and construction of needed improvements in the water supply system;

(16) Treasure Valley Hydrologic Project, to study the Treasure Valley aquifer system to develop a better understanding of the regional hydraulic stresses and their impacts on source waters in the Boise Basin;

(17) Beuna Borough, New Jersey, to remediate mercury levels in the water supply and to provide alternative drinking water for residents;

(18) Projects for areas described in section 219(c) (16) and (17) of the Water Resources Development Act of 1992;

(19) Berlin, New Hampshire, for a filtration plant and associated facilities;

(20) South Tahoe Public Utility District to replace the export pipeline for reclaimed water;

(21) Projects described in section 307 of the Water Resources Development Act of 1992;

(22) Cranston, Rhode Island, for a wastewater regional connector system;

(23) Funding for construction of filtration plants in Connecticut; and

(24) Perth Amboy, New Jersey, to protect the drinking water supply through multimedia programs to remediate pollution in the Runyon Watershed.

TITLE V—CLERICAL AMENDMENTS

The conference agreement makes miscellaneous technical and clerical changes.

From the Committee on Commerce, for consideration of the Senate bill (except for secs. 28(a) and 28(e)) and the House amendment (except for title V), and modifications committed to conference:

TOM BLILEY,
MIKE BILIRAKIS,
MIKE CRAPO,
BRIAN P. BILBRAY,

From the Committee on Commerce, for consideration of secs. 28(a) and 28(e) of the Senate bill, and modifications committed to conference:

TOM BLILEY,
MIKE BILIRAKIS,

As additional conferees from the Committee on Science, for the consideration of that portion of section 3 that adds a new sec. 1478 and secs. 23, 25(f), and 28(f) of the Senate bill, and that portion of sec. 308 that adds a new sec. 1452(n) and sec. 402 and title VI of the House amendment, and modifications committed to conference:

ROBERT S. WALKER,
DANA ROHRABACHER,
TIM ROEMER,

As additional conferees from the Committee on Transportation and Infrastructure, for the consideration of that portion of sec. 3 that adds a new sec. 1471(c) and secs. 9, 17, 22(d), 25(a), 25(g), 28(a), 28(e), 28(h), and 28(i) of the Senate bill, and title V of the House amendment and modifications committed to conference:

BUD SHUSTER,
SHERWOOD BOEHLERT,
ZACK WAMP,
ROBERT A. BORSKI,
ROBERT MENENDEZ,

Provided, Mr. Blute is appointed in lieu of Mr. Wamp for consideration of title V of the House amendment:

PETER BLUTE,
Managers on the Part of the House.

JOHN H. CHAFEE,
DIRK KEMPTHORNE,
CRAIG THOMAS,
JOHN WARNER,
MAX BAUCUS,
HARRY REID,
FRANK LAUTENBERG,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Ms. COLLINS of Illinois, for 5 minutes, today.

Mr. KLINK, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. THOMAS) to revise and extend their remarks and include extraneous material:)

Mr. NORWOOD, for 5 minutes, today.

Mr. MCINTOSH, for 5 minutes, on August 2.

Mr. ENGLISH of Pennsylvania, for 5 minutes, today.

Mrs. KELLY, for 5 minutes, today.

Mr. GOSS, for 5 minutes, on August 2.

Mr. ROHRABACHER, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. TALENT, for 5 minutes, today.

Mrs. JOHNSON of Connecticut, for 5 minutes, on August 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) and to include extraneous matter:)

Mr. KANJORKSKI.
Mr. LIPINSKI.
Mr. HAMILTON.
Mr. MENENDEZ.
Mr. KLECZKA.
Mr. BONIOR.
Ms. HARMAN.
Mr. CARDIN.
Mr. TORRICELLI.
Mr. CLAY.
Mr. LEVIN.
Mr. WYNN.
Mr. DELLUMS.
Mr. ORTON.
Mr. KENNEDY of Massachusetts.
Mr. SABO.
Mr. BARRETT of Wisconsin.
Mr. TOWNS.
Mr. LAFALCE.
Mr. BLUMENAUER.
Mrs. MALONEY.
Mr. BARCIA.

(The following Members (at the request of Mr. THOMAS, and to include extraneous matter:)

Mrs. SEASTRAND.
Mr. DAVIS.
Mr. HOKE.
Mr. YOUNG of Alaska.
Mr. FIELDS of Texas.
Mr. TORKILDSEN.
Mr. DORNAN.
Mr. GILMAN in two instances.
Mr. FORBES in two instances.
Mr. KOLBE.
Mr. WOLF.
Mr. PORTER.
Mr. CASTLE.
Mr. SMITH of New Jersey.
Mr. SHAW.
Mr. GEKAS.
Mr. COBURN.
Mr. COMBEST.
Mr. SOLOMON.
Mrs. MORELLA.
Mr. THOMAS.
Mr. BUNNING of Kentucky.
Mr. CAMPBELL.
Mr. ROHRABACHER.
Mr. TALENT.

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. HAYWORTH.
Mr. WALKER.
Mr. MCINNIS.
Ms. ESHOO.
Mr. HAMILTON.
Mr. RICHARDSON.
Mr. FORBES.
Mr. STUPAK.
Mr. LOWEY.
Mr. LAHOOD.
Mr. PAYNE of New Jersey.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1051. An act to provide for the extension of certain hydroelectric projects located in the State of West Virginia.

H.R. 3215. An act to amend title 18, United States Code, to repeal the provision relating to Federal employees contracting or trading with Indians.

H.R. 3663. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to permit the

Council of the District of Columbia to authorize the issuance of revenue bonds with respect to water and sewer facilities, and for other purposes.

H.J. Res. 166. Joint resolution granting the consent of Congress to the mutual aid agreement between the city of Bristol, Virginia, and the city of Bristol, Tennessee.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 1757. An act to amend the Developmental Disabilities Assistance and Bill of rights Act to extend the Act, and for other purposes.

S. 531. An act to authorize a circuit judge who has taken part in an in banc hearing of a case to continue to participate in that case after taking senior status, and for other purposes.

S.J. Res. 20. Joint resolution granting the consent of Congress to the compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, entered into between the States of West Virginia and Maryland.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 1051. An act to provide for the extension of certain hydroelectric projects in the State of West Virginia.

H.R. 3663. To amend the District of Columbia Self-Government and Governmental Reorganization Act to permit the Council of the District of Columbia to authorize the issuance of revenue bonds with respect to water and sewer facilities, and for other purposes.

ADJOURNMENT

Mr. GOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 50 minutes a.m.), the House adjourned until today, August 2, 1996, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4491. A letter from the Acting Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 419 and H.R. 701, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–581); to the Committee on the Budget.

4492. A letter from the Assistant Secretary for Pension and Welfare Benefits, Department of Labor, transmitting the Department's final rule—Class Exemption To Permit Certain Authorized Transactions Between Plans and Parties in Interest [Application No. D–10031] received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Economic and Educational Opportunities.

4493. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems [CC Docket No. 94–102] received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4494. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicaid Program; Medicaid Eligibility Quality Control, Progressive Reductions in Federal Financial Participation for fiscal years 1982–1984, Payment for Physician Billing for Clinical Laboratory Services, and Utilization Control of Skilled Nursing Facility Services: Removal of Obsolete Requirements (Health Care Financing Administration) (RIN: 0938–AH31) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4495. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Israel (Transmittal No. DTC–44–96), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

4496. A letter from the Chairman, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting a letter making recommendations for the purpose of promoting financial responsibility in the District of Columbia government, pursuant to Public Law 104–8, section 207(a) (109 Stat. 133); to the Committee on Government Reform and Oversight.

4497. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Biological Warfare Experts Group Meeting: Implementation of Changes to Export Administration Regulations; ECCNs 1C991, 1C61B, 1B71E, and 1C91F (RIN: 0694–AB37) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4498. A letter from the Director, Federal Bureau of Prisons, transmitting the Bureau's final rule—Central Inmate Monitoring (CIM) System (RIN: 1120–AA43) received July 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4499. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Grants Pass, Oregon (Federal Aviation Administration) [Airspace Docket No. 96–ANM–015], pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4500. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Libby Montana (Federal Aviation Administration) [Airspace Docket No. 96–ANM–013] received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4501. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9 and DC–9–80 Series Airplanes, and C–9 (Military) Airplanes, Equipped with a Ventral Afr Pressure Bulkhead (Federal Aviation Administration) [Docket No. 95–NM–186–AD; Amendment 39–9704; AD 96–16–04] (RIN: 2120–AA64) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transporatation and Infrastructure.

4502. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Saginaw River, MI (U.S. Coast Guard) [CGD09–96–003] (RIN: 2115–AE47) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4503. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; City of Palm Beach, FL (U.S. Coast Guard) [CGD07–96–045] (RIN: 2115–AE46) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4504. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area: Boston Harbor, Spectacle Island, Boston, MA (U.S. Coast Guard) [CGD1–96–068] (RIN: 2115–AE84) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4505. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Ebey Slough, Marysville, Washington (U.S. Coast Guard) [CGD13–96–002] (RIN: 2115–AE47) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4506. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Snohomish River, Everett, WA (U.S. Coast Guard) [CGD13–96–001] (RIN: 2115–AE47) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4507. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Red River, Louisiana (U.S. Coast Guard) [CGD08–96–025] (RIN: 2115–AE47) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4508. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulation; Seafair's U.S. Navy Blue Angels Air Show, Elliot Bay, Seattle, Washington (U.S. Coast Guard) [CGD13–96–015] (RIN: 2115–AA97) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4509. A letter from the National Director, Tax Forms and Publications Division, Internal Revenue Service, transmitting the Service's final rule—requirements for preparing acceptable substitute information returns to be filed with the Internal Revenue Service (IRS), and for furnishing recipient statements (Revenue Procedure 96–42) received July 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee of conference. Conference report on H.R. 3448. A bill to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, and for other purposes (Rept. 104–737). Ordered to be printed.

Mr. GOSS: Committee on Rules. House Resolution 502. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes (Rept. 104–738). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 503. Resolution waiving points of order against the conference report to accompany the 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 employer 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 (Rept. 104–739). Referred to the House Calendar.

Mr. WALSH: Committee of conference. Conference report on H.R. 3845. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 1997, and for other purposes (Rept. 104–740). Ordered to be printed.

Mr. BLILEY: Committee of Conference. Conference report on S. 1316. An act to reauthorize and amend title XIV of the Public Health Service Act, commonly known as the ''Safe Drinking Water Act'', and for other purposes (Rept. 104–741). Ordered to be printed.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3378. A bill to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing Medicare, Medicaid, and other third party payors (Rept. 104–742 Pt. 1). The Committee on Commerce discharged from further consideration. Referred to the Committee of the White House on the State of the Union.

Mr. MCINNIS: Committee on Rules. House Resolution 507. Resolution waiving points of order against the conference report to accompany the bill (S. 1316) to reauthorize and amend title XIV of the Public Health Service Act commonly known as the ''Safe Drinking Water Act'', and for other purposes (Rept. 104–743). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 508. Resolution providing for consideration of a certain motion to suspend the rules (Rept. 104–744). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on Commerce discharged from further consideration. H.R. 3121 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WALKER (for himself, Mr. SENSENBRENNER, Mr. LARGENT, Mr. WELDON of Florida, Mr. ROHRABACHER, Mr. HILLEARY, Mr. STOCKMAN, Mr. DAVIS, Mr. CALVERT, Mr. BAKER of California, Mrs. SEASTRAND, and Mr. TIAHRT):

H.R. 3936. A bill to encourage the development of a commercial space industry in the United States, and for other purposes; to the Committee on Science, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COBURN (for himself, Ms. MOLINARI, Mr. DELAY, Mrs. FOWLER, Mr. WELDON of Florida, Mr. NORWOOD, Mr. HUTCHINSON, Mr. LARGENT, Mr. SOUDER, Mr. STOCKMAN, Mr. DORNAN, and Mr. HOSTETTLER):

H.R. 3937. A bill to amend title XIX of the Social Security Act with respect to preventing the transmission of the human immunodeficiency virus, commonly known as HIV, and for other purposes; to the Committee on Commerce.

By Mr. FILNER (for himself, Mr. MONTGOMERY, Mr. EVANS, Mr. KENNEDY of Massachusetts, Mr. EDWARDS, Mr. CLEMENT, Mr. TEJEDA, Mr. BAESLER, Mr. CLYBURN, Mr. BISHOP, Ms. BROWN of Florida, and Mr. MASCARA):

H.R. 3938. A bill to amend title 38, United States Code, to provide for a Veterans' Employment and Training Bill of Rights, to strengthen preference for veterans in hiring, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FOX (for himself, Mr. STUMP, Mr. MONTGOMERY, Mr. HAYWORTH, Mr. WELDON of Pennsylvania, Mr. WELLER, Mr. DAVIS, Mr. BARR, Mr. SMITH of New Jersey, Mr. BARRETT of Nebraska, Mr. FLANAGAN, Mr. LONGLEY, Mr. SAXTON, Mr. SHADEGG, Mr. TIAHRT, Mr. FORBES, Mr. SPENCE, Mr. ENGLISH of Pennsylvania, Mr. MASCARA, Mr. MCHALE, Mr. SOLOMON, Mr. DORNAN, Mr. WATTS of Oklahoma, Mr. CHAMBLISS, Mr. NORWOOD, Mr. STEARNS, Mr. HANCOCK, Mr. GUTKNECHT, Mr. CALVERT, and Mr. RIGGS):

H.R. 3939. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to offer a loan guaranted by an adjustable rate mortgage under chapter 37 of such title; to the Committee on Veterans' Affairs.

By Mrs. LOWEY (for herself, Mr. CASTLE, Mrs. JOHNSON of Connecticut, Mrs. CLAYTON, Mr. PORTER, Mrs. THURMAN, and Mrs. MORELLA):

H.R. 3940. A bill to provide for a reduction in the rate of teenage pregnancy through the evaluation of public and private prevention programs, and for other purposes; to the Committee on Commerce.

By Mr. NADLER:

H.R. 3941. A bill to designate the U.S. courthouse located at 500 Pearl Street in New York City, NY, as the ''Ted Weiss United States Courthouse''; to the Committee on Transportation and Infrastructure.

By Mr. NEY (for himself, Mr. HOSTETTLER, Mr. SPRATT, Mr. CREMEANS, Mr. CLYBURN, Mr. GILLMOR, Mr. MCHUGH, Mr. INGLIS of South Carolina, and Mr. WICKER):

H.R. 3942. A bill to amend title XVIII of the Social Security Act to permit the geographic reclassification of hospitals for purposes of disproportionate share hospitals for purposes of disproportionate share hospital payment adjustments under the Medicare Program; to the Committee on Ways and Means.

By Mr. PETRI:

H.R. 3943. A bill to amend the Internal Revenue Code of 1986 to replace the current earned income credit and the personal exemption for children with a refundable credit for families and a refundable credit for each child, and for other purposes; to the Committee on Ways and Means.

By Mr. TAYLOR of North Carolina:

H.R. 3944. A bill to permit States to enforce certain State requirements for the labeling of bottled spring water; to the Committee on Commerce.

H.R. 3945. A bill to require the Federal Communications Commission to promote additional sharing of broadcasting tower facilities to reduce the impact on local communities of station towers; to the Committee on Commerce.

By Mr. TORRICELLI (for himself, Mr. EVANS, Mr. LAFALCE, and Mr. MOAKLEY):

H.R. 3946. A bill to amend title 28 of the United States Code to provide for a remedy against the United States for claims based upon conduct involving human experimentation, to provide a remedy against the United States with respect to constitutional and human rights violations, and for other purposes; to the Committee on the Judiciary.

By Mr. TIAHRT (for himself, Mr. SOUDER, Mr. LARGENT, Mr. HOEKSTRA, Mr. COOLEY, Mr. GUTKNECHT, Mr. LIPINSKI, Mr. GRAHAM, Mr. LEWIS of Kentucky, Mr. TALENT, Mr. STOCKMAN, Mr. HUTCHINSON, Mr. BARTLETT of Maryland, Mr. ENSIGN, Mr. BARR, Mr. DORNAN, and Mr. CALVERT):

H.R. 3947. A bill to amend the General Education Provisions Act to allow parents access to certain information; to the Committee on Economic and Educational Opportunities.

By Mr. HEFLEY:

H.R. 3948. A bill to amend the Federal Water Pollution Control Act to provide for the use of biological monitoring and whole effluent toxicity test in connection with publicly owned treatment works, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. JACKSON-LEE (for herself, Mr. CONYERS, Ms. NORTON, Mr. FRAZER, Mr. FLAKE, Mrs. LOWEY, Mr. RANGEL, Mr. HASTINGS of Florida, Ms. MILLENDER-MCDONALD, Ms. DELAURO, Mr. CLYBURN, Mr. HILLIARD, Mr. WYNN, Mr. LEWIS of Georgia, Mr. PAYNE of New Jersey, Mrs. CLAYTON, Mr. OWENS, Mr. FIELDS of Louisiana, Mr. CUMMINGS, Miss. COLLINS of Michigan, Mr. SCHUMER, Mr. SCOTT, Mr. PASTOR, Mrs. MEEK of Florida, Ms. BROWN of Florida, Ms. MCKINNEY, Mr. FOGLIETTA, Mr. RICHARDSON, Mr. COLEMAN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JACKSON, Mrs. COLLINS of Illinois, Mr. ENGEL, Mrs. SCHROEDER, Mrs. MALONEY, Ms. VELAZQUEZ, Mr. GUTIERREZ, Mr. CARDIN, Mr. SERRANO, Mr. BECERRA, Mr. GIBBONS, Mr. NADLER, Mr. KENNEDY of Rhode Island, Mr. CLAY, and Ms. LOFGREN):

H. Con. Res. 206. Concurrent resolution expressing the sense of Congress with respect to the threat to the security of American citizens and the U.S. Government posed by armed militia and other paramilitary groups and organizations; to the Committee on the Judiciary.

By Mr. THOMAS:

H. Res. 207. Concurrent resolution approving certain regulations to implement provisions of the Congressional Accountability Act of 1995 relating to labor-management relations with respect to covered employees, other than employees of the House of Representatives and employees of the Senate, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS:

H. Res. 504. Resolution approving certain regulations to implement provisions of the Congressional Accountability Act of 1995 relating to labor-management relations with respect to employing offices and covered employees of the House of Representatives, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOX:

H. Res. 505. Resolution amending the Rules of the House of Representatives to take away the power of the Committee on Rules to report rules or orders waiving the germaneness requirement; to the Committee on Rules.

By Mrs. MORELLA:

H. Con. Res. 506. Resolution expressing the sense of the Congress that all parents should be afforded the opportunity to plan ahead for their children's college education through tuition prepayment plans that guarantee college for their offspring at a fixed price; to the Committee on Economic and Educational Opportunities.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. PETE GEREN of Texas introduced a bill (H.R. 3949) for the relief of Senior Master Sergeant William L. Sullivan, U.S. Air Force; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 163: Mr. SCHIFF.

H.R. 573: Mr. MANTON.

H.R. 820: Mr. WHITFIELD, Mr. WILLIAMS, and Mr. WYNN.

H.R. 911: Mr. COMBEST.

H.R. 1406: Ms. KAPTUR and Mr. MENENDEZ.

H.R. 1462: Mr. HEFNER, Mr. TANNER, Mr. KLUG, Mr. SHAYS, Mr. LEVIN, Mr. THORNTON, Mr. SPRATT, and Mr. MONTGOMERY.

H.R. 2173: Mr. ZIMMER.

H.R. 2396: Mr. CRAPO, Mr. HEFLEY, Mr. MASCARA, Mr. JEFFERSON, Mr. ZIMMER, Mr. SCARBOROUGH, Mr. MORAN, and Mr. MANZULLO.

H.R. 2421: Mr. WALSH.

H.R. 2508: Mr. WYNN.

H.R. 2654: Mr. MILLER of California and Mr. WATT of North Carolina.

H.R. 2701: Mr. JOHNSTON of Florida.

H.R. 2741: Mr. MANZULLO.

H.R. 2757: Mr. CHAMBLISS and Ms. FURSE.

H.R. 2820: Mr. MICA.

H.R. 2822: Mr. SKEEN.

H.R. 2900: Mr. HERGER, Ms. PRYCE, and Mr. BLUMENAUER.

H.R. 2962: Mr. QUINN.

H.R. 2964: Mr. SPRATT.

H.R. 3000: Mr. BEREUTER.

H.R. 3079: Mr. OLVER.

H.R. 3117: Mr. BOUCHER.

H.R. 3142: Mr. DIAZ-BALART and Mr. BUNNING of Kentucky.

H.R. 3150: Mr. SPRATT.

H.R. 3206: Mr. FUNDERBURK.

H.R. 3207: Mrs. KELLY.

H.R. 3252: Mr. FOGLIETTA.

H.R. 3409: Ms. MCKINNEY.

H.R. 3447: Ms. FURSE.

H.R. 3477: Mrs. CLAYTON.

H.R. 3480: Mr. BALLENGER.

H.R. 3488: Mr. NADLER.

H.R. 3518: Mr. HERGER, Mr. COX, Mr. RADANOVICH, Mr. MOORHEAD, Mr. FAZIO of California, and Mr. RIGGS.

H.R. 3521: Mr. JOHNSTON of Florida.

H.R. 3560: Mr. LIPINSKI.

H.R. 3576: Mr. JACOBS, Mr. HAMILTON, Mr. VISCLOSKY, Mr. MYERS of Indiana, and Mr. MCINTOSH.

H.R. 3609: Mr. FRANK of Massachusetts and Mr. RANGEL.

H.R. 3630: Mr. CALVERT.

H.R. 3647: Mr. PETE GEREN of Texas.

H.R. 3693: Mr. HINCHEY and Mr. FIELDS of Texas.

H.R. 3700: Mr. GOODLATTE and Mr. BOEHNER.

H.R. 3710: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. STEARNS, Mr. COSTELLO, Ms. DANNER, and Mr. POMEROY.

H.R. 3713: Mr. MANTON, Ms. KAPTUR and Mr. JOHNSTON of Florida.

H.R. 3724: Mr. TORRICELLI.

H.R. 3729: Ms. BROWN of Florida.

H.R. 3747: Mr. FROST and Mr. FLAKE.

H.R. 3748: Mr. STUDDS.

H.R. 3753: Mr. OBERSTAR and Mr. SMITH of Texas.

H.R. 3757: Mr. EVANS.

H.R. 3792: Mr. HAYWORTH.

H.R. 3839: Ms. DANNER and Mr. COYNE.

H.R. 3841: Mr. DAVIS.

H.R. 3849: Mr. COLLINS of Georgia and Mr. GILMAN.

H.R. 3872: Mr. ENGLISH of Pennsylvania, Mr. SOLOMON, and Mr. WELDON of Pennsylvania.

H.R. 3905: Mr. WATTS of Oklahoma and Mr. LIPINSKI.

H. Con. Res 200: Mrs. MYRICK, Mr. HUNTER, Mr. ENGLISH of Pennsylvania, Mr. KIM, Mr. MANTON, Mr. PORTER, and Mr. SAXTON.

H. Res. 266: Ms. WOOLSEY, Ms. LOFGREN, Ms. NORTON, Mr. RADANOVICH, Mr. EVANS, Mrs. SCHROEDER, and Mr. ACKERMAN.

H. Res. 484: Mr. WYNN, Ms. FURSE, AND Mr. SPRATT.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

Vol. 142 WASHINGTON, THURSDAY, AUGUST 1, 1996 No. 116

Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, whose presence and power are revealed to the heart that longs for Your guidance, to the mind that humbly seeks Your truth, and to those who are united in oneness to serve You in a great cause, we ask that this time of prayer be an authentic experience of communion with You that issues forth into an authentic unity of purpose to glorify You in all that we do today.

We seek to receive Your presence continually, to think of You consistently, and to trust You constantly. We urgently need divine wisdom for our leadership of this Nation. We have discovered that this only comes in a reliant relationship with You. Prayer enlarges our minds and hearts until they are able to be channels for the flow of Your spirit. You are Yourself the answer to our prayers.

As we move through this day, may we see each problem, perplexity, or person as an opportunity to practice Your presence and accept Your perspective and patience. We do not want to forget You, Lord, but when we do, interrupt our thoughts and bring us back to an awareness that You are waiting to bless us and to equip us to lead with vision and courage. Thus, may our work be our worship this day. In the name of our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

Mr. LOTT. I thank the Chair.

SCHEDULE

Mr. LOTT. Mr. President, yesterday I witnessed what I think was probably the best day of legislating on both sides of the aisle and on both sides of the Capitol that I have seen in many, many years. Beginning here in the Senate, we did complete action on the nuclear waste disposal legislation. It took a lot of effort, a lot of cooperation, and I think everybody deserves a lot of credit for the way it was handled.

Also, I want to commend the chairman of the Transportation Appropriations Committee and his ranking member. I think they put in an Olympic performance. Even though the hurdles were movable at times, they continued to persist and were able to complete the transportation appropriations bill, and we appreciate the chairman's efforts on that; also on a whole variety of conferences. Conferences were literally meeting all over the Capitol yesterday, on MilCon appropriations, on health insurance reform, small business relief package, minimum wage, on safe drinking water, on the terrorism task force. Everybody was working hard, and I really was very impressed with the effort that everybody put into the day yesterday. I hope we can replicate that again today.

This morning the Senate will immediately turn to the consideration of the reconciliation bill conference report regarding welfare reform. That conference report will be considered under the statutory debate time limitation of 10 hours equally divided. I hope it will not take the full 10 hours. I know a lot of Senators want to be heard, and certainly they have that right in this time limit. But I hope maybe we can yield back some of that time so that we can take up conference reports. We have a couple of them that we will probably have to vote on. The D.C. appropriations conference report and military construction conference report will probably both have to be voted on.

This conference report is not amendable. Therefore, a vote on the adoption of the report will occur on the expiration or yielding back of debate time. Following disposition of the reconciliation bill conference report, the Senate may be asked to turn to consideration of other available conference reports or appropriations bills.

After we have votes on the conference reports, it is my intention at this time to go to the HUD–VA appropriations bill. The chairman, the Senator from Missouri, Mr. BOND, and the ranking member, Ms. MIKULSKI, have been very patient and understanding; their bill has slipped so we could move other, supposedly less controversial bills, but I hope we can take up the HUD–VA appropriations bill late this afternoon or even tonight. Therefore, rollcall votes can be expected throughout today's session and probably into the night.

I yield the floor, Mr. President.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, let me say to the majority leader on behalf of the Democratic leader that we intend to cooperate with him as much as we can, but I might say to the majority leader, as he understood, the Democratic leader was quite upset last night when one of the judges had an objection. That level of cooperation kind of broke open last night.

So I just want to advise the majority leader that we will be attempting to continue to help him through the day, but it received a bump last evening.

Mr. LOTT. Mr. President, I understand that, and I understand that we will be in very close touch with the distinguished assistant minority leader, the whip, to make sure that when votes do occur today they are in coordination with the Democratic leader's

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

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schedule, because we know he has some other things with which he is concerned.

We understand about the bumps in the road, but it is kind of like the hurdles on the Transportation appropriations bill the Senator from New Jersey helped work through. You just keep moving forward. You deal with them, and you find a way to handle these problems, and we will keep working with Senators to see that we can do that.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, leadership time is reserved.

PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report to accompanying H.R. 3734, which the clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3734) to provide for reconciliation pursuant to section 201(a)(1) of the current resolution on the budget for fiscal year 1997 having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

(The conference report is printed in the House proceedings of the RECORD of July 30, 1996.)

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, as I understand it, there are 10 hours equally divided. I hope we do not use 10 hours, and I will not take very long. I will yield rather quickly to the chairman of the Finance Committee. If he would permit me to give just a quick oversight, I will yield on our side. But I do wish to announce there are a number of Senators who want to speak. I hope we do not have any lag time between speakers. The Senators who have asked to speak are HATCH, GRAMM, SPECTER, HUTCHISON, SIMPSON, COATS, and GORTON. Some have indicated they want to speak as much as 10 to 20 minutes. I am clearly going to have plenty of time to accommodate them. I hope they will be watching here so that we do not have big periods of time when we are in a quorum call.

Mr. President, we come to the end of a long journey today to reform our Federal-State welfare programs. We take this final step today to send to the President of the United States for his announced signature the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

As vice chairman of the welfare reconciliation conference, I wish to first thank the people who did the bulk of the work to bring this conference to a quick conclusion. On our side, I thank in particular Senator ROTH, the chairman of the Finance Committee, who sits here. Without his diligent work and that of his excellent staff, we would not be here. I also thank, Senator LUGAR, who chairs the Agriculture Committee. For some it is not quite understood why a welfare bill can include agriculture issues. Of all of the nutrition programs that are a part of this package, most of them come within the jurisdiction of the Agriculture Committee, from food stamps on down. Obviously Senator LUGAR and his very dedicated staff must be given very high praise on our side of the aisle for their work.

These two distinguished chairmen and their staffs, from what I understood, worked tirelessly this last week. I was with them some of the time. I know of no other budget reconciliation conference in our history that was completed as quickly as this—less than 1 week.

Now, obviously, the House and Senate have passed bills that were somewhat similar—we have been at this a number of times. In fact, we have heretofore sent to the President two bills that passed both the House and Senate and he vetoed them. So, completing the conference report in 1 week seemed to us to be an achievable goal. And, indeed, they have exceeded our expectation and finished in slightly less than a week.

I believe part of the reason why this conference was completed so quickly is because the work on this issue has been in progress since the beginning of the 104th Congress, which began almost a year and a half ago. Welfare reform was one of the top legislative agenda items of this Congress. The former Republican leader, Senator Bob Dole, our candidate for President, made welfare reform a centerpiece of our broader effort to reform the Federal Government and return power back to the States and communities. For that, I want to indicate my great praise for our candidate for President, and our former leader. He had a lot to do with us being here today.

In addition, the national Governors, both Republicans and Democrats, have worked over the last year, both with the Congress and the administration, to help us make as informed judgments as we can.

This legislation truly represents and reflects the beginning of an open partnership with the States. This openness will be critical to its long-term success. We finally have decided what we should have decided a long time ago, that the States should not be our junior partners: who we tell how to do everything, do not listen to, and do not let make any innovative changes or do anything different from State to State. For too long we have assumed that one shoe fits all and that the States better do as we say because we are paying some or most of the bill.

We have decided that the States and Governors and legislatures out there in America are as concerned about the poor as we are. They are concerned about their well-being and as concerned, if not more so, about the status of welfare in their States—a program that was built upon and built upon over the past 60 years, but never contained any elements which were truly an incentive to go to work, or to improve your own personal responsibility and take better care of yourselves, and thus of your children. It had become as if people were locked in poverty, kind of waiting around for the next minimal cash benefit check and whatever else went with it. The rewards were not great. The money was not very much. But of those who got on it, many of them stayed on it forever because there were no tools to help them get their educations and look for jobs. There were not job placement approaches.

All of that will change when this bill becomes law. The essence of the new welfare will be more like workfare. Welfare offices will turn into work placement offices, into job training offices, into places where people can go to find out how to improve their skills and what help they can have while they are doing that, such as enhanced child care. We put a great deal of resources in here, because we want many of the people who are single heads of households, who have a couple of children, to be able to become trained and educated. So we have provided about $14 billion over the next 6 years in this bill, in order to help parents who want to go find jobs with those things that they need to take care of their children in the interim.

The spirit of bipartisanship is here today also. The President's statement yesterday indicates he would sign this legislation, after having vetoed two previous attempts at welfare reform.

Our Senators may describe what we have done differently, but from my standpoint I describe it in five simple ways:

First, we want to encourage and make people work. We believe work is the best thing to make people feel more self-esteem. It builds personal responsibility—which is precisely the opposite of the ethic we have built into the welfare program heretofore. Able-bodied persons who seek assistance should seek work and employment, and only after failing to find employment should they turn to the taxpayer for assistance.

Second, simple as it sounds, we ask parents to take care of their children. We stress personal responsibility and create incentives for families to stay together. We reestablish one simple rule, parents should take care of their children first. Accordingly, we track down and punish deadbeat fathers and mothers. Third, we change the culture of welfare. This is a culture that has dominated and poisoned our good intentions for the last 61 years. We do away with the concept of an entitlement to a cash benefit. Welfare will have a 5-year time limit for any recipients. No longer will welfare be a way of life. It will be a helping hand—and not a handout.

Fourth, we cut endless, unnecessary Federal regulations and bureaucracies and bureaucrats by turning power and flexibility over to the States and communities. That is where help for those in need can best be determined and best be delivered, and where innovation will flourish. Better ways to do things will be found.

Fifth, and finally, this is a budget reconciliation bill, and these reforms will slow the growth of Federal and State spending for these programs. Spending on the programs in this bill: the new temporary assistance for needy families block grant—temporary assistance for needy families block grant, I repeat that—this is a new program, and a new child care block grant program, and the reformed food stamp, SSI, child nutrition, foster care—all of these, along with the earned-income tax credit and other programs will increase from $100 billion this year to nearly $130 billion per year 6 years from now. Total spending over the next 6 years for these programs will exceed $700 billion.

For those who say we are not going to provide for those in need that were heretofore on welfare, let me repeat: The combined programs will increase from nearly $100 billion this year to $130 billion per year in 6 years, hardly a reduction in expenditures. Let me repeat, the total programs that I have just described, food stamps, SSI, child nutrition, foster care, the block grant program for child care, the new block grant to take the place of AFDC, which we will call temporary assistance for needy families—all of those programs will seek, from the taxpayers of America, $700 billion over the next 6 years.

Nevertheless, our taxpayers should know that we will save, we will save them, about $55 billion. This program in its reformed and more efficient mode will cost $55 billion less than it was assumed to cost if we had left everything alone and kept the entitlements wherever they were.

I believe much of these savings are going to be achieved because we are making the programs work better. We are going to be pushing people to do what they should have been doing all along—get off the rolls into work, off dependence into independence, off looking to somebody else for responsibility and looking to themselves. And everywhere we turn, in this bill, there are provisions for those who just cannot do it. There are emergency set-asides, emergency allowances, there are provisions, where it just cannot be done, to provide some of what must be provided in addition to the basic program.

I would like to quote one of our very distinguished Senators, Senator RICK SANTORUM—for whom I also extend my great appreciation for his help on the floor on many occasions during the debate on welfare. He stood here in my stead and he did a remarkable job. He came to the Senate well informed on this subject. He, at one point, said: ''Welfare reform has been and will continue to be a contentious issue. This legislation is tough love.''

I concur. And I do not believe there is anything wrong with that either. I have some concerns about provisions in this legislation. Other Members will have their particular concerns, and the President has expressed his. Unfortunately or fortunately, depending on your philosophy of governance, it is possible and probable that even with the President's signature we will not have seen the last of welfare reform. When he has signed it, we will probably see a completed law and we will carry it out. In due course, we will see there are some areas that need some repair, some fixing. But I believe, under any circumstance, with a bill that is as much on the right track as this—although perhaps imperfect in certain areas—we should proceed. We should let the reform move along.

For today, I believe, that the best hope we have to fulfill the promise we all made to the American public to change these programs as we have known them—is to pass this bill overwhelmingly.

Making such fundamental changes to programs, some of which are 60 years old, will surely require adjustments and additional tuning as we begin to see how this legislation unfolds. But for those who seem frightened of this change, and for those who want to find the areas where they have concern and that might need some repair in the future, I merely ask, is it possible that this welfare reform program can be worse than what we have?

I cannot believe that it is; because in a land of opportunity with untold chances for people to succeed on their own and move ahead with personal achievement and responsibility, in a land with plenty of that, one thing that stands out as a testimonial to failure on the part of our legislative bodies and the executive branch is the welfare program of this country. This program, for the most part, moves people in the opposite direction of mainstream opportunity in America, and for many it locks them there. We must unlock their opportunity potential.

For today, I believe this is our best opportunity to change the culture of welfare and, once again, I repeat, to provide in every way possible a hand up, an opportunity up, not a handout. I believe these Americans who are locked in welfare as we know it today are anxiously waiting in their minds and in their hearts for a better way of life. What we are saying, is we hope we are providing that for you. We hope we are giving many of you an opportunity to get out of welfare and get into something that is more like what most Americans have the opportunity to be a part of.

In short, I believe this legislation is the best hope we have today to provide some real hope for a future for those families and children in our society who, in many, many instances, are totally without hope. But we need to be honest and sober. I believe proponents and opponents may be overstating the results, but I believe the overwhelming consequences of this bill will be positive. The legislation represents a fundamental change in social policy. We elected officials should not assume that this legislation is perfect. The one thing the last 61 years should have taught us is that no one can be all-knowing.

So let us be proud of this significant accomplishment today. I believe it is the right legislation for the future. But let us also remain vigilant and sober. Many people's lives will be affected by this critical legislation, and we hope for most of the overwhelming percentage it is for the better.

Again, I congratulate the Members of the House and Senate who have worked to help bring this legislation before us today. I am hopeful that we will put an end shortly to welfare as it is.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Who yields time?

Mr. DOMENICI. Mr. President, I yield the floor.

Mr. LAUTENBERG. I thank the manager.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, let me start off by saying that I greatly respect my colleague on the other side of the aisle, the manager and the chairman of the Budget Committee. I listened to him carefully, and I know that he is a man of compassion and concern. I have seen it manifested in many ways: his interest in the mentally ill, his interest in the disabled. This is someone who cares about people. So when I talk about my difference in view, this is my personal perspective and, by no means do I intend to criticize the distinguished Senator from New Mexico.

Mr. President, I take this opportunity, acting as the minority manager on this conference report, to make my remarks, and they reflect my opinion. This is not a consensus view that I have mustered; this is the opinion of the Senator from New Jersey, who has been on the Budget Committee for some time and draws on some experience from my corporate world, as I discuss my perspective.

This is a historic and peculiar time for the U.S. Senate. The body is on the verge of ending a 60-year guarantee that poor children in this country might not go hungry. I salute the attempts to solve the problem. I am right with all the others, including the President of the United States, in wanting to solve the problem.

The question is not whether one wants to solve the problem; the question is, how do you solve it? This is going to be a test not only of our pocketbooks and our resources, but of our hearts as well. Though I have heard it described as bleeding hearts, I am willing to accept the nomenclature that has applied, because having had my life experience when in the Depression years my family was, to use the expression, dirt poor, and my father had to go to work on a WPA program, it was a humiliating experience for him to have to go to work on a Government program. But he buried his pride for a moment, and he did what he could to support his family.

I don't know many people who want to humiliate themselves standing in a line waiting for their welfare check. Yes, there are some cheats out there and there are druggies and there are drunks. They are out there, there is no question about it, but a lot of those people are simply people who have not yet discovered a way out of their misery and their poverty.

Women with children, many of them unwed—I do not approve of that condition, but that is life. The punishment should never exceed the deed, and that is what I fear, Mr. President, we are about to do in this body of ours, in our beloved country. For 60 years, we could rest easier at night and be sure American children had a minimum safety net. The bill before us takes away this peace of mind and throws up to 1,100,000 children into poverty, according to a study by the Urban Institute.

I agree, the welfare system is in need of repair, and I believe that it needs to promote work and self-sufficiency, pride and dignity. That is going to make the difference.

I think it should also, however, protect children and, unfortunately, I am not certain at all that this so-called welfare reform does it.

First, the Republican bill does not promote work. It asks for work. It demands work. I heard the distinguished chairman of the Budget Committee say we can make people work. That is a requirement for welfare recipients. But it does not require the resources to put people to work.

In fact, CBO said that most States would be unlikely to satisfy this work requirement for several reasons. One major reason is that this bill cuts funding for work programs by combining all welfare programs into a capped block grant.

Second, the Republican bill hurts children. It would make deep cuts in the Food Stamp Program, which millions of children rely on for their nutritional needs. It would also end the guarantee that children will always have the safety net. Under this bill, a State could adopt a 60-day time limit, and after that the children would be cut off from the safety net entirely.

The State would not even be required to provide a child with a voucher for food, clothing, or medical care. When you take all of these policies together, this bill will put an estimated approximately 1.1 million children into poverty. And this is a conservative estimate. It could be higher.

Mr. President, my conscience does not permit me to vote for a bill that will likely plunge children into poverty.

I had an experience some years ago when I was at the Earth summit in Brazil with the now Vice President of the United States and other Senators, Republican and Democrat. We were dining at a restaurant, facing a beautiful harbor in Rio. The restaurants were separated by rows of shrubs—beautiful places, a marvelous atmosphere. I saw a light brown hand reach through the bush and take food off the table. Children starving, thousands of them, sometimes chased by the police, sometimes shot at because they crowded the doors.

Mr. President, a child who is hungry will go to any means, as will an adult, to satisfy their hunger. I am worried about that. I cannot vote to leave our children unprotected. I was one of only 11 Democrats to vote against the original Senate welfare bill that would have put 1.2 million children into poverty. I voted against the conference report on this bill that would have doomed 1.5 million children to the same fate. I will vote against this bill for the same reason. We dare not abandon our children.

Mr. President, I hold a different vision of what the safety net in this country should be. I am concerned, frightened, that this bill will leave children hungry and homeless. I am afraid the streets of our Nation's cities might someday look like the streets of the cities of Brazil. Walk around there and you see children begging for money, begging for food, and even at 8 and 9 years old engaging in prostitution.

Tragically, that is what happens to societies that abandon their children. When we don't protect our kids, they resort to their own means to survive. I do not want to see that happen in this country. I want to see this country invest in children.

I think we should invest more in child care and health and nutrition so that our kids can become independent, productive citizens. I want to give them the opportunity to live the American dream like I and so many in this room had the good fortune to do. If we do not, we will create a permanent underclass in this country. We will have millions of children with no protection, and we are going to doom them to failure.

Mr. President, as a member of the Budget Committee, I also want to comment on the priorities that are reflected in this reconciliation bill. Despite the fact that this bill is only limited to safety net programs, it is still considered a reconciliation bill. The bill receives the same protections as a budget-balancing bill, but there is no balanced budget in it. This reconciliation bill seeks to cut the deficit only by attacking safety net programs for poor children, for legal immigrants.

There are no cuts in corporate loopholes or tax breaks, despite the fact that the tax expenditures cost the Federal Treasury over $400 billion a year. There are no such savings in this bill. There are no grazing fee increases, no mining royalties, no savings in the military budget or NASA's budget.

The only cuts in this bill come from women and children. This reconciliation bill gives new meaning to putting women and children first.

Mr. President, I realize that this bill is going to pass. I understand the President clearly has indicated that he is going to sign it. However, as the distinguished Senator from New Mexico mentioned, the President and many of us are determined to examine a package of changes next year to soften the blow of the harsh provisions in this bill.

Mr. President, we have seen the reaction of people regarding this bill. When you hear from the mayor of one of the world's most distinguished cities, New York City Mayor Giuliani, he is worried about where they get the money in the block grants to supply the job training, the child care support. He is concerned, as are many mayors across the country we have heard from.

Mr. President, I will, for a moment, just relate an experience that I had when I ran a corporation, a big corporation. When I left to come to the U.S. Senate, we had over 16,000 employees, a very successful company. We were a company, founded in New Jersey, that tried to work within our community. The company still has its headquarters in New Jersey and employs almost 30,000 people today.

I always tried, since I came from a poor background of hard-working, honest people who always wanted to keep their heads high and always wanted to do the right thing and not ask anybody for anything—but there were times when we needed help. If I did not have the GI bill, Mr. President, I doubt that I would be standing in front of the U.S. Senate and the American people today. So, we were very conscientious, my partners and I, about trying to understand what was happening around us. We began to hire people, or we attempted to hire people, who were literally unemployable with job after job, short-term employment, and then back on the streets.

We brought people into the computer room, not into the factory. We did not have a factory. I was in the computer business. We brought them into the computer room, and we had one startling success among several people that we worked with. The reason for that success was very interesting. The reasons for failure were obvious, because though we would give these people a job, and they would be enthusiastic about it for a couple days, as soon as they got back into their environment and as soon as they were faced with poverty and despair and drugs and crime, they fell right back in the trap. They were useless as employees in very short order.

But the one person who succeeded so well, we got an apartment for her, and we moved her, helped her move from her ghetto area to a more middle-class area. The success was astounding. This woman, when we hired her, she was 25 years old. She had very limited education. She became a computer room supervisor—a good job—and went on to become a part of management in the company. It was a startling success, because it was not that we said, you have to go to work and have to show up on time. We said that to everybody. You say that to all of your employees. All of them do not do it. It needs training. It needs commitment.

Mr. President, I hope that this bill that is being considered today, this reconciliation bill, will not be the first step toward larger problems than we can understand today, toward the kind of situation where America turns its heart into stone and says, OK, we are here as accountants, we are here to cut the budget.

I want to cut the budget. I have programs to cut the budget to arrive at a balanced budget. I know what happens in the corporate world when your expenses get too high and your revenues too low. You make changes, make them selectively. We did not just cut every department if we had to reduce expenses. Maybe it was time to cut the marketing department or the production department or the products design department. But I always thought about the long term. We are abandoning the long term. What we are doing is giving a lot of people political satisfaction, those who work here and those who are outside who hear us on TV and the radio.

Mr. President, I make my remarks in the full context of the realization of where we are. This bill has lots of support. I am not, I promise you—not—attempting or trying to influence people to vote against it. I am stating the case as I see it. I hope it will in some way encourage others to think very deeply about their decision to vote. I thank you and yield the floor.

Mr. DOMENICI. Mr. President, how much time does the distinguished Senator from Delaware desire?

Mr. ROTH. Ten minutes.

Mr. DOMENICI. I yield up to 15 minutes to the Senator from Delaware, Senator ROTH.

Mr. ROTH. First of all, let me thank the distinguished Senator from New Mexico for his gracious remarks about me and my staff. I just point out that we would not have been able to complete the reconciliation within a week if it had not been for his leadership, for the assistance and help that he provided at any time when it became necessary in the difficult negotiations that had to take place. I want to publicly thank the Senator for his contribution.

Mr. President, this day is a remarkable turning point in the lives of millions of American families and generations to come. This is the day we will reorder our confused and confounding system of welfare. A world spinning out of control will be brought back into proper course. It will return to order not through the power of Washington but through personal responsibility and work opportunity, the very title of this important legislation.

I say to my distinguished friend from New Jersey that what we seek to do here is to provide the same kind of opportunity that was given to him, through help to go to college, but particularly as he tried to help that lady into the mainstream of life by giving her meaningful work. I think that is what we are all seeking to do together.

Mr. President, this is the third time welfare reform will have passed in the 104th Congress. The issue of welfare reform has been frequently and passionately debated over these past months, and rightly so. The effects and consequences of the welfare system in some way touches us all.

During this time, the Finance Committee has held 19 hearings and taken testimony from 90 witnesses. We have found that the current AFDC program, as it was designed in the 1930's, abandoned many families long ago as a statistic of long-term dependency in contemporary society. The current welfare system has failed the very families it was intended to serve.

If the present welfare system was working so well we would not be here today. I think that is a point well worth underscoring because the fact is, as the record shows, that this current system has not been good for children. For anyone who believes that it has, I recommend you read the findings section of this legislation. I have yet to hear anyone defend the present system as good for children.

I point out that in 1965 there were 3.3 million children on AFDC; by 1992, that had risen to over 9 million children. In 1992, 9 million children were on welfare, AFDC, despite the fact that the total number of children in this country has declined. Last year, the Department of Health and Human Services estimated if we do nothing, 12 million will be on AFDC in 10 years.

I reemphasize once again that the present system is not good for children. But the record clearly demonstrates the contrary—that instead of being good, we find more and more children being trapped in a system and into dependency on welfare.

As I said, to do nothing is absolutely unacceptable. Mr. President, 90 percent of the children on AFDC live without one of their parents. Only a fraction of welfare families are engaged in work. The current welfare system has cheated the children of what they need most—among these is hope, the necessary condition of liberation from dependency. The key to their success will not be found in Washington but in the timeless values of family and work.

Opponents of welfare believe that the States lack either the compassion or the capacity, or both, to serve needy families. They are wrong. We promised welfare reform and we have kept our promise. Our legislation is built upon the original principles from which we have never waivered. This is a bipartisan bill. Half of the Senate Democratic Members who served on the conference voted for the bill when it passed the Senate by an overwhelming margin. Yesterday, this conference report passed the House of Representatives by a vote of 328 to 101. Half of the Democrats in the House of Representatives voted for this bill. I believe that demonstrates the bipartisan spirit upon which we have approached welfare reform.

A number of people deserve our thanks and credit for giving us this opportunity today. First, let me give credit and thanks to Senator Bob Dole, our former majority leader. Even after welfare reform had been vetoed twice, Bob Dole insisted that we could and should remain steadfast in our fundamental principles and achieve welfare reform. Bob Dole introduced a welfare bill before he left the Senate which was, frankly, the benchmark of our conference report before us. His last advice to me was to make sure this job gets done this year. I have to say, Mr. President, today's action reflects his work, reflects his vision, reflects his leadership.

Our Nation's Governors, most especially the lead Governors on welfare and Medicaid reform, people like John Engler, Tommy Thompson, Mike Leavitt, Tom Carper, Bob Miller, Lawton Chiles, and Roy Romer deserve our thanks and credit for their work to make welfare reform a reality. I look forward to working with them again to face the challenge of Medicaid reform.

Even though Senator MOYNIHAN does not support our legislation, I want to thank him for his work and insights into this extremely complex world of welfare. Perhaps no one has done more over the past three decades than Senator MOYNIHAN to bring the alarming growth in welfare to the Nation's attention.

President Clinton has announced his support for this hard-won conference report and he is to be congratulated for that decision. It is the right thing to do.

Mr. President, while the present welfare system is full of excuses, the welfare reform legislation being presented to the American people today is indeed a bold challenge. And while the present system quietly accepts the dependency of more than 9 million children, our proposal speaks loudly to them and insists that they, too, must be among the heirs to the blessings of this great Nation.

Welfare reform is about helping families find the freedom and independence we take so much for granted.

Mr. President, this legislation clearly points the way to that independence.

But the road to independence does not begin or end in Washington. Independence begins with living up to one's responsibilities. This is echoed through the legislation with the provisions on work, time-limited benefits, limits on benefits for noncitizens, and strong child support enforcement reforms.

Mr. President, I urge adoption of the conference report.

I yield the floor.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. WYDEN. Mr. President, I yield myself 15 minutes. Mr. President, there is a concrete reason for voting for this less-than-perfect bill. For millions of Americans, this legislation can be a tool for turning the welfare check into a trampoline for opportunity and independence. I know this because my home State of Oregon has achieved it.

Once more, the State of Oregon has marked a path for the Nation. By putting in place our welfare reform program, known as Jobs Plus, we have shown the Nation that it is possible to be both tough and compassionate. With our Jobs Plus Program, we have been able to have strong work requirements and critically needed child care and medical care for folks coming off of welfare. The plan is working for both taxpayers and those coming off of welfare. And as the President said yesterday, today's legislation can spark more States into going with the kind of approach we have at home.

Mr. President, a few years ago, an Oregonian approached me on the street and said, ''You know, for me, welfare is kind of like 'economic methadone.' You guys send me a check. The checks always come, but you people never let me do anything to break out, to get off welfare.''

This legislation provides the way to break out—a real key for unlocking the riddle of welfare dependency. I think it is an opportunity to remake this system that doesn't work for those who are in it and doesn't work for the taxpayers who pay for it.

Take child care, for example. Child care is an absolute prerequisite to changing welfare. I chaired hearings looking at the child care issue, and we heard heartbreaking accounts of how, again and again, women would get off of welfare, they would be doing well in the private sector, but their child care would fall apart just as they were getting back on their feet.

This bill provides $3.5 billion more than current law for that critically needed child care. That increase of $3.5 billion in child care is going to be absolutely critical to helping folks get off welfare.

In addition, as several of my colleagues have noted, child support is strengthened. I am also pleased that Medicaid is protected as a guarantee for all of our Nation's children.

Now, at the beginning of this Congress, there was a lot of talk about orphanages. A lot of us did not particularly think that all of these orphanages were exactly Boys Town, and nobody seemed to zero in on the question that if an orphanage was Boys Town, it would come with a big price tag for taxpayers. So a lot of us thought that we ought to do something better. I worked very hard to develop a new approach known as ''Kinship Care.'' What the Kinship Care amendment says is that the Nation's grandparents—the millions of loving grandparents—would get first preference when a youngster from a broken home needs help. Instead of sending the children away, the grandparents, if they met the child custody standards, would get first preference. Along with Congresswoman ELEANOR HOLMES NORTON, Congressman CLAY SHAW, and Senator DAN COATS, on a bipartisan basis, we all worked together on this kinship care amendment.

Now, as we look to the 21st century when, as a result of the population trends and demographics, there are going to be many more grandparents, we have an opportunity to keep families together, to use a new model known as kinship care to provide loving care for youngsters in a cost-effective way.

Mr. President, this legislation doesn't meet my definition of perfection. I will say that I, frankly, detest a couple of these provisions—particularly, what was done with the food stamp shelter deduction and the legal immigrant provisions. So this legislation doesn't meet my textbook standard of what would constitute perfection. I, like a number of our other Senators, am going to fight very hard to make changes in this area. As I think it is critical to do, we ought to be constructive and we ought to look at useful ways that Senators can work on a bipartisan basis for changes.

For example, there has been a lot of talk in this Congress about the idea of a lock box, the idea of special accounts so that when the spending is reduced, those funds are protected for deficit reduction. I have supported that concept. I think the lock box makes sense. Frankly, I think we ought to look at a new idea, and we can call it the lunch box. We could make sure that when you eliminate some of those tax loopholes, when you go after wasteful spending, some of those funds could be put in what I call the lunch box, and we could use these savings to try fresh approaches to ensure that all Americans have access to good nutrition. I think there are a number of new, innovative approaches that we ought to try and that are going to be needed, even after this bill is enacted and signed into law.

At the end of the day, Mr. President, the question, to me, is straightforward: Is this legislation better than the status quo? Is it better than the system that an Oregonian told me was like economic methadone? I think that when you look at the child care provisions, at the Medicaid guarantee, when you look at the opportunity for States to follow the path that Oregon has followed with our Jobs Plus Program, I believe you see the case for supporting this legislation. I intend to vote for it.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, as manager of the time on this side, I want to indicate that Senator GORTON will be recognized to take my place, and he will have up to 15 minutes, and then he will indicate thereafter the sequence until I arrive back on the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington State.

Mr. GORTON. Mr. President, I greatly admire those who, during the course of this debate over the last year and a half, expressed great confidence in the consequences of the passage of this bill or of its predecessors. I expressed that admiration both for those who are as confident that the bill will end a culture of dependency as for those who view with alarm what they believe will vastly increase poverty among the people of the United States. While I admire their certainty, I cannot join in it.

I must say, Mr. President, that I am not at all certain of what the consequences of the passage of this bill will be. I hope and I am inclined to believe that they will primarily be positive, but I cannot be certain. In that regard, Mr. President, I agree fully with the views expressed yesterday in the Washington Post by Robert Samuelson, and I will quote three sentences of his review:

> The exercise aims to promote self-reliance by making it harder for people to rely on government. Without the threat of extra suffering, people would have no reason to change. What can't be predicted is how the good and bad will balance.

Mr. President, I find that entire column to be so persuasive—and not at all, incidentally, to be so similar to my own views—that I ask unanimous consent that the entire column be printed in full at the end of my remarks.

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

(See exhibit 1.)

Mr. GORTON. Mr. President, on the other hand, what I do know and what I feel confident in stating is that our present welfare system is a tragic and destructive failure. At the very least, the present system has been accompanied by a massive increase in the very conditions that it was designed to alleviate: illegitimacy, family breakup, a negative attitude toward work, a culture of dependency. At most, our present system has been a contributing cause to those conditions.

I should also like to observe, Mr. President, that those who oppose this bill, by and large, are those who individually—or whose philosophy—have guided and managed the system that this bill in large part dismantles. These people, these ideas clearly represent the conventional wisdom, a conventional wisdom that has guided and produced every change in welfare policy in this country, or almost every such change, for at least the past 30 years. Their present advice is to view with alarm these changes, to attempt to preserve the status quo, except to ask that we do a little bit more of what we have been doing with these last several decades.

Mr. President, that conventional wisdom is bankrupt and ought to be abandoned, not only for the sake of our society as a whole but for the sake of the supposed beneficiaries of these welfare policies.

Those of us who support this legislation, these changes, hope with some reason that this bill will increase incentives to work, some of those incentives being positive and some negative. We hope, with some reason, that it will result in strong disincentives for teenage pregnancy and illegitimacy. We are convinced that it will require greater male parental support for their children.

But the heart of this bill—not with total consistency, after all, with the compromises that have entered into it—but the heart of this proposal is consistent with my own uncertainties about specific consequences resulting from specific policies. That central feature is to end the absolute entitlement to welfare, to end the detailed Federal regulation of the way in which welfare policies are administered by the State, to end the massive bureaucratic interference with every detail of welfare policy, and to encourage—for that matter, to require—a wide range of experimentation in welfare policies among our 50 States.

I suppose that States which really want to pay for even more generous welfare systems than they have at the present time will be able to find a way to do so, and that there may be a handful of such States. Perhaps more significantly, those States that want to adopt tough work requirements will be able to do so. Those States that want to provide for greater training and child care will be able to do so. Those States that want to impose strong disincentives against dependency will be able to do so.

In fact, in a relatively short period of time after the passage of this bill, we will have 50 distinct and different systems of welfare in the United States. We will learn just how much private sector charities can and will do in the welfare field. We know that in certain areas they have been magnificently successful at much lower cost than any government-run program. How much that private sector effort can be increased we simply do not know at the present time, but we will learn as a result of this bill.

As a consequence, 5 years from now or 10 years from now, I believe that we will know far more about which welfare policies work and which do not. Perhaps we will even know enough to lead us wisely to a more centralized system of adopting those policies which seem to have worked well. I suspect, I hope, and I think this 50-State experimentation will probably be successful enough so that our successors will wish it to continue.

Mr. President, I am gratified but not at all surprised that a poll-driven President of the United States has agreed to sign this bill. That agreement means that we are talking here, debating here, something real—real changes in policy with a real impact on our society and on our citizens.

It would be very difficult to do worse than we have been doing over the course of the last several decades. We have a marvelous opportunity to do far better. The time has come to act. The day is at hand on which we will act.

I commend this magnificent new experiment to my colleagues.

EXHIBIT 1

[From the Washington Post, July 31, 1996]

FOR BETTER OR WORSE?

(By Robert J. Samuelson)

We are now hearing a lot about the promise and peril of ‘‘welfare reform.’’ To its champions, the legislation nearing congressional approval would destroy the ‘‘culture of dependency.’’ Critics see it as further impoverishing many poor families. Both are correct. The exercise aims to promote self-reliance by making it harder for people to rely on government. Without the threat of extra suffering, people would have no reason to change. What can’t be predicted is how the good and bad will balance.

I have put ‘‘welfare reform’’ in quotes, precisely because ‘‘reform’’ is a term of art. It is automatically attached to any scheme for social change, from ‘‘campaign finance reform’’ to ‘‘school reform.’’ In debates about these proposals, the protagonists act as if they can easily foretell the effects, for good or ill. As often as not, this convenient fiction spawns ‘‘reforms’’ with many unintended consequences. The process is now in full swing with ‘‘welfare reform.’’

The combatants regularly issue confident predictions and shrill denunciations that depict a fixed future. Last week, for example, the Urban Institute, a research group, released a study estimating that the House-passed welfare bill would increase the number of people in poverty by 2.6 million people, including 1.1 million children. Naturally, opponents of the legislation seized upon this to emphasize how bad it is. But a close look at the study shows that its conclusions ought to be highly qualified.

The House and Senate bills would give states great flexibility to run their welfare programs within broad federal guidelines. Total lifetime federal benefits would be limited to five years, though states could exempt 20 percent of their caseloads. States would be pressured through complex regulations to move most mothers into some type of ‘‘work’’ within two years. After making some assumptions about state programs, the Urban Institute study estimates that the loss of benefits would outweigh the increase in earnings from jobs.

This could happen. The study’s assumptions aren’t implausible. But uncertainties abound. First, the full rise of people in poverty would occur only in 2002 after all the bill’s provisions took effect. Between now and then, Congress (or the states) could make changes if things went badly. This is especially true of one of the bill’s worst provisions: the denial of many benefits, including food stamps, to legal immigrants. That alone accounts for about two-fifths of the bills’ benefit cuts.

Second, the increase in the poor would be much less—only 800,000 and not 2.6 million—if the Urban Institute had used the government’s official definition of poverty. I cite this difference not because I think the Urban Institute deliberately inflated the impact of ‘‘welfare reform’’ but because it shows how perceptions can be shaped by somewhat arbitrary statistics.

(For numbers freaks, the difference arises because the government definition counts only cash income to determine who falls below the poverty line: $15,141 for a family of four in 1994. Excluded are benefits such as food stamps that substitute for cash. The Urban Institute counts many of these benefits. As a result, the Urban Institute finds many fewer poor people; but if welfare reform cuts non-cash benefits, the impact on recorded poverty is greater. Still, the number of poor by the Urban Institute’s count—even after adding 2.6 million—would be almost 25 percent lower than under the government count).

Statistics aside, what matters are people. Would more be made better or worse off by ‘‘welfare reform’’? Unfortunately, we can’t answer that, because we can’t predict all of ‘‘reform’s’’ effects. The Urban Institute examines one aspect of change: the shift from welfare to work. The study assumes that two-thirds of mothers who lost welfare would get jobs—many part-time—paying about $6 an hour. That wouldn’t offset all the lost benefits. But this may miss some other favorable effects. Stingy welfare would discourage some out-of-wedlock births and prompt some parents to marry. ‘‘The main route off welfare for good is marriage,’’ says Douglas Besharov of the American Enterprise Institute.

How large might these changes be? Neither Besharov nor anyone else knows. But the social climate is shifting, and ‘‘welfare reform’’ is simply a part of the change. Harsher welfare may reinforce the message that many teens are hearing elsewhere; and the impact may be amplified by tougher enforcement of child support payments and more prosecution for statutory rape of older men who prey on young girls. Teens account for 29 percent of out-of-wedlock births; the worst aspects of the ‘‘welfare problem’’ would diminish if, somehow, these pregnancies would drop.

The case for the present ‘‘welfare reform’’ is that, despite many flaws, it would disrupt the existing system. As Mickey Kaus argues in Newsweek, we may discover what works and what doesn’t. Some states would emphasize job training and child care for welfare mothers; others would impose harsh time limits. All could be forced to examine how charities, churches and self-help groups can best aid vulnerable families. This process is already occurring through ‘‘waivers’’ granted to states to modify existing federal rules; the legislation would give change further impetus.

We ought to be sober about the possibilities. We are dealing with the most stubborn problems of poverty—family breakdown, low skills and human relationships. Changing how people behave isn’t easy. Indeed, new government figures show that out-of-wedlock births continue to rise, as Charles Murray notes in the Weekly Standard. In 1994, they were 32.6 percent of all births, up from 23 percent in 1990. These numbers are an argument for assaulting the status quo and a reminder of how hard it will be to change.

The remaining drama over the welfare bill is mostly political: Will President Clinton sign it? And who then—a Republican Congress or a Democratic president—will get the credit or blame for enacting or killing ‘‘reform’’? However the drama ends, the welfare dilemma will endure. It is this: How can a decent society protect those who can't protect themselves without being so generous that it subverts personal responsibility? No one on either side of this bitter debate has an obvious answer.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I am here to speak, but out of deference to Senator MOYNIHAN, who is ranking member of the Finance Committee and, more importantly, who has shown an intellectual and personal public policy commitment, probably unlike anyone in the Senate, I will suggest the absence of a quorum so we can see whether or not Senator MOYNIHAN wants to speak now. If not, I will speak.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WELLSTONE. Mr. President, while we are waiting, I wish to insert into the RECORD an op-ed piece today by Frances Fox Piven in the New York Times called ''From Workhouse to Workfare.''

This is a very powerful piece. It concludes with the statement that the ''facts don't seem to matter'' in the debate over this welfare bill. ''We may have to relive the misery and moral disintegration of England in the 19th century to learn what happens when society deserts its most vulnerable members.''

That is the conclusion of this article.

I ask unanimous consent that it be printed in the CONGRESSIONAL RECORD.

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

[From the New York Times]

FROM WORKHOUSE TO WORKFARE

(By Frances Fox Piven)

If Bill Clinton, as an Oxford student, had studied the history of the poor in early 19th century England, he might not have decided to sign the welfare reform bill.

Eminent English social thinkers developed a justification for an 1834 law that eliminated relief for the poor. Learned arguments showed that giving them even meager quantities of bread and coal harmed both the larger society and the poor themselves.

Never mind the rapid enclosure by the rich of commonly used agricultural land; never mind the displacement of hand-loom weavers by mechanized factories; never mind the decline in the earnings of rural workers. The real causes of poverty and demoralization were not to be found in these large economic changes, the thinkers said, but rather in the too-generous relief for the poor. The solution was to stop giving relief to people in their own homes; instead, survival for the family meant entering prison-like workhouses.

The misery and reduced life spans that ensued were well-documented not only by historians but ultimately by Parliament, which investigated the workhouses and the riots against them. England came to learn that the theory that relief itself caused poverty was wrong, and replaced the Poor Law with a modern system of social assistance.

No matter what England learned, the United States Government is eagerly following the 1834 script by ending Federal responsibility for welfare and turning it over to the states. The arguments are the same: welfare encourages young women to quit school or work and have out-of-wedlock babies. Once on the doll these women become trapped in dependency, unable to summon the initiative to get a job or to raise their children property. Welfare, in short is responsible for the spread of moral rot in society.

Never mind low wages and irregular work; never mind the spreading social disorganization to which they lead; never mind changes in family and sexual norms occurring among all classes and in all Western countries. The solution is to slash welfare. ''Tough love,'' it is said, will deter young women from having babies and force those already raising children to go to work.

But slashing welfare does not create stable jobs or raise wages. It will have the opposite effect. By crowding the low-wage labor market with hundreds of thousands of desperate mothers, it will drive wages down.

The basic economic realities of high unemployment levels and falling wages for less-educated workers; guarantee a clamaity in the making—and not only for welfare mothers

It is true that the United States has a higher proportion of single-parent families than other Western countries. But since other rich countries provide far more generous assistance to single mothers, this very fact suggests that welfare has little to do with it.

Other facts also argue against the welfare-causes-illegitimacy argument. Most obvious, welfare benefits set by the states have declined sharply since 1975, while the out-of-wedlock birth rate has risen nationwide. In addition, there is no discernible relationship between the widely varying levels of benefits provided by the states and the out-of-wedlock birth rates in the states.

But fact don't seem to matter. We may have to relive the misery and moral distintegration of England in the 19th century to learn with happens when a society deserts its most vulnerable members.

Mr. WELLSTONE. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MOYNIHAN. Mr. President, yesterday, after the President announced he would sign this legislation, I said: ''The President has made his decision. Let us hope that it is for the best.''

Today, I continue to hope for the best, even if I fear the worst.

As I have stated on this floor many times, this legislation does not reform aid to families with dependent children; it simply abolishes it. It terminates the basic Federal commitment of support for dependent children in hopes of altering the behavior of their mothers. We are putting those children at risk with absolutely no evidence that this radical idea has even the slightest chance of success.

In our haste to enact this bill—any bill—before the November elections, we have chosen to ignore what little we do know about the subject of poverty. Just 2 days ago, on July 30, 11 of the Nation's leading researchers in this field issued a statement urging us not to do this. Among them were seven current and former directors of the Institute for Research on Poverty at the University of Wisconsin established in the aftermath of the Economic Opportunity Act of 1964. Scholars of the stature of Sheldon Danziger of the University of Michigan; Irwin Garfinkel of Columbia University; Eugene Smolensky of the University of California at Berkeley; and Edward Gramlich of the University of Michigan. They write:

As researchers who have dedicated years to the study of poverty, the labor market, and public assistance, we oppose the welfare reform legislation under consideration by Congress. The best available evidence is that this legislation would substantially increase poverty and destitution while doing too little to change the welfare system to one that provides greater opportunity for families in return for demanding greater responsibility.

Real welfare reform would not impose deep food stamp cuts on poor families with children, the working poor, the elderly, the disabled, and the unemployed. It would not eliminate the safety net for most poor legal immigrants, including the very old and the infirm. It would not place at risk poor children whose parents are willing to work but are unable to find unsubsidized employment. It would not back up work requirements with the resources needed to make them effective.

We strongly support an overhaul of the nation's welfare system. But the pending legislation will make a troubled welfare system worse. It is not meaningful welfare reform. It should not become law.

I repeat what these social scientists have concluded: ''The best available evidence is that this legislation would substantially increase poverty and destitution.''

What is the evidence? Dr. Paul Offner, the distinguished Commissioner of Health Care Finance for the District of Columbia, summarized it nicely last week. Respected research organizations such as the Urban Institute here in Washington, and the Manpower Demonstration Research Corporation in New York have, over the years, undertaken careful evaluations of various welfare reform demonstration projects. As Offner recounts, they found that welfare caseloads were reduced in only 4 of the 23 welfare demonstrations they studied.

Dr. Offner points out that even the program in Riverside, CA, which is regarded by many experts as the most successful ever, has achieved caseload reductions of less than 10 percent.

This should not surprise us; it is not easy to change human behavior. Notwithstanding this fact, the premise of this legislation is that the behavior of certain adults can be changed by making the lives of their children as wretched as possible. This is a fearsome assumption. In my view. It is certainly not a conservative one.

If we acknowledge the difficulty in bringing about the transition from welfare to work, we must recognize that putting people to work on a large scale would require a large-scale public jobs program, and that would require a great deal of money.

Let me say that Democrats were the first to fail in this regard. In the company of Sargent Shriver and Adam Yarmolinsky, I attended the Cabinet meeting in the spring of 1964 where we presented the plans for a war on poverty. Our principal proposal, backed by Secretary of Labor Willard Wirtz, was a massive jobs program, along Works Progress Administration lines, to be financed by a cigarette tax. President Johnson listened for a moment or two; announced that in that election year we were cutting taxes, not raising them. He thereupon picked up the telephone attached to the Cabinet table, called someone, somewhere, about something else, and the war on poverty was lost before it began.

This legislation is even worse.

In fact, this legislation provides some $55 billion less over the next 6 years. There are work requirements in the bill, but we seem tacitly willing to admit they will never be met. Dr. June O'Neill, Director of the Congressional Budget Office, has been most forthcoming on this subject. The CBO report on this bill bluntly states that

> Given the costs and administrative complexities involved, CBO assumes that most states would simply accept penalties rather than implement the [work] requirements.

What else does the evidence show? It shows quite clearly that the central feature of this legislation, the time limit, will affect millions of children. CBO estimates that ''under current demographic assumptions, this provision could reduce cash assistance rolls by 30 to 40 percent'' within the decade. I should say that again: 30 to 40 percent of the caseload will be cut off in less than 10 years' time.

Let me put that in terms of how many children will be cut off. According to the Urban Institute, 3,500,000 children will be dropped from the rolls in 2001. By 2005, 4,896,000 children will be cut off.

The Urban Institute has also estimated, in a report released just last Friday, July 26, that this bill will cause 2.6 million persons to fall below the poverty line; 1.1 million of those impoverished will be children. To say nothing of those persons already living in poverty. They will be pushed even further below the poverty line; The average loss in income for families already below the poverty line will be $1,040 per year. I note that the Urban Institute's estimates are based on quite conservative assumptions, so the actual impact could well be even worse than predicted.

I cite this evidence because it is important that we cast our votes with full knowledge of the consequences. This information has been widely available, and I have made these arguments on the floor previously, so I believe we are all on notice of the implications for children.

The implications of this legislation for our State and local governments are another matter. These are not widely known, but they will be very real indeed. On Thursday of last week, 2 days after the Senate passed its version of this legislation, I received in the mail a four-page letter from the Honorable Rudolph W. Giuliani, mayor of the city of New York. He wrote of his concern that the major provisions of the bill would impose huge new costs on New York City totaling some $900 million per year. The mayor listed the added costs to New York City as follows: $380 million for child care for welfare recipients; $290 million for aid to legal immigrants; $100 million to support persons dropped from Federal rolls due to time limits; $100 million for work programs.

Mayor Giuliani wrote that the bill's ban on Federal assistance for legal immigrants was of particular concern to New York City, where 30 percent of the population is foreign-born.

The sum of $900 million a year is a lot of money. New York City's total annual budget is $33 billion. And other, smaller local governments will also be hit hard.

The total additional cost to New York State will be in the neighborhood of $1.3 billion per year. We estimate the loss of Federal funds to some of our larger counties as follows: Albany County $15 million; Erie County $75 million; Monroe County $60 million; Onondaga County $30 million; Westchester County $45 million.

These are sums that New York State and New York City simply cannot afford. It will be ruinous for us. In March of this year, the New York State Financial Control Board reported that ''the city's finances continue to deteriorate.'' The board said that over the next 4 years, the growth in New York City's spending will be more than double the growth in its income. Spending will grow by approximately 2 percent per year, while revenues will grow by less than 1 percent. In the absence of this welfare legislation, the gap between the city's outlays and revenues will increase by $400 million annually. With the new additional costs imposed by this bill, the annual increase in the shortfall will more than triple.

New York will not be alone in this, of course. Senator FEINSTEIN said on the floor last week that the bill will cost California $17 billion over 6 years, or about $3 billion annually. Other States—Illinois, Texas, Florida—will also bear immense new burdens. I wonder if they are ready for what is coming.

More importantly, I wonder if the Nation is ready for the social change this legislation will set in motion. There are great issues of principle at stake here, as leaders of the religious community have said with such clarity and force. Bishop Anthony M. Pilla, president of the National Conference of Catholic Bishops, wrote to the President on Friday to urge that this bill be vetoed. Quoting St. Matthew's Gospel, Bishop Pilla wrote that ''the moral measure of our society is how we treat 'the least among us.' ''

I know what the outcome will be today, but before we cast our votes, I hope Senators will ask themselves how this legislation will treat the least among us.

I began these remarks with a comment on language. The conference report before us is not welfare reform, it is welfare repeal. It is the first step in dismantling the social contract that has been in place in the United States since at least the 1930's. Do not doubt that Social Security itself, which is to say insured retirement benefits, will be next. The bill will be called the Individual Retirement Account Insurance Act. Something such. John Westergaard points out that this legislation breaks the social contract of the 1930's. We would care for the elderly, the unemployed, the dependent children. Drop the latter; watch the others fall.

Fred C. Ikle has coined the fine term ''semantic infiltration'' to describe the technique in international relations whereby one party persuades another to use its terms to discuss the issues being negotiated. We now have its domestic counterpart in egregious display. Recalling George Orwell's essay, ''Politics and the English Language,'' we would do well to be wary. Henry Friedlander has reminded us recently of the stages by which genocide evolved from the soothing and supportive notion of euthanasia.

And so to one other matter of language. We are told that this legislation is a defeat for liberals. We are assured in private, and it is hinted at in print, that many of the President's most liberal advisers opposed this legislation. Liberals are said to have lost.

This is nonsense. It is conservatives who have lost.

For the best part of 2 years now, I have pointed out that the principal—and most principled—opponents of this legislation were conservative social scientists who for years have argued against liberal nostrums for changing society with the argument that no one knows enough to mechanistically change society. Typically liberals think otherwise; to the extent that liberals can be said to think at all. The current batch in the White House, now busily assuring us they were against this all along, are simply lying, albeit they probably don't know when they are lying. They have only the flimsiest grasp of social reality; thinking all things doable and equally undoable. As, for example, the horror of this legislation. By contrast, the conservative social scientists—James Q. Wilson, Lawrence Mead, John DeIulio, William

Bennett—have warned over and over that this is radical legislation, with altogether unforeseeable consequences, many of which will surely be loathsome.

All honor to them. They have kept to their principles. Honor on high as well to the Catholic bishops, who admittedly have an easier task with matters of this sort. When principles are at issue, they simply look them up. Too many liberals, alas, simply make them up.

Mr. President, I thank the Senate for its courteous attention. I thank my friend from Minnesota for reserving this time for me, seeing to it I was able to speak, and I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, under the assumed rotation, I now yield 10 minutes to Senator ASHCROFT of Missouri, and then I assume we will go back to the other side.

Mr. MOYNIHAN. Mr. President, I am not sure that I am managing the time. I am ranking member of finance here. I yield, in sequence, the Senator from Minnesota as much time as he requires.

Mr. DOMENICI. Mr. President, before the Senator proceeds, might I just say to Republican Senators, we have a very long list of those who would like to speak. It seems now that you can kind of judge that in 25 minutes or so we will need another Senator. I hope you can contact us and see if we can arrange it so there are no big lulls on the floor and we can get our work done as soon as possible.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Thank you, Mr. President. I thank the Senator from New Mexico for yielding me the time.

Our responsibility in acting on a failed welfare system is as profound a responsibility in responding to the people of this country as we have ever had. The fundamental role and responsibility of Government is to call people to their highest and best, not trap them at their lowest and least.

In spite of the good intentions of the welfare program, which we have poured billions of dollars into, hundreds of billions of dollars, we have ended up trapping people at their lowest and least rather than calling people or prompting people to their highest and best.

The real objective of our legislation here ought to be to change the character of welfare. We need to change it from a system which has provided careers and conditions that lasted a lifetime to a system that instead of providing a condition provides a transition, that moves people from poverty into opportunity, that moves people from indolence into industry, that moves people from welfare into work. No longer can we afford a system that not only provides people a condition or a career, but goes beyond trapping individuals and goes to trapping generations.

One of the real problems of our welfare system is that we have children who are trapped in welfare and they become welfare careerists themselves, and their children are then trapped in welfare. The truth of the matter is that the prisoners of war in the war on poverty have been the children of America. There are more children in poverty today than there were when we started the war on poverty, and it is a clear indication that the system is a tragic failure as it relates to human beings—children who have lost their lives, children who have lost their opportunity, children who have lost their spirit, children who fall into a net which was designed to save them, but instead becomes a net to ensnare them.

A good industrialist friend of mine says that your system is perfectly designed to give you what you are getting. I do not know anyone in America who believes that what we are getting is the right thing. We are getting higher rates of illegitimacy. We are getting higher rates of dependency. We are finding ourselves with individuals staying on welfare longer and longer periods of time. Is that what we want? Is what we are getting what we need? Absolutely not.

The system may not have been intended to give us what we are getting, but the design of the system is what causes us to get what we are getting, and it is our responsibility, it is a sacred charge of ours given to us by the American people, and they have made it fundamentally and unmistakably clear that they want different outcomes, they want different results. They do not want more dependency, they do not want more illegitimacy, they do not want more careers and generations on welfare.

They want less, because they want people to be free. They want children to have an opportunity to look toward the U.S. Senate or toward the Presidency or toward being a captain of industry or developing their own business. They do not want people trapped in an intergenerational net of ensnarement, rather than a net of safety.

So it is incumbent upon us to make fundamental changes, fundamental changes in the way this system treats people.

We can no longer allow Government to be the instrument of ensnarement, of entrapment. We must make Government an instrument of liberation, of opportunity, of industry and development. That is why it is so important that we end this one-size-fits-all Washington approach which says that everybody will respond the same and all the systems are to be uniform, and move welfare programs back to the States and allow them to experiment and do what works.

I often laugh when I think of the one-size-fits-all term. We have almost come to believe it. Can you imagine if we were to send off for a catalog and get a catalog that said, ‘‘One size of pajamas fits all for your family’’? I know what would happen in my family. We would get five pairs of pajamas. They would be one size but they would fit none because we are pretty different.

The great family of America is different. States and communities have different characteristics and attributes, and they need to be able to shape, to tailor, to fashion what they do from a block grant that gives them broad discretion and authority. Yes, they need for the block grant to be limited. They need to have the energy of limited resources to drive the creativity of solving the problem.

No one ever solved a problem when the supply was infinite. No one ever works to conserve energy as long as it is free. You start to pay the heating bill and you learn to close the door, you learn to shut the windows, you learn to caulk the cracks. And when we put limits on the amount of money we are going to spend on welfare, we will start caulking the cracks and start stopping up the places where we have leakage. And it is not a leakage financially. We are talking about leakage of the great human resource of America.

We are looking at the Olympics. Boy, they are inspiring. But how much chance would we have in basketball or volleyball or baseball if we did not send our full team onto the field, if we told some of them, ‘‘You’re to sit over there on the side and not to be productive. We’ll call you the welfare reserves’’? We would not win. And we will not win as a Nation if we do not get all of our players into the operation of being what this Nation is all about. That is being capable of helping yourselves and helping others and being so good at what you are doing that the world beats a path to your door.

That is why we need these block grants where States will tailor their programs to meet the needs in their own States and do what is necessary to move people out of conditions, lifelong conditions of welfare, to signal that this is a transition, not a condition. You are to be moving out of here. And fundamental, one of the acts of genius in this bill, in addition to the block grant, is the fact that there is a 5-year limit.

We say to people, it is an insurance policy, so that when you have trouble you can fall into the welfare net but you cannot live there, you cannot stay there. It is not a place for you to be forever because, once 5 years is used up, that is a lifetime limit. We really should be saying to people, do not ever be on there for more than 2 consecutive years, ever. Frankly, our welfare system should never be a place where you are not preparing for the next stage of your life. Welfare becomes a transition instead of a condition, a fundamental characteristic. The block grant is important about that.

The senior Senator from Missouri, KIT BOND, is a personal friend of mine.

He has a phrase, ''experience is what you get when you expected something else.'' Over the last 30 years, I think we expected something else from this so-called War on Poverty and Great Society program, but we got something different from what we expected. We got children without fathers and we got homes without discipline and we got streets without safety and we got generations locked—locked—out of opportunity, without education.

We expected something different. But our experience is what we got. And our experience has not been very positive. But I want you to know that there have been a few bright lights over the last 30 years that signal to us how we could make changes, how we could actually change the behavior of people, how we could help them move from being dependent to being independent, the glorious state of liberty and freedom, what America is all about.

Those bright lights have been in the nongovernmental sector primarily. They have been the Salvation Army, the Boys and Girls Clubs, the missions, and homeless shelters that have been run by the nongovernmental entities who are energized by a calling which is beyond the calling of duty that comes from government. It is a calling of humanity that God stirs in our hearts.

One of the primary features of this bill is that States will be allowed to contract with organizations like the Boys and Girls Clubs and the Salvation Army and charitable organizations that specialize in hope and opportunity and who care, who care for the people trapped on welfare, not just as welfare statistics, but care for them after they leave the condition of welfare. These groups have a lifelong interest in helping people make it all the way to the top, not just over the threshold.

I have to say that our experience tells us that not everyone in the welfare system has wanted to see everyone leave the system. Sometimes we have had too much interest in how many people we could have on welfare instead of how many people we could move off welfare. Significantly, the provisions of this bill would allow charitable and even faith-based operations to compete for contracts or to participate in voucher programs to help people. It does it with safeguards, so that if a person is offended by virtue of being involved with a faith-based organization, they would be free to get their assistance from some other provider.

These faith-based organizations have in the past—many times the smaller ones who did not have large legal departments—have been afraid of accepting governmental funds in order to help the poor. They have been afraid of being sued. I know the Salvation Army, in one setting, was sued and had to settle for a quarter of a million dollars, a matter which absolutely undermined and eroded the capacity of the Salvation Army to help the poor. We know they do as good a job as any.

I just want to say that this bill is the kind of change that America has been asking for. Is it perfect? No. At least the way I was raised, in order to get perfection you had to die and go to Heaven. I want to go to Heaven. But I had not planned on going today. And since we ought to do what we can while we are here, let us take as good as we can get and shape it and fashion it, but not assume we have all the answers in Washington. Send it back to the States, give States the opportunity to tailor it in ways that will help people simply move from dependence to independence, from careers of welfare and the condition of welfare, the intergenerational things of welfare, to a transition of welfare that moves from welfare to work.

I believe that it is fundamentally important that we carry through and pass this measure. And I thank the President of the United States for his willingness to sign this measure. I believe this measure will help save the lives of children and it will help save the lives of individuals for generations to come.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ASHCROFT. I thank the Chair. I observe the absence of a quorum.

The bill clerk proceeded to call the roll.

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

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

Mr. BOND. Mr. President, may I ask of my colleague if he would consent that after he finishes I be recognized?

Mr. WELLSTONE. Mr. President, that would be fine.

The PRESIDING OFFICER. The Chair advises the Senator from Missouri that arrangement has been made, and the Senator from Minnesota is recognized.

Mr. BOND. I thank the Chair.

Mr. WELLSTONE. Mr. President, first of all, I ask unanimous consent that a representative sample of editorials on this subject be printed in the RECORD.

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

[From the Star Tribune, July 31, 1996]

WELFARE BILL—IT DESERVES A FORTHRIGHT VETO

For most of his presidency, Bill Clinton has tried to have it both ways on welfare. He's curried favor with both welfare's tough-talking reformers and its defenders. He's argued both for changes, such as work requirements and time limits, and for preservation of welfare's protections for poor children.

It's understandable that congressional Republicans would want their final-offer, election-year welfare bill to force the president to show his true stripes. They've crafted a bill that ought to do just that.

The bill that's moving toward the House and Senate floors is one Clinton might be tempted to sign for political reasons. But he should veto it, for moral reasons. If he doesn't, he will have put the lie to all his claims of concern for the well-being of the nation's most vulnerable children.

For all its reformist window-dressing, the bill that emerged from conference committee Monday is too hard on America's poor. It doesn't spend enough money to hold the line against hunger, or to make workable the requirement that a job take the place of welfare within two years after benefits start.

The bill's goal of quickly replacing welfare checks with paychecks is something most Americans support. But making that happen in a way that gives poor families lasting self-sufficiency takes more than the hammer of a time limit. It takes job training, counseling, public-works jobs where private employment is unavailable, child care and transportation. Those tools cost money. This bill doesn't provide it.

As a result, in the name of overcoming poverty, this bill would likely push some of America's least employable adults and their children into more desperate circumstances.

And, because of the bill's big cuts in food-stamp spending, that desperation could well include hunger. Admittedly, the food-stamp provisions in the final bill aren't as extreme as earlier versions. A guarantee of food-stamp eligibility—though not of food-stamp amounts—was preserved for families with children. No so for unemployed adults without dependents. They'd be cut off from the government's food lifeline after six months.

The welfare bill is especially punitive toward legal immigrants. Under this legislation, the nation's official message to its legitimate newcomers would be, ''You are welcome only as long as you remain gainfully employed.'' A down-on-his-luck immigrant could get no cash assistance whatsoever from his new country.

Had Clinton more boldly taken sides in the nation's welfare debate earlier in his presidency, a bill this harsh might not be heading toward his desk a few months before an election. He should have been calling all along for more realistic and compassionate reform, the kind that spends more in the short term in order to redeem lives in the long term.

Here's hoping Clinton has learned that presidential equivocation carries a high price—and that his equivocation on welfare ends with a forthright veto of the bill Congress is about to send him.

[From the Philadelphia Inquirer, July 22, 1996]

REFORM ON THE CHEAP

Who'll blink on this latest shot at changing welfare? And, in the long run, who'll wind up paying for it?

Voters liked Bill Clinton's promise to ''end welfare as we know it.'' So Republicans are aching to show he didn't mean it. The result is a game of political chicken that's far more likely to hurt poor Americans than to uplift them.

The Republican Congress is about to dare the President to veto a wrong-headed bill that would cut welfare spending, toughen the rules, and shift a lot of decision-making to the states. Since this would be his third straight veto of a so-called welfare reform bill, Mr. Clinton may blink. It's possible he'll sign a bill that pretends the feds can turn welfare into a helpful, job-oriented network even as they squeeze about $10 billion a year in savings from the system. That's a pipe dream.

Unfortunately, if he does veto it and a better, bipartisan plan doesn't emerge, Mr. Clinton will have to follow through on a promise that he made last week to give himself political cover on this emotional issue. Absent a bill, he vowed to issue an executive order letting states cut off benefits after two years.

The terms of this order are still in the works. But it could let penny-pinching states give welfare recipients far too little help toward employment and self-sufficiency.

That's the basic problem with what Congress is cooking up. It pretends that helping poor people become self-sufficient doesn't cost more money in the short term. But it does cost more, for child care, for training, for government-created jobs for those who can't find work in the private sector. Committed reformers such as Gov. Tommy Thompson, the Wisconsin Republican, are up-front about this.

Chances are, the public will respond positively to major parts of the GOP package, such as a two-year limit on benefits before work is required, and a lifetime limit of five years. But work requirements are meaningless if there aren't enough low-skilled jobs available. If politicians are serious about breaking the cycle of dependency, government has to be an employer of last resort.

By promising to act on his own, Mr. Clinton was trying to show Republicans that—politically—they need a welfare bill more than he does. He was trying to coax Republicans toward compromise.

The House did consider a bipartisan plan sponsored by Reps. Mike Castle (R., Del.) and John Tanner (D., Tenn.)—a plan whose spending cuts weren't so extreme. But it died when only eight House Republicans were willing to buck their leaders and line up with Mr. Castle.

Since Republicans seem uninterested in a sensible, bipartisan reform, Mr. Clinton should get his veto pen ready. As for the executive order he promised—every bit the political gimmick that Republicans charged—it should be loaded with conditions to protect poor families from politicians peddling welfare reform on a dime.

[From the Washington Post, July 25, 1996]

A CHILDREN'S VETO

''I just don't want to do anything that hurts kids,'' President Clinton said as the Senate passed its supposed reform of welfare the other day. Why did the sentence strike us as yet another cynical manipulation of the welfare issue for political purposes? Because if Mr. Clinton were determined not to hurt children, he would have indicated days ago that he intended to veto this legislation or any bill remotely like it.

Instead, he, the Senate's Democrats and moderate Republicans continued to try to prettify the bill around the edges. A couple of the amendments that they succeeded in making were consequential, and they may yet make more in conference. But mainly these are marginal and cosmetic changes. They are sops to conscience meant to justify a regressive vote that for political reasons these politicians are afraid not to cast. They are determined to vote in this selection year in favor of a bill that bears the label ''welfare reform''; it doesn't matter that the label is not deserved.

The president and his followers are the prisoners of four years of sloganeering on the subject that he himself set off. It was he who, in an effort to preempt the welfare issue and show himself to be a different kind of Democrat, famously promised in the 1992 campaign to end the system as we know it. He set off a process that he could not control, in part because he has been unwilling to take the tough and unpopular positions necessary to control it.

No one—or very few, anyway—would argue that the current welfare system is a good one. Mr. Clinton was and remains right to try to change it. But his original position also was right—that the change should involve equal amounts of added pressure on welfare mothers to go to work and additional resources to help them make the move successfully. The current bills fail to provide the resources; they walk away from the second half of the strategy. They would dismantle the federal welfare program, limit future federal aid and shift to the states a financial burden that many states will find hard to meet. An eighth of the children in the country now are on welfare. No one can know for sure how many would be affected adversely by the legislation, but the best guess seems to be that at least a million more children would end up living below the poverty line. A fifth of the children in the country already are there.

The bills would disestablish or greatly weaken the food stamp program as well, while basically cutting off federal benefits to legal immigrants—people who are legitimately here and theoretically welcome but have not become U.S. citizens. Technically, this is budget-balancing legislation, a reconciliation bill. The noble-sounding legislation, a reconciliation bill. The noble-sounding budget-balancing process of a year ago has come down to a bill that would cut only programs for the poor, and programs on which people who are black and brown particularly depend.

This legislation can't be fixed. Senate Minority Leader Tom Daschle, who opposed it the other day, said that even though there were only 25 votes against, he was sure that a veto, if it were cast, would be sustained. We have no doubt that's so. It is another way of saying that if only the president would take the lead and provide the political cover, instead of joining in stripping it away, he could—and should—defend to the voters. If instead he signs the bill, he no doubt will claim it as a triumph, but in moral and policy terms it will be the low point of his presidency.

[From the Buffalo, NY News, July 23, 1996]

DON'T LET RUSH TO WELFARE 'REFORM' LEAVE SOME OF NEEDY WITHOUT HELP

What if time limit is reached and there's no job to get?

In his eagerness to outflank Republicans on the welfare issue and sign almost anything billed as ''reform,'' President Clinton should resist the urge to abandon the long-established concept that there is a national interest in helping the poor become self-sufficient.

That is the chief danger now as Washington's warring factions undertake a mad scramble to produce some sort of welfare legislation before taking time off to go into full campaign mode.

The Republican-led Congress made sensible welfare legislation a little more possible last week by dropping plans to attach Medicaid reform to the welfare bill and to turn Medicaid into a block-grant program controlled by the states.

Ending the guarantee of medical care for the poor never made any sense because the impoverished deserve health care as much as they deserve help with life's other basic necessities.

But it also doesn't make any sense to end the federal guarantee of food and other aid for those who play by the rules and whose only offense is that they're impoverished.

Nor does imposing time limits on welfare recipients make sense except in cases where they refuse to work even though a job is available. The poor—and their children—should not be blamed for economic cycles that may well make finding a job impossible at any given time.

Those are bedrock principles that the nation—and the president—should not forsake amid an understandable distaste for the small percentage of welfare recipients who are slackers.

Unfortunately, the House the other day cast aside those principles by passing a reform plan that ends welfare as a federal entitlement program that takes care of all who deserve help. Instead, the House bill would slash funding and turn the reduced money over to states in block grants.

The states could then structure programs largely as they please, ending the national safety net and competing with one another in a ''race to the bottom'' as they cut benefits and drive out the poor.

That's no way for an enlightened nation to lift its most vulnerable people. But the final bill that emerges from House-Senate negotiations seems sure now to take that tack.

The other failure of the GOP approach is its time limits regardless of job availability. Clinton, too, recently endorsed time limits, saying the White House will administratively impose a two-year limit but that his action would be unnecessary if Congress could produce an acceptable reform plan.

Details of the new White House initiative—such as how to protect children whose parents get cut off—have yet to be worked out. But in addition to safeguarding kids, the new rule should safeguard those who simply can't find work through no fault of their own.

These basic safeguards should be part of whatever reform bill ultimately reaches the president's desk. If they are not, he should use the same veto pen he's waved at other times—regardless of what the calender says about the election season.

[From the Atlanta Constitution, July 28, 1996]

WELFARE BILLS SUFFER FROM POLITICS

The welfare system must be reformed, and the goal of that reform must be twofold:

It must reinforce a work ethic that has faltered among some welfare recipients;

It must protect the children of poor Americans from hunger and deprivation in an increasingly fickle economy.

Unfortunately, the reform effort making its way through Congress focuses too much on the first goal and too little on the second.

That's not surprising. From the life experience of prosperous, middle-aged, college-educated white males—which describes most of the members of Congress—the rewards of the work ethic seem obvious. It gives you a six-figure salary, a taxpayer-provided staff and free parking, among other things.

But from the perspective of an unemployed mother trying to raise two kids on welfare, the case can seem a little cloudier.

Usually, the family lives in an inner city or isolated rural area, where jobs are scarce and transportation difficult. If the mother overcomes those obstacles and gets a job, and if she works 40 hours per week, every week of the year at $5.10 an hour—which is 20 percent above the minimum wage—she stands to make a grand total of $10,608 a year. In the process, she may also lose health insurance for her family, because most low-wage jobs do not include a benefits package.

Imagine trying to raise two children on $10,000 a year in today's economy. Child care alone would take a huge chunk of her pay. She has the option, of course, of choosing not to pay for child care, to leave her children on their own while she's working. Given our problems with juvenile crime, that's not a choice to encourage.

If welfare reform is to work, it has to make work a viable option. It must subsidize child care for that working mother. It must extend health insurance coverage for the working poor. And it must offer training and education, so that she has at least the hope of rising out of that $5.10-an-hour job into something better.

Some of those steps cost money, at least in the short term. In the long term, such reform will benefit the mother; benefit her children, to whom she is a role model; and benefit society, which is currently losing the value of her labor and incurring the expense of supporting her and her children.

The House and Senate have passed separate but similar welfare bills, and are trying to resolve their differences and send a measure to President Clinton for his signature. Their effort is fatally flawed, however, because in addition to the goals listed above, Congress is using the legislation to pursue two less admirable goals.

It is trying to balance the budget on the backs of the poor. Even though true welfare reform will cost more money in the short term, and even though entitlement programs for the middle class are far more expensive than welfare programs, deficit cutters have focused on the poor, cutting $60 billion from food stamps and other programs over the next six years.

The bill is calculated as an election-year dare to Clinton. He has made clear his uneasiness with the bill's impact on poor children, but has nonetheless indicated a willingness to consider signing the Senate's more reasonable approach. But Republicans seem intent on forcing him to veto the legislation. As Bob Dole grumbled on the campaign trail, ''He's not going to get that bill. He's going to get a tougher bill.''

And as House Speaker Newt Gingrich put it, ''I believe we win from this point on no matter what happens.''

Welfare reform is important, but apparently less important than election-year politicking.

[From the Chicago Tribune, July 21, 1996]

PLAYING 'GOTCHA!' ON WELFARE REFORM

The House passed a new welfare bill Thursday, and the talk afterward was not of what the bill would mean for the children and adults who depend on the kindness of the taxpayers, but of a political calculus.

''In the end,'' said House Majority Leader Dick Armey, ''the president is going to have to make a determination whether or not he's going to sign this bill and satisfy the American people while he alienates his left-wing political base, or if he's going to veto the bill in order to satisfy the left wing of the Democrat Party and thereby alienate the American people.''

In other words, ''Gotcha!''

And that pretty much captures what's been wrong from the beginning with the effort to legislate welfare reform. Clinton has exploited the issue to establish his bona fides as a ''new Democrat.'' The Republicans, suspecting insincerity on Clinton's part, have used it to bash him and back him into a corner.

Suffusing the entire debate have been two notions, one simply wrongheaded and the other both wrongheaded and pernicious.

The first is that reforming welfare is a way to save money. It is not, at least initially. Done properly—that is, with the purpose of getting welfare parents into the work force—reform will actually cost more money, for job training, child care and so forth. (And whatever else the 9 million children on welfare suffer from, it is not from having too much money spent on them.)

The second notion, which partisans on neither side have done enough to counter, is that welfare reform is about getting black layabouts off the public dole. In fact, most welfare recipients are not black. But that continues to be the accepted stereotype and, one suspects, a substantial motivator of the welfare-reform push.

In its broad outlines, the newly passed House bill differs little from the measure that Clinton vetoed earlier this year. It ends welfare as a federal entitlement and converts it into a program of block grants to the states, which would be free, within very broad limits, to devise their own programs of poor support.

This devolution is a good idea. Clinton has acknowledged that implicitly by granting numerous waivers for state welfare experiments over the last 3½ years. Perhaps the most promising such experiment, Wisconsin's W–2 program, which substitutes private and public jobs for cash assistance and ought to be the paradigm for all welfare, is awaiting waiver approval even now.

But eliminating welfare's entitlement status is a grievous error of historic proportions. Indeed, Sen. Carol Mosely-Braum (D-Ill.) did not exaggerate when she called it an ''abomination.''

That the world's richest nation would not guarantee help for poor children—and Aid to Families With Dependent Children is nothing except a vast childcare program—is outrageous. It represents not progress but regression. And while Dick Armey may be convinced that that's what the American people want, we are not.

Mr. WELLSTONE. Mr. President, I do want to talk about this piece of legislation. I have heard some discussion about doing good. Let me start out with what is a very important framework to me as a Senator from Minnesota. It is a question. Will this legislation, if passed, signed into law by the President, create more poverty and more hunger among children in America? And if the answer to that question is yes, then my vote is no.

Mr. President, we were discussing welfare reform several years ago, and we said that we should move from welfare to work, that that would include job training, education training, making sure the jobs were available that single parents—mostly mothers—could support their children on, and a commitment to child care.

Just about every single scholar in the United States of America has said that this is what reform is all about. You have to invest some additional resources. Then, in the long run, not only are the mothers and children better off, but we are all better off. That is real welfare reform. Slashing close to $60 billion in low-income assistance is not reform, colleagues. It is punitive, it is harsh, and it is extreme.

Mr. President, we have been focusing in this Congress on the budget deficit. I think, today, what we see in the U.S. Senate is a spiritual deficit because, Mr. President, I know some of my colleagues do not want to look at this. They push their gaze away from unpleasant facts and an unpleasant reality. Sometimes people do not want to know what they do not want to know.

Mr. President, the evidence is irrefutable and irreducible: This legislation, once enacted into law, will create more poverty and hunger among children in America. That is not reform.

Mr. President, we have here about $28 billion of cuts in nutrition assistance. I believe when the President spoke yesterday he was trying to say that does not have anything to do with reform, and he intends to fix that next Congress. But I worry about what will happen now. Mr. President, 70 percent of the citizens that will be affected by these cuts in food nutrition programs are children, 50 percent of the families have incomes of under $6,300 a year. Our incomes are $130,000 a year.

Mr. President, there will be a $3 billion cut over the next 6 years in food assistance, nutrition assistance, even for families who pay over 50 percent of their monthly income for housing costs. So now we put families in our country—poor families, poor children—in the situation of ''eat or heat,'' but they do not get both. At the same time, my colleagues keep wanting to cut low-income energy assistance programs. This is goodness? This is goodness?

Mr. President, I was involved in the anti-hunger struggles in the South. I saw it in North Carolina, and I remind my colleagues, maybe they want to go back and look at the exposés, look at the Field Foundation report, look at the CBS report, ''Hunger USA.'' Where are the national media? Why are we not seeing documentaries right now about poverty in America?

Mr. President, the Food Stamp Program, which we dramatically expanded in the late 1960's and early 1970's, with Richard Nixon, a Republican, leading the way, has been the most effective and important safety-net practice in this country. As a result of expanding that program, we dramatically reduce hunger and malnutrition among children in America.

Now we are turning the clock back, and some of my colleagues are calling this reform. Mr. President, how did it get to be reform, to cut by 20 percent food nutrition assistance for a poor, 80-year-old woman? How dare you call it reform. That is not reform. How did it get to be reform to slash nutrition programs that are so important in making sure that children have an adequate diet? How dare you call it reform. That is not reform. How did it get to be reform to essentially eliminate all of the assistance for legal immigrants, people who pay taxes and work? How dare you call that reform. That has not a thing to do with reform.

The Urban Institute came out with a report several weeks ago. Isabel Sawhill, one of the very best, said this legislation will impoverish an additional 1.1 million children. We have had these analyses before. The Office of Management and Budget had a similar analysis. So did the Department of Health and Human Services. How dare you call a piece of legislation that will lead to more poverty among children in America reform?

Marian Wright Edelman of the Children's Defense Fund is right: To call this piece of legislation reform is like calling catsup a vegetable. Except this time it is more serious, because many more children, many more elderly, many more children with disabilities will be affected.

Mr. President, the evidence is really irreducible and irrefutable. Bob Greenstein, who has won the MacArthur Genius Award for his work, crunched the numbers about what it means in personal terms, real terms for the most vulnerable citizens in America, but my colleagues are too worried about polls. They are too worried about the politics of it, and they turn their gaze away from all this.

Mr. President, I do not particularly care about words like ‘‘entitlement.’’ But I do think as a nation we are a community, and up until the passage of this legislation, if signed into law, we as a nation said, as a community we will make sure there is a floor beneath which no child can fall in America. Now we have eliminated that floor. We are now saying as a Senate that there will no longer be any floor beneath which no child can fall. And you call that reform?

Mr. President, we had a proposal out here on the floor of the Senate that said, if you are going to cut people off from work, if you are going to cut people off from welfare, at least require the States to provide vouchers. The CBO tells us we do not have the money for the job training slots, and people will not necessarily find work, and then you will cut the adult off work. So we added an amendment that said, ‘‘For God’s sake, at least make sure there are vouchers for Pampers, for health care, for food for the children.’’ That amendment was rejected.

So we have no requirement that at the very minimum, even if you are going to cut a parent off of welfare, at least make sure the law of the land says that every State from Mississippi to Missouri to Minnesota to California to Georgia, that at least there will be vouchers for Pampers, for food, for medical assistance, and you vote ‘‘no’’ and you say there will be no vouchers. And you call that reform?

Mr. President, in the Senate, I introduced an amendment, and it was accepted. It said in all too many cases, too many of these women have been victims of domestic violence, they have been battered, and welfare is the only alternative for too many women to a very abusive and dangerous situation at home. So every State will be required to have services for these women and not force people off the rolls if, in fact, there needs to be additional support.

It took Monica Seles 2 years to play tennis again after she was attacked. Imagine what it would be like to be beaten up over and over again. That amendment was knocked out in the conference—no national requirement, no protection. Maybe it will be done in the States and maybe it won’t.

Mr. President, I had a safety valve amendment. It was defeated. Senator KERRY from Massachusetts had another one which was watered down, but important. It was knocked out in conference committee. It said, why don’t we at least look at what we have done, and if in fact there is more poverty and hunger, then we will take corrective action in 2 years. That was knocked out in conference committee. You call that reform?

Mr. President, let me be crystal clear. You focus on work, you focus on job training, you focus on education, you focus on making sure that families can make a transition from welfare to work, and that is great. Eliminating services for legal immigrants, draconian cuts in food nutrition programs for children and the elderly, deep cuts in assistance for children with disabilities—none of this has anything to do with reform. This is done in the name of deficit reduction.

When I had an amendment on the floor that dealt with all of the breaks that go to some of the oil companies, or tobacco companies, or pharmaceutical companies, that was defeated. When we had a budget that called for $12 billion more than the Pentagon wanted and we tried to eliminate that, that was defeated. But now when it comes to poor children in America, who clearly are invisible here in Washington, DC—at least in the Congress—faceless and voiceless, how generous we are with their suffering. And you dare to call that reform? You dare to say that, in the name of children, when you are passing a piece of legislation that every single study says will increase poverty and hunger among children. Vote for it for political reasons, but you can’t get away with calling it reform. It is reverse reform. It is reformatory, it is punitive, it is harsh, it is extreme. It targets the most vulnerable citizens in America—poor children.

Mr. President, in this insurance reform bill we are going to be dealing with, late last night someone inserted a 2-year monopoly patent extension for an anti-arthritis drug, a special interest gift to one drug company, because then you don’t have the generic drugs. Late last night, someone put this into the insurance reform bill. There you go. There is some welfare for a pharmaceutical company. But they are the heavy hitters. They have the lobbyists. They are well-connected. We do just fine by them. But for these poor children, who very few Members of the Senate even know, we are all too generous with their suffering.

Mr. President, I had an amendment that was passed by a 99-to-0 vote that said the Senate shall not take any action that shall create more hunger or homelessness among children. Now we are slashing $28 billion in food nutrition programs with the harshest effect being on children in America. Can my colleagues reconcile that for me? I would love to debate someone on this. I doubt whether there will be debate on it, because the evidence is clear.

Mr. President, President Clinton said yesterday that he will sign the bill, and he said that he will work hard, I presume next Congress, to correct what he thinks is wrong. He pointed out that these draconian cuts in food nutrition programs and in assistance to legal immigrants are wrong, they have nothing to do with reform. He is absolutely right.

Personally, it is difficult for me to say, well, with the exception of these draconian cuts in food assistance programs for children and the elderly, with the exception of these draconian cuts for children with disabilities, and draconian cuts for legal immigrants, this is a pretty good bill otherwise. I can’t make that argument. But I will work with the President because, clearly, this is going to pass, and, quite clearly, corrective action is going to have to be taken next Congress.

But, for myself, Mr. President, I am a Senator from the great State of Minnesota. As Senator Hubert Humphrey said, the test case for a society or government is how we treat people in the twilight of their lives—the elderly; how we treat people at the dawn of their lives—the children; and how we treat people in the shadow of their lives—the poor, and those that are struggling with disabilities. We have failed that test miserably with this piece of legislation.

Mr. President, I come from a State that I think leads the Nation in its commitment to children and its commitment to fairness and its commitment to opportunity. As a Senator from Minnesota that is up for reelection this year, there can be one zillion attack ads—and there already have been many, and there will be many more—and I will not vote for legislation that impoverishes more children in America. That is not the right thing to do. That is not a Minnesota vote.

Mr. President, in my next term as a U.S. Senator from Minnesota, I am going to embark on a poverty tour in our country. I am going to bring television with me, and I am going to bring media with me, and I am going to visit these children. I am going to visit some of these poor, elderly people. I am going to visit these families. I am going to visit these legal immigrants. I am going to have my Nation focus its attention, and I am going to have my colleagues, Republicans and Democrats alike, focus their attention on these vulnerable citizens. And, if in fact we see the harshness, the additional poverty, and the additional malnutrition, which is exactly what is going to happen, I am going to bring all those pictures and all of those voices and all of those faces and all of those children and all of those elderly people back to the floor of the U.S. Senate, and we will correct the terrible mistake we are making in this legislation.

Mr. President, I yield the floor.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1997 CONFERENCE REPORT

The PRESIDING OFFICER. The conference report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3603) a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

(The conference report is printed in the House proceedings of the RECORD of July 30, 1996.)

Mr. COCHRAN. Mr. President, I present for the Senate's approval today the conference report on H.R. 3603, the fiscal year 1997 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act.

The conference agreement provides total appropriations of $53.3 billion. This is $10 billion less than the fiscal year 1996 enacted level and $5 billion less than the level requested by the President. It is $1 billion less than the total appropriations recommended by the Senate-passed bill and $228 million more than the level recommended by the House bill.

Including congressional budget scorekeeping adjustments and prior-year spending actions, this conference agreement provides total discretionary spending for fiscal year 1997 of $12.96 billion in budget authority and $13.34 billion in outlays. These amounts are within the subcommittee's discretionary spending allocations.

The committee of conference on this bill considered 147 amendments in disagreement between the two Houses. I believe it is a credit to the all members of this subcommittee who served as conferees on the part of the Senate and to the House Members who served on the conference committee that we were able to resolve our differences and reach a conference agreement 6 days after the Senate passed the bill. I would like to thank the ranking member of the subcommittee, the Senator from Arkansas, Mr. BUMPERS; the chairman of the House subcommittee who chaired the conference, the Congressman from New Mexico, Mr. SKEEN; the ranking member of the House subcommittee, the Congressman from Illinois, Mr. DURBIN; as well as all House and Senate members of the conference committee for their support and cooperation in this regard.

It is with a great deal of pride that I can say this Appropriations Subcommittee has done its work, completing action on this appropriations bill to assure that funding for those agencies it covers is in place before the start of the new fiscal year. Senate adoption of this conference report today is the final step necessary to allow this measure to be sent to the President for signature into law. We have every indication that the bill will be signed by the President.

Approximately $40.4 billion, close to 76 percent of the total new budget authority provided, is provided for domestic food programs administered by the U.S. Department of Agriculture. These include food stamps; commodity assistance; the special supplemental nutrition program for women, infants, and children; and the school lunch and breakfast programs. This is $58 million below the House bill level and $906 million below the Senate level. The difference from the Senate recommended level is principally due to the fact that the Senate receded to the House on the amount for the Food Stamp Program contingency reserve which was $900 million below the Senate bill level.

For agriculture programs, the conference report recommends a total of $7.5 billion, $104 million more than the House-recommended level and $19 million more than the Senate bill level. This amount includes $1.1 billion for agricultural research and education, $426 million for extension activities, $438 million for the Animal Plant Health and Inspection Service, $574 million—the full budget request level—for the Food Safety and Inspection Service, $746 million for the Farm Service Agency, and $64 million for the Office of Risk Assessment.

For conservation programs, the conference report recommends $770 million, $2 million more than the House bill level and $20 million less than the level recommended by the Senate.

For rural economic and community development programs, the bill recommends $2 billion, $136 million more than the House level and $108 million less than the Senate bill level. Included in this amount is $556.9 million for the Rural Utilities Assistance Program, which combines funding for rural water and waste disposal loans and grants and solid waste management grants. This represents an increase of $79 million over the 1996 level. The bill also provides a total loan level of $3.5 billion for rural housing loan programs, the same as the level approved by the House and Senate, and $519 million over the 1996 level.

For foreign assistance and related programs of the Department of Agriculture, the bill recommends $131 million for the Foreign Agricultural Service, including $27.5 million for the Cooperator Program; a total program level of $1.1 billion for the Public Law 480 Food for Peace Program, including a program level of $240.8 million for title I, $837 million for title II, and $29.5 million for title III.

Mr. President, this bill provides funding for many essential programs, programs which enhance and support the productivity of our agricultural sector, which provide essential services to the small and rural communities of this Nation, which conserve and protect our natural resources, and which provide needed food assistance, not only to those abroad but to assure no American goes hungry. Many of these programs are worthy of additional funding. However, we are also working to reduce the overall costs of Government and to assure efficiencies in the operation of Government programs. This bill is consistent with our overall budgetary and policy goals.

Mr. President, the conference report we present to the Senate today reflects a mutually satisfactory resolution of the differences between the two Houses. It does so in a manner which reflects the funding requirements of the many programs and activities covered by the bill within the limited resources available.

I recommend its adoption by my colleagues.

REGARDING THE CENTER FOR APPLIED AQUACULTURE IN HAWAII

Mr. INOUYE. Mr. President, over the years, the Congress has been supportive of utilizing Hawaii's unique environment to develop important science-based aquaculture technology and to demonstrate and provide that technology to the U.S. aquaculture industry. With initial construction funding for Hawaii's Center for Applied Aquaculture in 1988 and subsequent installments in 1994 and 1995, enough money has been appropriated in the Cooperative State Research, Education and Extension Service's buildings and facilities account to complete construction of a full-fledged aquaculture research and precommercialization facility in the Hawaiian Islands.

The dynamic proposal for the Center for Applied Aquaculture has grown to demonstrate the importance of a core research facility together with satellite facilities, including grow-out ponds to demonstrate new technology on a larger than laboratory precommercialization scale, protected quarantine facilities to ensure the all-important maintenance of disease free fish stock, and a hatchery to supply fry to the research and demonstration components.

Hawaii's island geography and the physical limitations of the core research facility dictate the establishment of the essential satellite demonstration, quarantine and hatchery facilities on neighboring islands. There would be no question about building these integral components if the core research site could accommodate them properly. However, with no further appropriation and with the support of the Agriculture Department for the satellite components, all of this can still be accomplished in Hawaii. I would hope that my colleagues, Chairman COCHRAN and Senator BUMPERS, could support this vision of Hawaii's Center for Applied Aquaculture, which will not only provide for a total package of groundbreaking aquaculture technology that can be demonstrated at a level to make it viable for private commercial investment, but will also give the Federal Government the highest and best use of its investment over the last 8 years.

Mr. COCHRAN. I agree with my colleague from Hawaii and recommend that the Department favorably consider the Center for Applied Aquaculture's plans to establish a complete aquaculture research and precommercialization facility in Hawaii.

Mr. BUMPERS. I would like to associate myself with Senator COCHRAN's comments on this matter and urge the Department to respond positively to the Center for Applied Aquaculture's proposal for a core aquaculture technology development facility together with integral satellite facilities to demonstrate those technologies for the benefit of U.S. aquaculture industry.

Mr. INOUYE. I very much appreciate my colleagues' interest and support for enhancing the U.S. aquaculture industry by developing, testing, and transferring science-based technology to the commercial aquaculture sector.

HORTICULTURAL AND WATER MANAGEMENT RESEARCH LABORATORY

Mrs. BOXER. Mr. President, I would like to ask the ranking member of the Senate Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies about a facility important to U.S. agricultural research and the State of California. The President's budget request included $22 million for construction of a Horticultural and Water Management Research Laboratory at Palier, CA. This facility will be operated by the Agricultural Research Service [ARS], the research arm of the Department of Agriculture.

This facility will contribute greatly to solutions for many of the problems facing our farmers and others reliant on proper management of our natural resources. The facility will conduct critically important research on water management, postharvest quality, insect control and quarantine operations. All these functions are becoming increasingly important as we all try to balance the needs of water users, environmental protection, and the maintenance of a safe and abundant food supply. Currently, this research is housed in inadequate and inappropriate space, with many researchers using parked trailers as office and laboratory facilities. I agree with the President that this facility must be completed as soon as possible in order to upgrade our Nation's research capabilities and continue to make our farmers competitive in growing world markets.

I would like to know if the Senator can share with me the views of the conferees of the pending appropriations bill regarding this important project.

Mr. BUMPERS. I would like to respond to the Senator from California by stating that I and the other conferees are very aware of this budget item and agree that construction should commence at the earliest possible date.

I am happy to report that the Senate bill included $11 million for this facility. I wish we could have provided the full amount requested by the Senator from California, but our allocation, being severely reduced from the previous year, prevented us from meeting her full request. Unfortunately, the House provided no funding for this project.

As the Senator knows, once construction begins, any delays in project completion eventually result in greater cost. There were a number of ARS facility projects nearing completion that could be completed in fiscal year 1997. Accordingly, the conferees decided to complete those projects before allocating funds for new facilities in order to better manage our limited resources.

There was discussion about the merits of the Palier laboratory during House and Senate conference negotiations. It is intended that by completing ongoing projects, which will be no longer the subject of future appropriations, we will be able to provide higher levels of funding for other priority needs. If we can provide full funding for the Palier facility next year, it will serve the double benefits of assisting the U.S. agricultural industry and helping us use our fiscal resources more efficiently.

Although it is impossible now to know what our allocation will be for fiscal year 1998, it is clear that if provided adequate resources, it would be to everyone's advantage to provide full funding for the Palier laboratory in the fiscal year 1998 appropriations bill.

Mrs. BOXER. I thank the Senator for his explanation and I look forward to working with him again next year on this important project.

Mr. DOMENICI. Mr. President, the Senate is considering the conference report accompanying H.R. 3603, the agriculture, rural development and related agencies appropriations bill for fiscal year 1997.

The conference agreement provides $52.3 billion in new budget authority [BA] and $44.9 billion in new outlays to fund most of the programs of the Department of Agriculture and other related agencies. All of the funding in this bill is for nondefense purposes.

When outlays from prior-year appropriations and other adjustments are taken into account, the final bill totals $55.3 billion in BA and $54.2 billion in outlays for fiscal year 1997. Including mandatory savings, the subcommittee is $158 million in BA and $71 million in outlays below its 602(b) allocation.

The final conference agreement includes legislative changes in mandatory programs totaling $505 million and $484 million in outlays. The savings from these provisions are then used to pay for discretionary spending in the bill.

The majority of these mandatory savings come from provisions limiting the standard deduction under the Food Stamp Program. CBO scores these savings at $345 million in both BA and outlays for fiscal year 1997.

The Senate will soon take up the conference report on the Personal Responsibility and Work Opportunity Reconciliation Act of 1996—the long-awaited welfare reform bill—that has gained bipartisan support and a commitment from the President to sign this bill into law.

This historic measure includes identical savings from freezing the food stamp standard deduction. By counting these savings in both bills, which are expected to be signed by the President, we give up additional deficit reduction by the amount of the duplicate mandatory savings.

These mandatory savings assist the subcommittee in completing the appropriations bill well within its current 602(b) allocation. For discretionary spending, the final bill is $991 million in BA and $774 million in outlays below the President's budget request. The final bill is $159 million in BA above the House-passed bill, and $9 million in outlays below the House-passed bill. The conference agreement is $884 million in BA and $694 million in outlays below the 1996 level.

I am pleased that the conferees retained the language I requested requiring competitive bidding for WIC infant formula. This provision will ensure that in these times of tight budgets we maximize the benefits we get from the dollars we spend on this important program.

It is estimated that up to one quarter of the WIC caseload—1.5 million children and pregnant women—is served as a result of the $1 billion in savings generated from competitive bidding for infant formula.

I thank the distinguished subcommittee chairman for including this provision in the bill and retaining the language in conference.

Mr. President, I ask unanimous consent that a table displaying the Senate Budget Committee scoring of the final bill be printed in the RECORD.

AGRICULTURE SUBCOMMITTEE: SPENDING TOTALS—CONFERENCE REPORT

[Fiscal year 1997, dollars in millions]

	Budget authority	Outlays
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed	....	$3,853
H.R. 3603, conference report	$12,960	9,487
Scorekeeping adjustment	....	....
Subtotal nondefense discretionary	12,960	13,340
Mandatory:		
Outlays from prior-year BA and other actions completed	497	3,533
H.R. 3603, conference report	39,385	35,435
Adjustment to conform mandatory programs with Budget	....	....
Resolution assumptions	2,418	1,845
Subtotal mandatory	42,300	40,813
Adjusted bill total	55,260	54,153
Senate Subcommittee 602(b) allocation:		
Defense discretionary	....	....
Nondefense discretionary	13,118	13,411
Violent crime reduction trust fund	....	....
Mandatory	42,300	40,813
Total allocation	55,418	54,224
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary	....	....
Nondefense discretionary	−158	−71
Violent crime reduction trust fund	....	....
Mandatory	....	....
Total allocation	−158	−71

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions. Prepared by SBC Majority Staff, July 31, 1996, 06:50 p.m.

MEDGUIDE

Mr. COATS. Mr. President, I want to engage the Senator from Mississippi, Senator COCHRAN, the chairman of the

Senate Appropriations Subcommittee on Agriculture, about his understanding of the provision included in the conference report of the fiscal year 1997 Agriculture appropriations bill relating to the FDA's proposed medguide regulation.

Am I correct in saying that the conferees retained the language in the conference report that was adopted by the full Senate last week?

Mr. COCHRAN. Yes, Senator. This conference report retains the language, as adopted by the Senate, that prevents further finalization or implementation of the medguide regulation.

Mr. COATS. At this point, I would like to make sure I understand that this provision does not preclude the FDA from using its existing authority to require, on a drug-by-drug basis, the provision of written information prepared by the manufacturer to consumers about prescription drugs that pose a serious risk.

We have been informed by the FDA that it will only be required to use its existing authority to require patient information for a very limited number of products.

Mr. COCHRAN. That is the committee's understanding, as well. The committee believes that the FDA's current authority to require written patient information is essential for certain prescription drugs, on a drug-by-drug basis, in cases where they pose a serious risk to the patient if used inappropriately.

Mr. COATS. I thank the Chairman for clarifying this and appreciate his leadership and assistance in helping us craft a compromise that is acceptable to the committee and to the FDA.

MEDICATION GUIDES

Mr. KENNEDY. The provision we are enacting on medication guides places certain limitations on the FDA regarding its pending medication guide regulation as it pertains to voluntary information provided by pharmacists. However, as you know, there was another part of the pending FDA regulation that was not intended to be affected by this provision. That was the FDA's intention to require FDA-approved patient leaflets for drugs that pose a serious and significant public health risk. Those would be drugs that cannot be used appropriately without specific written information provided to the patient. Although the instances in which such leaflets would be required would be very small—no more than three or four per year—it is critical that FDA have the flexibility to use regulations to ensure that these drugs can be safely used, as was specifically provided for in the House language of H.R. 3603 as well as in the Senate report accompanying H.R. 3603 which stated "this provision is not to be construed as prohibiting the FDA from using its existing authority or regulatory authority to require as part of the manufacturers' approved product labeling the dispensing of written information inserts to consumers on a case-by-case basis with select prescription drugs to meet certain patient safety requirements."

Mr. BUMPERS. Your understanding is correct. As we noted in the Senate report accompanying H.R. 3603 at the time, the provision covering the voluntary medication leaflet program was not to be construed as applying in any way to the FDA's use of its existing authority to require patient leaflets for drugs that can cause severe birth defects, have serious adverse reactions when used with other drugs, and similar instances that pose a serious and significant public health risk.

The PRESIDING OFFICER. Under the order of yesterday, the 31st of July, 1996, the Senate having received the conference report on H.R. 3603, the agriculture appropriations bill, the conference report is agreed to, and the motion to reconsider is laid on the table.

The conference report was agreed to.

PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOMENICI. Mr. President, at the request of the minority, they desire one block of time, instead of rotation, between 12 and 1. I checked with our side. We are willing to do that provided that, for instance, they go from 12 to 1 and then from 1:15 to 2:15 we have a block of time. We assume that while this is the welfare bill that the minority intends to speak on a related subject—the economy and the current economic news. And we would like from 1:15 to 2:15 to speak to that same subject. I will control that 1 hour and be here myself with other Senators.

I ask unanimous consent that we proceed now to Senator BOND, 10 minutes; Senator KOHL, 3 minutes; if Senator HUTCHISON arrives, she takes 7; if not, we rotate and have a Democrat; then at the hour of 12 o'clock the Democrats have 1 hour under the control of whomever they designate for discussion on the floor of the Senate; and, then at 1:15 the Republicans have 1 hour until 2:15. That means there are 15 minutes in between. Let us just say we will fill that in with Senators who desire to speak. I propose that as a consent request.

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

Mr. DOMENICI. I thank the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the Chair.

I begin by expressing my sincere thanks and appreciation to the managers of the bill, particularly to my good friend, the Budget Committee chairman, the Senator from New Mexico, Senator DOMENICI. The fact that we have this measure before us today reflects not only all the practice we have had in passing welfare bills but reflects the great skill, the compassion, and the wisdom that he has exercised throughout this process. I think all of us are deeply indebted to the tremendous skill he has shown in keeping us on track to bring us to this day.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. BOND. I am happy to yield.

Mr. DOMENICI. I ask whatever time I use be added to his time.

Does the Senator recall the hours spent in the Budget Committee putting together the first balanced budget resolution in 30 years, and then the floor debate which lasted for the entire time allowed, and then all of the amendments at the end? We did them all with 1 minute intervening, and then a reconciliation bill. We did all that was required to get a balanced budget.

Mr. BOND. I recall it as it if were yesterday.

Mr. DOMENICI. I also managed them both, and I spent more hours on the floor of the Senate and more votes occurred than any period in modern history of the Senate. I might say from time to time—you would agree, would you not—that we had thought perhaps that work was all in vain, at least for this year, but, as a matter of fact, in only a year, we have welfare reform doing away with the 60 years when people have been imprisoned by this system. It was all worthwhile.

Mr. BOND. Mr. President, I say that I well remember that. It only heightened my admiration for the Senator from New Mexico. It was a wonderful experience which I hope not to have to go through again but it was only because of his skill, good humor, wisdom, and kind judgment that we were able to accomplish that work. And it is truly a credit to his ability and his leadership.

Mr. President, today the Senate will take another historic step in trying to curb the size of Government and provide for new approaches to help families in poverty. I am enthusiastic about this welfare reform legislation which we will pass today because it will basically take control from the impersonal inefficient Washington welfare bureaucracies and the dead hand of Congress and return that to State and local governments who are closer to the people, giving them the freedom to implement new ways to fight poverty.

There can be no doubt that the current system is a failure. That should be the one thing that is agreed upon by Republicans, Democrats, liberals, conservatives, and anyone else who is concerned about their fellow man today. It is cruel to adults who are treated like numbers when they need public assistance. It is even crueler to the children because it encourages a lifetime of dependency and they are raised in an atmosphere without hope. The current system discourages work but it encourages illegitimacy. The current welfare system does not punish poor behavior—even behavior which threatens children, like not sending them to school, or not seeing that they receive their immunizations. The current welfare system does not even punish drug abuse among parents who may be welfare recipients.

I am pleased that this conference report contains a provision which I authored that deals with an outrageous problem that came to my attention as a result of some efforts by the good folks in my home State of Sedalia, MO. In Sedalia, a private employer was trying to hire workers at a $6.50 per hour wage to process food. The employer worked with the local Family Services Division office and had some welfare recipients come out and get jobs. That was a win-win for those folks who got jobs, and for all of us in Missouri as taxpayers. Some of the recipients were interviewed and then hired. They now have good paying jobs. They are paying taxes. They are not living off the Government. They are contributing members of society. They can take pride in what they are doing for themselves and their families.

However, a few folks did not get a job because they failed a mandatory drug test. They were not hired, unbelievably and terribly unfortunately, because of Federal rules and regulations. The State of Missouri cannot sanction those welfare recipients even though they were known to abuse drugs. They simply met their obligation by showing up for the work interview with drugs in their systems, and as a result of the Federal requirements they were sent back to get their food stamps without having to take a job.

Mr. President, what kind of perverse incentive is that? That is the incentive we have seen too many times in the welfare system today. The people of Missouri are fed up with it. They know it is not working. It is costing money, and not helping the people that it should help. This is an absurd result. It harms the recipients because no one forces them to be responsible for their actions. It certainly harms the children of the drug users because their parents have no incentive. They need not get off drugs to continue to get their assistance. Of course, I would say on a much broader scale it is unfair to all of us as taxpayers who have to finance those habits and provide support for those who are using drugs.

I think this is just one example that shows clearly that the Washington bureaucracy, the congressionally mandated and controlled scheme, cannot serve the needs of the millions of poor people in this country. The fact is in States like Massachusetts, Indiana, Wisconsin, and Utah where Governors have been able to take a tougher approach, welfare rolls have dropped, recipients have found jobs, and deadbeat dads have been forced to take responsibility for their children. Those are the results that we hope to duplicate throughout the country in this reform of welfare.

I am pleased that President Clinton has decided to join us, and I think the overwhelming number of Americans who really want to end welfare as we know it. Countless Americans and I have been terribly disappointed. I felt cheated—not just once but on two previous occasions—when we worked very hard in this body and with overwhelming bipartisan support passed meaningful welfare reform. Those measures were vetoed, protecting the welfare system and its bureaucrats as it exists. Apparently the President has decided to give the American people what they want—real welfare reform.

For some reason, an old story just came into my mind about a politician back home who had held a position for some time. When the clamor of the people got too great, he changed his position. A friend of mine went up to him and said, ‘‘Congratulations. I see you finally have seen the light.’’ He shook his head sadly, and said, ‘‘No. I just felt the heat.’’ But for whatever reason, the change was welcome in that situation.

It has been said on this floor to those of us who support this welfare reform, ‘‘How can you dare call it welfare reform?’’ How can we dare call it reform? And they contend it would lead to more poverty. It was said that the evidence is irrefutable.

Yes, Mr. President, the evidence is irrefutable. What the current system has done is to force more and more families and more and more children into welfare dependency. It has deprived the children and the families of the responsibility that each and every American citizen has the right to enjoy and the obligation to use. Those who oppose change in the current system must explain and defend the system that has forced so many more families and their children into poverty.

With this great federally controlled, congressionally mandated, Washington-bureaucracy-run poverty system, we have seen the number of families and children in poverty skyrocket. Those who take a poverty tour and want to go out and look at the faces of the welfare recipients, I tell them I have seen those faces, and I have felt the shame that the current system we have is not getting them off welfare.

When you go out and look at the people who are trapped in the system today, remember, it is the current system that has trapped them. Their plight is the direct responsibility of the system that we are here today to change, to give them an opportunity, to give them an incentive, to give them some encouragement to get off welfare, to help them reestablish themselves as responsible, contributing members of the community, able and willing to take care of their children.

To say, as has been said on this floor, that we are abandoning children because we are turning back to the States the opportunity to devise, revise, improve and implement a welfare system is to ignore reality.

I had the opportunity to serve on the other side of this intergovernmental program for 8 years as Governor of Missouri. As we tried to implement the Federal programs handed down from Washington, we found time and time again that what may have been well-intentioned and what sounded like a good idea when it was expounded upon in this body and in the other body, when great ideas from Washington came down as to how we were going to improve the system, what they did was hamstring our ability to shape a system that would serve our people and help them get off welfare.

Too often we have been tied up in red tape and bureaucracy. This now is an opportunity to let the States that do care and that are concerned about those in poverty develop means of getting them off welfare and into work.

I urge my colleagues to support this measure, and I thank those who have worked so hard for its passage.

I yield the floor.

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I thank the Chair.

Mr. President, today, the Senate will take what is perhaps its most significant action in my years in this body. Today, we will send to the President a bill that abolishes the failed Federal welfare program. We will send to the President a bill that gives hope to more than 12 million mothers and children who have too long been left alone in a culture of despair and poverty.

I want to make clear a point that may have been lost in the partisan politics that has surrounded this legislation. This bill is not about punishing welfare recipients. This bill is not about turning our backs on families that have been broken and impoverished for too long. This bill is about hope. It is about giving hope to mothers who want to provide a better life for their children. It is about giving hope to children who do not deserve to be imprisoned in a life of crime, hunger and despair. It is about giving hope to communities that want to see their tax dollars go to build their neighborhoods up and not to tear local families down.

As a result of bipartisan input, there are many positive changes in this bill that improve upon previous welfare bills. Child care funding is increased by $4 billion, while health and safety standards for child care facilities are preserved. The School Lunch Program is maintained. The Food Stamp Program remains a guarantee. Programs to prevent child abuse and neglect are continued, and, perhaps most importantly, basic Medicaid health coverage is retained.

There are also provisions in this legislation that I cannot support and I will work to change. We will not turn our backs on the people in communities this legislation is meant to help. As the States submit their plans and as the provisions in this bill take effect, we will continue to monitor them. We will make sure that our new welfare system pulls people and communities up, gives them hope, gives them opportunity and makes them strong.

Yes, today is the beginning of the end of welfare as we know it, and it is good news for the families who have been trapped too long by hopelessness. Today begins a new commitment to bringing the poorest members of communities a new beginning, a chance to build their families, an opportunity for their children's future. This legislation is not about hate. This legislation is about hope. And so I urge my colleagues to support the conference report.

I thank the Chair.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I understand there is unanimous consent for Senator HUTCHISON, who is not here, to speak. I ask unanimous consent to be allowed to speak for 10 minutes.

The PRESIDING OFFICER (Mr. ASHCROFT). Is there objection? Without objection, it is so ordered.

Mr. KERREY. Mr. President, many good and honorable Senators will vote for this bill today, and their votes and the signature of the President, in my judgment, in no way takes away from their good intentions to make this welfare system better. I do not intend to say or suggest that they are mean-spirited or they are heading in the wrong direction, or anything of the sort.

I come to the floor intending to vote against this bill and would like to explain why. I think this piece of legislation in the context of our budget and the context of our economy will not make things better. Those who believe this new law will make life better for poor Americans who depend upon Government payments for family support, for food stamps, for supplemental security income, the earned-income tax credit, child nutrition, foster care, and the social service block grant, have offered at least three, as I have heard them, three principal arguments with which I strongly agree.

First, I agree that our current welfare system has failed because it penalizes work and rewards behavior which is contrary to the core American values of family, personal responsibility and self-discipline.

I agree that States need far more flexibility and authority in designing systems which are appropriate for their varying needs and circumstances.

And I agree that deficit reduction will help low-income Americans by promoting growth and job creation.

My decision to vote no on this piece of legislation is based upon disagreements, strong disagreements with some of the ideas I have heard promoted in favor of this legislation.

First, I do not agree that income support all by itself promotes self-destructive dependency, lazy behavior, out-of-wedlock births, and many other things that I have heard offered on this floor.

I have been dependent on a generous Government check from the taxpayers of this country for 27 years since I was injured in the war in Vietnam. That check has not made me lazy. I have not had one child out of wedlock. I am not dependent upon the Government. I am grateful to my country and willing to give it back in kind.

My motivation predated the decision by a generous nation to say that if you are disabled in the war, we are going to provide you with monthly income support, and we are not going to torment you and constantly challenge you and require you to come in and justify your existence to a Government bureaucrat every single time we think that maybe we do not like what you are doing.

I do not agree that increased welfare spending has caused many of the societal problems we face, nor do I agree with the corollary argument that is oftentimes made that we spend a disproportionate amount of our GDP on the poor.

First, as to welfare causing problems, Mr. President, I would like to read just a few of the economic changes that have occurred in the last 30 years and ask my colleagues to consider what their impact could have been.

Thirty years ago, most communities had laws that said that you could not open your business on Sunday. But as a consequence of a desire to do more business on Sunday, that seventh day that was reserved for the Sabbath, we now have in every community not only stores open on Sunday but open 24 hours a day. Guess who is working in those stores? Not those of us who make over $100,000 a year. We are shopping. We are playing golf. But it is those lower income families who are out there working.

You could make a much better case, Mr. President, that that change in the law has been destructive of families, has been hurtful of communities. I do not make this argument, by the way, but there is no question there have been significant changes in this country as a result of changing our Sunday closing laws.

And consider these economic facts. In 1945, 75 percent of the world's GNP was in the United States; in 1970, it was 50 percent; in 1992, it was 25 percent; in 1995, it was down to a fifth. In 1969, 9 of the 10 largest banks in the world were in the United States. Today, the top U.S. bank is No. 30. In the auto market, the U.S. share was 90 percent, today it is 55 percent. For manufacturing wages versus the rest of the world, we were No. 1 in 1969. In 1994 we are No. 5, after Japan, Germany, France, and Italy.

We have shifted from a manufacturing to a service economy over the last 30 years, and a worker out there, who is not protected as a consequence of being a Member of Congress, a worker out there has to compete against all of those people in the world. He has to compete against people in India who are willing to work for 40 cents an hour, against people in China who are willing to work for 36 cents an hour, against many nations who are willing to pay their people who work 50 cents to a dollar an hour. This has put a tremendous pressure upon people who have lower wages. Mr. President, nearly 30 million people in the work force earn less than $7 an hour.

Rather than merely focusing our attention on how to get people off of welfare, it is far more important for us to ask ourselves the question: In an age when we have an international economy, where we have that kind of pressure upon wages, where we have that kind of pressure on skills—and by the way, I would likely vote for this proposal if it had more money in there for education. We have title 1 students today who are not being taken care of. In Nebraska we have 30,000 students who qualify based upon their income, another 30,000 who qualify based upon math and science skills. We have 12,000 black students in the Omaha Public School System. Only 25 percent of those who graduate have a proficiency in mathematics. We are not fully funding Head Start. We do not say to all Americans, ''Don't worry about it, you will be able to go to college.'' In Nebraska, working families take out a second mortgage on their homes in order to be able to send their kids to the land grant college—a college that was supposed to make it possible for everybody to be able to go to school.

If we had money for education in this legislation, if it was said we are going to do those things we know work—we know Head Start works, particularly title 1—at a cost of $800 per child per year. And to half of the people who need it, based upon their performance in math and reading, we say we do not have the money for you.

When it comes time to build the next generation of attack fighter, we have the money for that. We have another $30 or $40 billion to build the Harrier, because we are afraid of God knows what. Actually, we are afraid of countries to whom we have sold F–16's. All of a sudden we are building a great fear of a new threat out there. We are not afraid, but we ought to be afraid, of what happens when our graduates from high school, in an international economy, cannot read, cannot write, cannot do multistat mathematics, cannot do the things that all of us know in an international economy they have to be able to do if they expect to earn the living that we would like to see all Americans be able to, in fact, earn.

Another presumption I hear is we are spending too much on the poor. These programs we are addressing—I understand we have Medicaid and it is about $25 billion just for acute care for the poor. And we have some housing programs, some are low and moderate, some just for the poor. But just for these programs themselves we are going to spend 1.4 percent of the GDP. We have a $7 trillion GDP right now. These programs represent about $102 billion.

We are not going to address Social Security, Medicare, or benefits that go to people like me who have substantial income but still receive a Government check. We are not going to do any of that. We are going to go after people who have low incomes and we are going to say: You are really the problem. We have to take our deficit toll upon you. Mr. President, 1.42 percent, going to 1.5 percent of the Nation's economy.

By the way, for my colleagues, I believe there is a relationship between our economy and what we can afford. I am an advocate of economic growth, I want our tax, regulatory, and spending policies to promote growth. Our wealth does determine how much we are able to give to those who are less fortunate, whose lives have been affected by some disaster or another, who are struggling to compete in this economy of ours. But, for gosh shakes, 1.5 percent is hardly what I would call an excessive tithe. Indeed, under this proposal instead of going from 1.42 and adding 8 hundredths of a percent, we are going to go from 1.42 to 1.38.

You have not heard me come and say I think these cuts are draconian and people are going to be foraging in the street for food. But I do not think a generous Nation that has our children in the classroom saying we are ''one Nation, under God, indivisible, with liberty and justice for all,'' can look at this and say 1.4 percent of our GDP going to poor Americans is excessive and it is something we are not able to afford.

In addition, I make over $100,000 a year. I have not heard anybody come down and say, ''Bob, this is what we think your contribution ought to be for deficit reduction.'' I have not heard anybody come to me and say, ''We think you ought to give up a little bit, too.'' I think concerns about equity when we are doing deficit reduction are legitimate and need to be surfaced.

I hope, in the aftermath of this bill's passage and signing, we are able, in 1997, as we look at our budget, to adjust not just our entitlement programs, and those entitlement programs that are going to upper-income American, and say we are going to try to provide additional discretionary money for education and for low-income people so we can deal with many of the underlying problems that both the supporters and opponents of this legislation have addressed. I do not believe we can have a liberal democracy and a free enterprise system of capitalism, I do not believe we can say to our people you have to compete in a global society and we are going to try to keep the trade barriers as low as possible, I do not believe that any of that works unless we are willing to do those things that we know work. We are not doing them today. We are saying we are short for Titler 1, we are short for Head Start, we are short for college loans, short for all these other things. I think it will, indeed, come back to haunt us.

We do know what we can do as a follow-on to this legislation. As I indicated, if there were more resources here for education, for training, for those things that would actually provide what I would consider to be a reasonable safety net in an international economy, I would likely support it.

Let me give one final example. The previous occupant of the chair, Senator INHOFE, introduced a piece of legislation dealing with limbs for low-income working families. He identified a very important problem.

The problem is this. We spent $1 billion for all prostheses in America, arms and legs. That is about a fourth of what we spend on antacids to cure our stress, half of what we spend to feed our dogs and cats—hardly what I call an excessive expenditure. But if you are a working family that does not have health insurance and have an income of $15,000 a year and your 10-year-old daughter loses her leg above the knee and you go to your prosthesist and find out the prosthese will cost $12,000, what do you do? You cannot afford it. So you consider trying to do the same sorts of things that are being done for Third World nations. Can we use used parts to try to assemble a limb and an arm for this 10-year-old child to be able to make life better?

I mention this only because all the arguments about wanting to provide an incentive for work are not going to be effective unless we, as a follow-up to this legislation, not only provide in the appropriations process the money needed to educate our people, but also as a follow-up, we consider this fundamental question: What kind of safety net do we want to provide for the citizens of the world's strongest economy and the world's most successful democracy?

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I inquire of the Chair, what is the order of business?

The PRESIDING OFFICER. Democrats control the time between now and 1 o'clock.

Mr. BREAUX. Mr. President, under that agreement, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BREAUX. Let me start by acknowledging that following my good friend from Nebraska, who is indeed a close friend, I have a great deal of respect for his opinions, even though we disagree on the merits of the welfare legislation that will pass the Senate today as it passed the House yesterday.

There is a great deal of second-guessing about the President's decision yesterday to sign the welfare bill. We have had statements by various Members as to whether it was a good idea or a bad idea. I think his decision was the correct decision, and it also, at the same time, is a very courageous decision. I know it was tough, but I think, ultimately, in signing the bill, the President will be doing the right thing.

I think one thing that is clear, certainly when you get outside of Washington, is that the American people know that the current welfare system does not serve very well the people who are on it, who it was intended to help, nor does it serve very well the people who are paying for it: the American taxpayer.

It simply is not working when you see generation after generation of families who have been on welfare assistance continue to be on welfare assistance. The goal of any welfare reform is to end welfare, not to continue it, not to perpetuate it.

Since 1935, we have seen families really who have been locked in a prison of welfare dependency and have been shackled by the concepts that have continued generation after generation and decade after decade. The question is not should we change the system but how we change it. I think the President was absolutely correct in setting out the priorities. Welfare reform should be tough on work but good for kids. While that is a simple and catchy phrase, it also is the basis for the legislation that we are going to adopt.

This bill is tough on work, but it says welfare is not going to be permanent, that it should be temporary, that it is a maximum of 5 years in a person's lifetime, and States can come up with a shorter period if they want.

The goal of making work part of welfare reform is that we should be turning welfare offices, that for too long have only been an office giving out a check, into an office that helps people find a job. It was interesting this morning, a local TV station was interviewing a number of people who were actually on welfare, mothers with small children, who said they agreed with this legislation. They did not want to be on welfare for the rest of their lives. They wanted the welfare office to be a workfare office. They wanted the welfare office to be a job placement office. They wanted the welfare office to help them get off welfare. I think this legislation will do exactly that.

The bill, I think, is very important in some of the things it does do, such as child care. This legislation provides about $14 billion for child care, particularly for mothers with small children, so that child care will be available so they can go to work. That is about $5 billion more than under the current law and $4 billion more than in the bill that the President was forced to veto because it was not good for children. This bill, in fact, is good for children.

I was interested in some who have said, ''Well, after 5 years, we're just going to abandon families.'' There is nothing further from the truth. We were looking over the various programs that would still be available after the 5-year period is reached. There are some 49 Federal programs that are available for families and would continue to be available for families after they have reached their time limit of 5 years.

This country, as strong as we are, is not going to be deserting families, is not going to be deserting children of families who have exceeded the time limit. There will still be a large number of programs that will provide direct assistance to these families after they have reached their time limit.

This bill, I think, goes a long ways to correcting problems that the President addressed when he first vetoed the welfare bill. For instance, we maintain health care coverage through Medicaid for all those families who are eligible today, even though a State may change their welfare program. We clearly say that families that are on AFDC today will continue to be eligible for health care, and this, indeed, is very important.

In addition to the child care, the President had very strong concerns about just arbitrarily block granting the Food Stamp Program, which is a Federal program, to the States. This bill guarantees that additional benefits will be available when need increases, such as during a recession. The program would still essentially be a Federal program. It would not be block granted to the States.

I think, on balance, the President of the United States was absolutely correct and being courageous in saying, ''Yes, we are going to change the system; yes, we are going to try something different. And, yes, we are going to be tough on work for people who can work and, yet, at the same time, do good for children of those families.'' I think that is incredibly important.

GOOD ECONOMIC NEWS

Mr. BREAUX. Mr. President, let me take a couple of minutes to comment on something else, and that is the economic news that was announced today, which I personally am very proud of, as I think every Member of this Congress can be, and this administration can be proud of the news.

I know when I look at my own State of Louisiana, Louisiana's unemployment in 1992 was 8.2 percent; 8.2 percent of the people in my State did not have a job. Today, the unemployment rate is 6.9 percent, a substantial drop.

In 1992, the growth rate in this country was 2.7 percent, and the deficit stood at $290 billion. Today's growth rate figures of 4.2 percent is incredible progress, and we should be proud of it. Hopefully, we are moving in the right direction with regard to the Federal deficit.

In 1992, we looked at a Federal deficit that had staggered up to $290 billion. Today's figures we are estimating are somewhere between $115 billion and $130 billion—still too high, but real progress.

I was interested in just this week—and these are not just figures that apply in Washington. A lot of people back home say, ''Well, some Department in Washington issued figures I don't really understand.'' The hometown paper in New Orleans has a special report just this week on the economy in my State of Louisiana. It shows what we are talking about on the floor today, about this good economic news in Washington is good economic news throughout the United States of America.

This is a special in the Times-Picayune in New Orleans. It says in comparison:

> A decade ago, the economic world as New Orleans knew it seemed over. The oil boom that had turned into the oil slowdown was now the oil bust.
>
> Almost before anyone knew what had happened, tens of thousands of jobs had disappeared from the local economy. . .
>
> Fast forward to 1996. Traffic is bustling—

On all of our roads and highways:

> Houses in prime neighborhoods seemingly sell in seconds. Banks are cheerfully advertising their services or rates. The oil and gas business looks pretty good.
>
> Residential building contracts in New Orleans, Baton Rouge and statewide are up through June from a year ago 11 percent for this area, 29 percent for the State.
>
> Get the picture?
>
> ''Fundamentally, the State's economy is in great shape,'' said Hibernia Corp. President Stephen Hansell.

What I am trying to point out is that this is good news in my State and, I daresay, in the other 49 States as well.

I was interested in how the article concluded:

> The Federal Government didn't manufacture it.

And they talk about other things that didn't have anything to do with it. I want to make the point that I think the actions here in Washington did, in fact, have something to do with it. I think the 1993 Deficit Reduction Act had something to do with this.

Many of my colleagues said this is going to destroy the economy of America; this Deficit Reduction Act is a terrible thing. The news today is that the results are in and the news is good news. The tough things that we had to do in 1993 to get this country back on a course of economic recovery have worked, and there should be celebration in the Congress for recognizing that something that was very difficult to do, in fact, was done.

The deficit went from $290 billion to $115 billion to $130 billion. I say to the writers of this editorial that that had something to do with that economic boom.

That meant that there was more money for private citizens, more money for the private economy to be able to borrow, to invest, to expand their businesses and to create jobs. That had a direct effect on the news today in my State and other States that things are on the right track, the economy is strong, that more jobs are being created. And it just cannot happen by accident.

Some of the tough things we had to face when we voted for the 1993 Deficit Reduction Act in fact was very much a part of the economic recovery that we are seeing in Louisiana and the other 49 States. So I think we can all be proud to say that Government does sometimes do the right thing, even though at the time we do it there may be a great deal of questioning whether it is the right thing. Today the results are in and it was the right thing to do. And we will continue to do that.

I think that we, as Democrats, can be proud of our activity in that area. I feel very strongly that we, as Democrats, can still promote economic growth by tax cuts that are paid for, the bipartisan group Chafee-Breaux, so-called, promoted a capital gains tax cut that was paid for. I think that is very important. We should continue to consider tax cuts for the economic growth. But we ought to make sure they are paid for, that they do not increase the deficit. A tax cut that merely increases the deficit may be easy to pass but it is bad economic policy.

So I think that we should move forward with tax cuts of which I do support. The President has supported tax cuts. The $10,000 tuition tax deduction is one. The penalty-free withdrawals from individual retirement accounts for educational expenses is another good economic policy that will be paid for. There is the HOPE scholarship tax cut, $1,500, again, which is a move in the right direction. So I think that we as Democrats can be proud of the results that are in today, and continue to look at new ideas in terms of tax cuts that are paid for to promote economic growth and development in this country. Mr. President, I join with my colleagues on both sides of the aisle to continue to do what is necessary to promote the economic growth that we now see in the United States. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, per a previous agreement that I understand has been entered into, at this time I would like to set aside 1 hour of the 5 hours allowed to this side of the aisle on the debate on the welfare conference report to talk about some other economic matters that several Members on this side of the aisle, including this Senator, would like to address. So if it is convenient and agreeable to those on that side of the aisle, we would like to proceed in that fashion at this point.

The PRESIDING OFFICER. The Chair would inform the Senator that the Democrats are in control of time between 12 and 1 o'clock under the current order that is under discussion.

Mr. EXON. How much time has been consumed on the economic debate up until now?

Mr. CONRAD. None.

Mr. EXON. How much of the 1 hour has been used?

The PRESIDING OFFICER. Twenty-two minutes.

Mr. EXON. Twenty-two minutes. Then I would like to ask that the remainder of that time proceed, and if necessary, although we hope it will not be necessary, to accommodate those who wish to speak on this subject, I may ask unanimous consent for a few additional minutes after the time expires. I would like to advise those on that side of that fact.

I believe the Senator from North Dakota was seeking recognition.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I thank the Chair.

This morning the Commerce Department delivered extremely good news on the Nation's economy. The Commerce Department reports that the economy grew at a rate of 4.2 percent in the second quarter.

Mr. President, these figures confirm that the economy under President Clinton is strong, it is growing, and it is creating jobs. We all recall what the economy was like before this administration came into office. In 1991 the economy was in recession. By 1992 the budget deficit had ballooned to $290 billion. America was in trouble.

Then President Clinton came into office. He offered a bold plan of deficit reduction to strengthen the Nation's economy. That plan passed by the Democratic Congress has delivered superb results. And today we can report on what has happened.

In August 1993, a Democratic Congress and a Democratic President enacted into law a historic deficit-reduction plan. That plan was designed to reduce the deficit by $500 billion over 5 years. Unlike any other deficit-reduction plan that we have seen since I have been here, that plan delivered on its promise.

Mr. President, we recall very well what our friends on the other side of the aisle said during that historic debate. They said that the economic plan passed by the Democratic Congress and supported by the Democratic President would crater the economy.

I can remember so well the Republican majority leader standing at his desk telling us that if we enacted that plan there would be economic ruination. He was wrong. But he was not alone in being wrong. Virtually every Member on the other side asserted that if we passed this bold economic plan to reduce the deficit and strengthen the economy it would do just the reverse. They said—and they said repeatedly—if we passed that plan the deficit would go up, not down, that economic growth would be reduced, not increased, that joblessness would multiply.

Mr. President, they were wrong. They were dead wrong. And now we can look at the record to see precisely what has happened.

Former Senator Dole said, ''President Clinton knows * * * the American people know that the plan does not tackle the deficit head-on.'' Mr. Dole was wrong.

Representative ARMEY, now the majority leader in the House of Representatives said, ''The impact on job creation is going to be devastating.'' Mr. ARMEY was wrong. He was dead wrong.

Senator GRAMM of Texas said this: ''I want to predict here tonight if we adopt this bill, the American economy is going to get weaker, not stronger. The deficit 4 years from today will be higher than it is today, and not lower.'' Senator GRAMM of Texas was wrong. He was dead wrong.

Mr. President, all we have to do is look at the record. Let us start with the testimony of the head of the Federal Reserve, Mr. Greenspan, before the Senate Banking Committee about the economic plan to reduce the deficit. It was supported by the President and passed by Democrats in Congress.

Mr. Greenspan said about the deficit reduction in President Clinton's 1993 economic plan—and I quote—''an unquestioned factor in contributing to the improvement in economic activity that occurred thereafter.''

That is not a spokesman for the Democratic party. That is the Chairman of the Federal Reserve Board, Alan Greenspan, talking about what the Clinton economic plan has meant to this country.

Just to be certain no one forgets what has happened, with respect to the record on deficit reduction, let's look at this chart, which shows the Reagan record, the Bush record, and the Clinton record on deficit reduction.

President Reagan came into office in 1981. The deficit stood at just under $80 billion. Under his economic plan that passed the Congress—we recall the Republicans controlled the Senate from 1981 to 1987—he got his economic plan passed, and what happened? The deficit skyrocketed. It just about tripled under President Reagan's economic plan. Then we saw some reduction as steps were taken to rein in the increasing budget deficit.

Then President Bush took over. President Bush saw the deficit go, on his watch, from $153 billion a year to $290 billion in 1992. The deficit was out of control.

President Clinton came in, in 1993. And each year of his administration the deficit has been reduced, and reduced significantly, from $290 billion in the last year of the Bush administration to $130 billion estimated this year.

In fact, the deficit may come in at less than $120 billion this year. The deficit has been cut more than half during the Clinton administration. It is directly attributable to the plan that we passed, the economic plan that we passed, in 1993.

The President also, when he was running for President, promised he would produce with his economic plan 8 million new jobs in the 4 years of his first term. We can now look at the record. The President has done better than he promised. Instead of 8 million new jobs, the economy under his economic plan, a plan passed by the Democratic Congress, has produced 10 million new jobs. The President has done a superb job of running this Nation's economy.

Not only has the job creation record of this administration been outstanding, the economic growth we now see has also been much better than previous administrations. Mr. President, if we look at private sector economic growth in the Clinton years, we see it is averaging over 3.1 percent. In fact, with the news this morning, we now know it has averaged 3.2 percent. That is in comparison to private sector economic growth in the Bush years of 1.3 percent—a dramatic improvement in economic growth in the private sector in this country under the Clinton economic plan.

It does not stop there. There is more good news. The misery index—that is something we have talked a lot about in the past. That is a calculation of the unemployment rate and the rate of inflation. The misery index is at its lowest level since 1968. What a remarkable economic record this administration has to take to the American people.

It does not stop there. There is more good news. The unemployment rate in December of 1992 was 7.3 percent. In June 1996, the unemployment rate has declined to 5.3 percent. The unemployment rate has been below 6 percent for 22 consecutive months. This chart shows what we have seen in terms of the reduction in unemployed people in America from a rate of 7.3 percent when President Clinton came into office to 5.3 percent today—about a 30-percent reduction in unemployment.

Mr. President, it is clear, the economic game plan that President Clinton put before this Congress, that was passed without any help from Republican Members, has led to a superb result, a dramatic reduction in the deficit, a dramatic increase in jobs, a dramatic increase in economic growth, a significant reduction in the misery index, the lowest level since 1968.

Mr. President, the good news does not stop there, either. If we look at real business fixed investment, again we see the record from 1985 to 1996, and we see the real business fixed investment, as a result of the Clinton economic plan, has taken off like a scalded cat, the largest increase in business fixed investment in over 30 years. This is truly a remarkable economic record.

I have to remind our friends on the other side of the aisle, when we put this plan into place, they predicted it would be nothing but bad news. They said it would crater the economy, it would increase the deficit. They said it would reduce all of the things that we want to see increase, and increase all the things we want to see reduced. They were wrong. They were dead wrong.

This economic plan, a plan that was passed without a single Republican vote, has produced remarkable results—by some measures, the strongest economy in 30 years. This is a record of economic success that should not be interrupted.

Mr. President, I think the record is clear. The Clinton administration has delivered on its economic promises. In fact, it has exceeded its promises on economic performance. That is one significant reason this President ought to be continued in office.

I thank the Chair. I yield the floor.

Mr. EXON. Mr. President, how much time does the Senator have left on the 1 hour?

The PRESIDING OFFICER. Twenty-five minutes.

Mr. DODD. Mr. President, I need about 10 minutes, but we may end up in a discussion, so we may take a couple of Members' time and combine it, and we may not need quite as much.

Mr. EXON. Since I have several other requests, I yield 7 minutes to the Senator from Connecticut. I have to do that or we will run right out of time.

Mr. DODD. I understand. Maybe because we used more time on the welfare debate and we did not start this discussion until about 12:20, we might be able to get an extension.

Mr. EXON. I suggested that.

Mr. DODD. Let me commend my colleague from North Dakota for his comments and observations—I see both my colleagues from North Dakota here—in talking about this news this morning.

This is great news. Obviously, when you have the gross domestic product growing at an annual rate of 4.2 percent, the strongest growth rate in 2 years, that is very, very good news for jobs, security, and opportunity for virtually every person in this country.

Certainly all of us, regardless of party, I presume, would be celebrating this magnificent news that portends well for this country as we, in the remaining years of this decade, get ready to enter the new century.

My colleague from North Dakota points out what the situation was like 3½ years ago. There are many people here who will count on the American people having a short memory, that they will forget how things were 36 months ago, what we were living under in this country, where we had unemployment rates of 7 percent. Those were the identifiable rates. I argue it was much higher than 7 percent in many parts of the country. The job growth rate, 36 months ago or a little more than that, was at its lowest level since the Great Depression. The Federal deficit was hovering around $300 billion a year, $290 to $300 billion. The dollar was at the highest level in American history. That was the situation a little more than 36 months ago.

Where are we today? A gross domestic product growth rate of 4.2 percent, unemployment a little above 5 percent across the country, 10 million new jobs created in a little over 36 months, the deficit at its lowest level in almost a generation. Back in 1992, the President said, ''I will cut it in half in 4 years.'' Even the President was wrong. It has been a 60 percent reduction in the deficit rate in the last little more than 36 months. Private sector job growth has soared, soared in the last number of months.

I point out, if I can, the deficit reduction numbers on this chart, which highlight a major issue. We have made a herculean effort over the last several years to reduce this deficit.

As my colleague from North Dakota points out, we did not have a single vote on the other side in the deficit reduction plan, not a single vote in either body—the House of Representatives or the Senate—in support of our deficit reduction plan in 1993. Yet we now see what has happened. In 1980, the annual deficit was at $74 billion; between 1981 and 1992, the annual deficit rate climbed to almost $300 billion. In around 36 months we have taken that $290 billion figure and reduced it to $117 billion. In fact, this very number of $117 billion would be zero were it not for just the deficit that we accumulated between 1981 and 1992.

And let me say this. We would be in balance today, were it not for the debt run up by the previous two Presidents. Just the interest payments on the debt accumulated in those 12 years has created this $117 billion figure. For the first time in many years, we now find ourselves where receipts of the Federal Government exceed our expenditures but for interest on the debt that was accumulated in those years. It is a tremendous accomplishment, a tremendous accomplishment. It is really the linchpin, I think, in what has occurred in other economic areas, how the markets are reacting, how Main Street is reacting, the fact we have been able to create the kind of growth we have seen.

We have had 4 years of deficit reduction. You have to go back to 1840, more than a century ago, a century and a half ago, when we had four consecutive years of deficit reduction. Miraculously, it has happened because a lot of people cast some courageous votes.

In fact, the opposition, the Republicans, tried to shut down the Government twice over deficit reduction. I raise all of that because, next week, I am told, we are going to have a proposal made by the other side—presumably by the presumptive candidate for the Republican nomination—that will call for tax cuts of roughly $600 billion. I suspect most of them are going to benefit the more affluent in our country and are going to blow a $600 billion hole in the progress we've made on deficit reduction.

What was all the talk about in this previous Congress if not deficit reduction? With 10 weeks to go before election day, all of a sudden we get this suggestion of a $600 billion tax cut coming along, and many people are warning the candidate and others that you would create real havoc in the economy if that were adopted. It is certainly going to make it almost impossible for us to reach the goals that I believed we were all committed to achieving here over the next several years. Of course, where is the savings going to come from in this $600 billion tax cut that will be proposed?

It is almost as if we are treating the public like they are fools. Does anybody believe, with 10 or 11 weeks to go before election day, with a $600 billion tax proposal, that it isn't totally motivated by trying to bring some life to a moribund campaign and do so by jeopardizing the economic gains we have made? I think most people are going to see through that. What is tragic about it is that we have Candidate Bob Dole contrasted with Senator and Chairman Bob Dole. If Bob Dole were sitting in the U.S. Senate or were chairman of the Finance Committee, he would ridicule the idea. He would rightly see it as unraveling agreements that we have already achieved to try to balance the budget in 7 years. In fact, all the proposals on constitutional amendments to achieve a balanced budget would appear to be nothing more than a lot of rhetoric.

We are being told how these tax breaks may be paid for. One report says that, of the $600 billion in tax cuts, $240 billion would be coming from offsets in increased tax revenues resulting from increased growth—$240 billion is coming from increased revenues from increased growth. Boy, that is a rosy scenario, if I ever heard one. The same people who proposed this insisted a year or so ago that we use conservative economic growth numbers when we start trying to make up for this. Where does the other $360 billion come from if you are going to pay for this tax cut you are talking about? Well, stop me if this sounds familiar to you, but if last year is any indication, it is going to come from Medicaid, education, Medicare, and the environment. That is what they tried last time around. One analysis has a $313 billion cut coming in the Medicare program.

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

Mr. DODD. I ask unanimous consent for an additional 3 minutes.

Mr. DORGAN. I yield the Senator 3 additional minutes.

Mr. DODD. Mr. President, I will ask my colleague to engage on this point. I am very concerned. I hope that cooler heads will prevail in this campaign season and that suggestions like this will be put in the trash bin where they belong, at a time when we are moving forward and achieving deficit reduction numbers, the economy is growing, the gross domestic product numbers and the unemployment levels are moving in the right direction.

This is a time to come together. Nobody expects perfection here. Our Republican friends made a huge mistake in their predictions about the 1993 budget reduction efforts. All of us have made mistakes. So why not admit you made a mistake? It was a bad vote. You should have supported it, and you did not. Collectively, we have come together and the country is moving in the right direction.

I hope we won't destroy what has been a very significant effort over the last number of months to move the country in the proper direction by reducing this deficit, resulting, I believe, in the kind of gross domestic product growth numbers that we are seeing here today, the unemployment numbers that are moving us in the right direction. This is not a time to try to pander to the American public with the suggestion of massive tax cuts for the affluent, paid for by rosy economic figures that are unrealistic and cuts in the very programs we have fought to defend.

Mr. President, I would love to be proven wrong. I would be delighted if next week came and went and all the talk about these wild schemes—wild schemes—to try to breathe life into a campaign by jeopardizing the American economy and the direction we are going, was shelved and we got back to a more rational, thoughtful approach on how to continue the kind of economic growth numbers we have seen here this morning and offer some real promise to the American people.

With that, Mr. President, I will yield whatever time remains to my colleagues from Nebraska or North Dakota.

Mr. EXON. How much time does the Senator from Nebraska have remaining?

The PRESIDING OFFICER. The Senator has 14 minutes.

Mr. EXON. Mr. President, I yield 5 minutes to my friend from North Dakota, followed by 5 minutes for this Senator from Nebraska and 4 minutes to the Senator from Massachusetts, in that order.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Does the Senator from Nebraska intend to try to get additional time? We had talked about an hour, and we were not able to start because they were talking about welfare reform.

Mr. EXON. Mr. President, I do not see the Republican leader on the floor at this time. I will try to get that time. If people want more time, I will be glad to yield. We are trying to be very fair with the time. Everybody would like to have lots of time, but I only have 14 minutes remaining as of now. I am conserving that as best I can.

Mr. DORGAN. Mr. President, we had talked about trying to have a block of time to talk about the economy. The reason we wanted to do that is because this is very important. This is the question that most people in this country ask themselves, and families reflect on this: Is this country moving in the right direction or the wrong direction? Are we on the right track, or are we on the wrong road? Those are the questions people ask.

We are not here suggesting that everything is wonderful in America. We have a country that faces a lot of challenges. There is no question about that. But we have a country that has gone through an immediate past period causing significant problems, requiring significant remedies, but a country that has begun to address those things head-on.

I want to take us back just a bit to a new President that came to town, who said, ''I have a new idea. I have consulted with a man named Laffer, an economist, who has a new graph and curve, the Laffer curve.'' The Laffer curve says that, if you give folks at the upper end of the income brackets big tax cuts, you actually collect more money because it will filter down and everybody at the bottom will get damp. That is trickle-down economics. So there were big, big tax cuts given, especially to the people at the top. The result was that we ran into massive deficits, unparalleled in the history of this country—massive budget deficits. The rich got richer, the people at the top, during that period. The top 1 percent of Americans had a 66-percent increase in their financial wealth just from 1983 to 1989. The bottom 80 percent lost 3 percent of their wealth. So some people did very well—just the top 1 percent. But almost all the rest of the people did not do well at all under this circumstance.

Well, we had a new President come to town again in 1992. He started in January 1993. He recognized immediately that we faced an enormously serious problem. This country was not going to grow and was not going to realize its potential unless we dealt head-on with this deficit problem. We had a vote here in the U.S. Senate on a deficit reduction plan. I voted for it. I told the people I represented why I voted for it, why I thought it was important for this country. I have never apologized for voting for it. I felt it was the right thing to do. Was it a good political thing to do? No, not at all.

There were some people who sat in these chairs who lost their seats in the Senate over that vote. They had the courage to stand up and say, ''Count me in. I want to address this deficit. I want to suggest that we take the medicine necessary to do this.''

So the deficit began to come down. We did not get one vote on the other side of the aisle. We got a lot of claims on the other side of the aisle. I see the Senator from Texas is here to visit with us today. I recall his claim. His claim was it is going to lead directly to a recession. But it was not just him. Many others did the same thing. ''The sky is going to fall in. There is going to be a big recession.'' What happened was the deficit fell.

This is what happened to the deficit under President Reagan, under President Bush, and why he did not win reelection, by the way. That line was still going up; and the deficit under President Clinton. He understood that, unless we tackled this problem, this country could not realize its economic potential.

Are we done tackling this problem? No. But this has been a success because we had more jobs and more economic growth.

What was the news this morning? The news was in the last quarter this country grew at 4.2 percent of economic growth, a very robust rate. The fact is this economy is still growing. Why? Because we are doing the right things. We are not perfect, but we are at least doing the right things.

I want to mention one additional point. It is important. We have another plan by a guy who wants to be President next January. He has a new plan—across-the-board massive tax cuts, which, of course, will benefit the high-income people and cause a hemorrhaging of a new Federal deficit. That is the new plan. At least it has a new title.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator's time has expired.

Mr. DORGAN. May I have 1 more minute?

Mr. EXON. Mr. President, how much time does the Senator have remaining?

The PRESIDING OFFICER. The Senator has remaining the time between now and 1 o'clock.

Mr. EXON. I yield 1 more minute to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I appreciate the Senator's generosity.

The plan for across-the-board tax reductions that they would implement next January, which would increase the deficit, is augmented by what they are doing with the midnight oil right now. For the last couple of nights they were in the back room and are going to bring a bill to the floor of the Senate in a matter of hours, I assume, that has this in it: opening another tax loophole, several hundred millions of dollars. Amway has been asking for it. So they get it.

Who is going to get the brandnew tax loophole of $300 million? That is the solution coming from the other side of the aisle. How do you fix what is wrong in America? Increase the deficits by cutting taxes for upper income folks and do secret deals in the back room to bring to the floor of the Senate something that exports American jobs and gives new tax breaks to big corporations that do not need it.

I yield the remainder of my time.

PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

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

The PRESIDING OFFICER. The Senator has 3 minutes 44 seconds.

Mr. EXON. Mr. President, the Senator from Nebraska will save his remarks that have to be said to the U.S. Senate for a later time.

I ask unanimous consent that the remainder of my time of 3½ minutes be yielded to the Senator from Massachusetts and that, at the time of the 1 o'clock time period, an additional 15 minutes off the bill to discuss the conference report before us be yielded to the Senator from Massachusetts.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, could I hear it again?

Mr. EXON. I am simply saying that the Senator has 3½ minutes remaining. I want to yield that time to the Senator from Massachusetts. Following that, the Senator from Massachusetts would be recognized for an additional 15 minutes off the bill for the remarks that he has to make.

Mr. GRAMM. Mr. President, I was scheduled by our prior agreement to begin speaking at 1, and the time was to revert over to our side. I am here, having rearranged my schedule on the basis of this.

So, while I always like to accommodate the Senator, we had an agreement. Our colleagues have had an opportunity now for an extended period of time to present their views to the world, which were very interesting and very enlightening. But our turn comes at 1 o'clock.

So I feel constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. EXON. I have only asked that he be recognized at 1 o'clock. We did not know of the agreement.

The PRESIDING OFFICER. The Chair will clarify. The time for the Democratic side is between 12 and 1. At 1 o'clock there is to be 15 minutes of time available for either side, presumably to be shared.

Mr. GRAMM. To come back to our side.

Mr. EXON. Mr. President, I yield the time remaining between now and 1 o'clock plus 15 minutes off the bill to the Senator from Massachusetts.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is my understanding, I say to the Senator from Texas, that we had the time going up to 1:15. That is what I was notified. That is why I am over here, and I arranged my schedule accordingly.

The honorable and widely shared goal of welfare reform is to end welfare as a way of life and make it a way station to work.

If we accept that indisputable proposition, then the two most important principles of welfare reform should be to move able-bodied adults on welfare into the work force, while protecting their children from hunger and want.

This legislation tragically fails on both counts. It fails to provide what is necessary to move people from welfare to work. But it will push over 1 million more children into poverty. People on welfare will get a lecture, but they won't get a job, and their children will suffer.

To call this bill welfare reform is nonsense. It's welfare retreat. Reform means improvement—solving the problem. This bill will bring damage to countless families across America. To label this legislation reform is no more accurate than to call the demolition of a house remodeling.

It is also wrong to describe this bill as affecting only families on welfare. Its provisions will harm working families as well. More than a fifth of all American families with children—8.2 million households—will see a substantial decline in their family income if this bill becomes law; 1.1 million children will be pushed below the poverty line by this bill. The majority of these children live in families headed by a working parent.

What's in a label? For families, this is an abandon-hope-bill, a back-to-poverty-bill, a you-don't-count-bill, a deny-the-American-dream-bill.

The average annual income loss will be significant—$1,300 per family. This bill is supposed to encourage work. It makes no sense to reduce support for low-income working families. Cruelly, and intentionally, the authors of this legislation have chosen to do just that. Their real goal is not welfare reform. They are Robin Hoods in reverse—robbing the poor to pay for undeserved tax breaks for the rich.

If this legislation honestly intended to move people from welfare to work, we would focus on steps to make them employable. Of the parents whose families will be denied assistance after the time limits, only a third have a high school degree. Yet three-quarters of the available jobs in today's economy require a high school diploma. Sixty percent of those jobs require at least some job experience. Yet this legislation does little about helping recipients obtain the education and job training they need in order to get real jobs in the real world. In this Republican Congress, even the existing meager level of Federal support for such programs is in jeopardy.

According to the Congressional Budget Office, Federal funding in the coming years is approximately $10 billion less than the amount needed to meet the work requirements in the bill. Without adequate job training, a congressional command that people on welfare go to work is no more enforceable than the mythical king's command to the tide not to roll in to the shore.

Proponents of this bill cannot credibly claim that it is about fiscal responsibility. It is about misguided priorities, for which America will pay an enormous cost in years to come.

Some $28 billion of the savings from this legislation will come from reductions in food stamps. Approximately 70 percent of the food stamps being eliminated go to families with children. As a result, 14 million children will have their food stamp benefits reduced or cut off. Whether Republicans admit it or not, passage of this legislation clearly demonstrates that this Senate does not consider nutrition and health a priority for children. The Republican majority obviously considers billion dollar tax breaks for the wealthy to be a much higher priority.

All we have to do is look at the most recent Carnegie Commission study on children and nutrition. Children that do not receive adequate nutrition from 18 months to 3 years fail to develop the kind of brain development that is essential and necessary for academic achievement and for social adjustment. Numerous studies have shown that children who do not receive balanced meals in the early stages of their lives are much less likely to succeed in high school, much more likely to drop out, much more likely to be involved in crime, and much more likely to be on welfare in future years. Yet, this bill includes harsh cuts in nutrition programs.

Almost half of the $60 billion in cuts are in nutrition programs. Who are the beneficiaries of those nutrition programs? By and large they are children. The children are the ones who are paying the price of this so-called welfare reform bill so that there can be tax benefits and tax breaks for the wealthiest individuals in this country.

In all, Republicans are proposing to take the $60 billion over the next 6 years from programs supporting poor children and families. Their votes betray their true priorities. As President Kennedy warned in his Inaugural Address, ''If a free society cannot help the many who are poor, it cannot save the few who are rich.''

Our Republican friends claim that they are not abandoning poor families. They say they are giving States more flexibility to provide for their needs. But that flexibility is a mirage. Substantial restrictions are being placed on State discretion. This bill will actually prevent States from using Federal funds to assist large numbers of children who now have support.

No funds contained in the welfare block grant can be used to assist children whose families reached the 5-year time limit. This harsh bill even prohibits Federal welfare funds from being used to provide vouchers for the most basic needs of these children. This will be no small problem for the States. Close to 4 million children will be in this category when the bill is fully implemented.

In addition, in another shockingly cruel breach of trust, Federal funds can no longer be used to provide for children who are legal immigrants, who lawfully reside within our communities. Their need for food, clothing, shelter and medical care is being dumped entirely on the States.

All the studies that have been done with regard to legal immigrant children show that they use the AFDC program less than Native Americans and they pay their fair share of Federal, State, and local taxes.

We are not talking about illegal immigrants. For the first time in history, Congress will ban legal immigrants from most assistance programs.

This Republican bill permanently bans legal immigrants from SSI and food stamps. It bans them for 5 years from Medicaid, AFDC, and other programs. It gives States the option of going even further and permanently banning them from Medicaid, AFDC, and the social service block grants.

While we are debating this bill, the Olympics are going on in Atlanta. Forty-seven members of the American Olympic team are immigrants—47 of them are representing and competing for the United States of America. But under this legislation, these 47 Americans would have been denied nutrition programs, help, and assistance if they had needed them as children.

Hundreds of thousands of legal immigrant children will be robbed of a safety net by this bill. Hopefully, they have sponsors who can care for them when they need help because otherwise this bill leaves them out in the cold. But half of all legal immigrants do not have sponsors. What happens to those children when their families fall on hard times?

In our recent immigration bill, we permit 140,000 individuals to come into the United States on special skills programs. They are not sponsored. They do not have someone to deem to.

Now, what happens to them? What happens to them if they fall on hard times? They do not have a sponsor. They and their children are effectively cut off from any kind of help and assistance—even in an emergency.

These are individuals and families who come here legally. By and large, they are family members—sons, daughters, and parents—of American citizens. These are people who play our the rules, pay their taxes, and serve in the Armed Forces. They can be drafted. They can volunteer. We have hundreds of them in Bosnia today. But they would not, as children, have been eligible for nutrition programs or even temporary benefits if their parents fell on hard times.

They are future citizens trying to make it in this country. When they grow up, they become American citizens. Yet this bill repays them by banning them from assistance if they need any help.

Perhaps the cruelest provision in this bill is the ban on assistance under Medicaid for legal immigrants giving birth. Their children being born are American citizens. This outrageous provision means that these American citizen babies will not get the care, attention, and healthy start in life that other American children receive. These babies are doomed to unsupervised home deliveries, substandard care, and a lifetime of potential handicaps if they fail to get adequate medical care during birth. If Congress will not strike that shameful provision down, perhaps the Supreme Court will.

The prohibition on assistance to older children also makes no sense. Many children will be affected and harmed, but many others will not. It depends entirely on where they are born. Children born in the United States are U.S. citizens and will be eligible for assistance, even if their parents are legal immigrants. But children born overseas will be caught by the ban. This is a wonderful anomaly. So the children in the same family will be treated differently, depending on where they were born. The older brother will be able to get assistance and the younger sister will not. That is the wonderful logic of this so-called welfare reform. This result is fundamentally unfair.

These children are future citizens. Like all other children in America, they need and deserve good health and nutrition. If the Federal Government abandons them, communities will suffer.

When immigrant children get sick, they infect other children. I assume that our good friends on the Ways and Means and Finance Committees understand what happens in every schoolroom in America. When children get sick, they still communicate. Anybody who has children understands that when a bug gets into second, third, or fourth grade kids—most of his or her classmates will also get sick. By banning immigrant children from Medicaid we are also banning them from school-based care, which is part of Medicaid in most States.

These children will not be able to go down to the nurse's office, get some attention, and perhaps be sent home to avoid serious illness and to avoid infecting other children in the class. They will not even be able to get in the door. If they try to see the nurse, the nurse cannot treat them because they are immigrants. They have no private insurance, and they are banned from Medicaid. If the illness gets worse, their parents may take them to the local emergency room—a very expensive alternative and not likely to be pursued unless the illness seems severe—which will add to the costs of our health care system. This is welfare reform under this bill.

The Republican bill also bans legal immigrant children from SSI, which provides assistance to the blind and disabled. Nine thousand legal immigrant children suffer from those conditions. They have some of the most complex and life-threatening needs of all. As a practical matter, such cases often involve tragic accidents, where expensive, long-term care is needed to deal with their debilitating conditions. If SSI is not available, children literally will die.

Nutrition is vital to the development of a child. Immigrant children are no exception. Without access to food stamps, some immigrant children will suffer a lifetime of anemia, stunted growth, and even permanent brain damage. This bill is not welfare reform for legal immigrants. It is cruelty written large into law. It will push families deeper into poverty with no chance of escape, and the victims will be innocent children. Shame on the Republican majority in Congress for washing its hands of their plight.

This legislation also contains financial penalties for States unable to move children on welfare into employment as quickly as the bill mandates. Yet the bill refuses to provide the necessary level of job training support and child care assistance. It is better in child care assistance than previous bills, but still short of what is necessary to meet those employment targets.

In fact, many of the strongest advocates of this legislation want to reduce Federal funding for job training. The Congressional Budget Office estimates that only 10 to 15 of the 50 States will be able to meet the work requirements in the legislation. So, in reality, we are setting up the States to fail, rather than giving them the tools they need to succeed.

Another aspect of this legislation which will seriously hurt the States. The funding which each State will receive is not adjusted for population growth or for the impact of recessions. If the number of families legitimately seeking assistance in a State expands, the State will receive no proportional increase in funds. The small contingency fund does not even begin to meet the potential need. The State alone will be responsible for meeting the need, often at a time when that State is least able to respond.

The inevitable result of this legislation on the States will not be sensible new flexibility, but enormous new financial pressures. This bill can only encourage a race to the bottom, in which States compete to have the harshest climate for low income families. Inevitably, States bow to such pressures. They cannot control the national economy. Congress is supposed to represent the national interest. We should not be creating an irresponsible system that punishes States which try to meet the needs of their citizens while rewarding those which do not.

Americans want genuine welfare reform. But that does not mean they will support this legislation once they look behind the Republican bumper sticker slogan. Genuine welfare reform means moving welfare recipients into jobs, while assuring that the basic needs of their children are met during the transition. This legislation will not achieve either of these goals. It will leave many welfare recipients unemployable in the real world. It will leave their children ill-fed, ill-clothed, and ill-housed. This Republican Congress has nothing to be proud of for forcing this bill into law.

By the votes we cast today, we are not improving the quality of life in America. The gap between rich and poor will be wider, the bonds which tie families together will be weaker, and the dreams of millions of children will be farther from reach.

The best that can be said about this bad bill is that the day it is signed into law must be the day we roll up our sleeves and start working together to clean up the mess it will bear. I intend to do all I can to persuade Congress to act this year to eliminate at least some of the most damaging and least responsible provisions in this bill.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Under a previous order, the hour between 1:15 and 2:15 will be under the control of the majority. The Senator from New Mexico [Mr. DOMENICI] is recognized.

THE ECONOMY

Mr. DOMENICI. Mr. President, I want to say to Senators who want to speak on the welfare bill, clearly we do not have to use our whole hour in rebuttal of the Democrats. If there are a few Senators who want to come down and engage in that, fine. If not, we will move to Senators like Senator SMITH, who wants to speak on the subject matter before us.

Mr. President, to me it is very interesting that, on a bill dealing with welfare and the most fundamental reform of social policy in 60 years, that Democrats want to change the subject. They want to talk about the economy, so let us talk about the economy for awhile.

We are all heartened today to hear that the economy grew by 4.2 percent in the second quarter. The administration has certainly taken an opportunity to champion today's growth. Let me say, however, that before we get too exhilarated about today's announcement, I think we should look at some of the less rosy economic facts that the administration is not talking about. These are the major reasons why Americans feel insecure about their future.

To start with, we have had the weakest recovery of this century during the early 1990's, with growth averaging only 2.5 percent. In contrast, the 1980's recovery recorded average yearly growth of 4.1 percent over the same time period. I guarantee, that while this appears to be a small difference, it is enormous. It is enormous. The reason why growth has been comparatively weak is that President Clinton has had the second weakest productivity growth of any President in the last 50 years, second only to President Carter. Let me repeat, the second-lowest productivity growth in 50 years.

What that means is that, clearly, those who worry about inflation and are fearful of too much growth find some reason to be worried when they find that productivity increases have been so meager during this administration. Without productivity increases, a increase in noninflationary, trend growth is virtually impossible in today's demographic environment.

In keeping with weak productivity growth, there has been virtually no gain in real wages, virtually no gain in real wages. Real average hourly earnings in 1992 were $7.42. Today, they are $7.43, a very big gain of 1 cent. No wonder Americans are worried. No wonder we are finding anxiety about the future. No wonder they are saying that we do not think we are on the right path, because they see taxes going up and average real wages being stagnant. Clearly, the gain in real average hourly earnings, from 1992's $7.42 to today's $7.43, is nothing. With this backdrop, you can see how today's impressive headline growth doesn't mean anything to ordinary citizens, since the benefits of growth are not filtering back to them. They just continue to work hard and wonder why they are not getting ahead.

Wage stagnancy can be seen in another, equally troubling way as well. Family income is stagnating. Despite the ongoing economic recovery, average annual growth in real median family income has been only 0.2 percent under President Clinton. Under Ronald Reagan, the growth in real family income was four times as fast.

Low productivity, stagnant real wages, and lackluster family income growth strike a louder chord with the American people than does today's announcement. They are wondering what is happening to their economy as it applies to their paycheck and their families, and they are not impressed with announcements that say things are getting better and that this growth is phenomenal, when they are feeling the reality of what I just described: virtually no gain in real wages and stagnating family incomes.

Another point is being missed, and it is very relevant—rising tax burdens. This is one of the main reasons for poor productivity growth, no gain in real wages, stagnating family incomes. In 1992, the ratio of Federal tax revenues to GDP was 18.4 percent; by 1995, this had climbed to 19.3 percent.

That means that the portion of GDP going to taxes, went up almost 1 percent. Those who think the tax increases of the last 3 years are good because of who they impact and who they do not, still have to answer the questions: What happened to productivity growth? What happened to real wages, that is real average hourly wages? What happened to family incomes? By diverting resources from the private sector toward the less efficient public sector, there are fewer funds available for household saving and investment. This leads to lower productivity, lower wages and lower standards of living for the average citizen.

Let's go on to yet another item that ought to temper the enthusiasm about the announcement of a 4.2 percent GDP growth in the last quarter: the lowest personal savings rate in 50 years. As mentioned above, we believe that the Clinton tax hikes have played a large role in this dubious milestone. Everybody believes that for America to increase its productivity, to get the wages up, to get the family incomes up that we must increase our savings so that American business, large and small, have resources to grow with. And yet, we have the lowest personal savings rate in 50 years. This is unsurprising when much of what is saved is taxed away and, thus, personal savings are reduced.

Let's look at another one of President Clinton's economic legacies. We now have the worst income inequality in 50 years. So for those who think they solved the problem of income inequality—the highs and the lows—by raising taxes and saying we are only raising taxes on the higher brackets, they are in for a great surprise. It does not generate more equality between the low earners and the high earners in America. Inequality got worse with the tax increase, the largest in American history, that apparently prides itself in saying it didn't tax moderate-income people, it only taxed the high brackets.

What is the purpose of it? The purpose of it, if we have one, is to lower the deficit and make us grow more and perhaps bridge the inequality gap by letting the wage-earner part of this go up, none of which happened. The idea is to use a constructive strategy of boosting growth for the lower and middle income families and not use a destructive strategy of socking it to the rich. I'll say it again, the latter strategy just doesn't fix the grave problem of inequality.

Let's also look at soaring trade deficits—this is something not even mentioned these days. It goes right along with the bad news that is being kind of overshadowed by one fact: That for one quarter, the gross domestic product went up some 4.2 percent.

The Clinton trade deficit is three times as large as under President Bush, despite postwar lows in the dollar versus the German mark and the Japanese yen that should have created smaller trade deficits. Instead, we got larger deficits. However, given meager levels of U.S. saving, this worsening external position should not surprise us.

A byproduct of accumulated trade and current deficits is soaring foreign indebtedness. In 1995, foreigners owned $815 billion more of our securities than we owned of theirs. This is a 40-percent increase since 1994. This is not a fear today, but over the long run, we are placing our future in the hands of foreign banks. It is even more of a worry when we realize that foreign debt service is a net loss to U.S. incomes and constitutes a steady mortgaging away of our children's future living standards.

Lastly, I want to turn to jobs. The administration has been particularly proud of their job growth figures. However, the breakdown of these jobs is far less encouraging than they suggest. Do you realize that 10 percent of the jobs created under Clinton have been temporary jobs. These are not good jobs.

Studies have shown that temporary workers are paid as much as 34 percent below their occupational counterparts. This is a way to get lower wages, not higher. I even more troubled when I see the type of jobs that these temporary positions are displacing. Since 1995, 252,000 well-paying manufacturing jobs have been lost. This is why real average hourly earnings have been so stagnant under President Clinton. At day's end, I have a hard time understanding why the administration is so pleased with generating jobs that do not generate rising wages.

So those who came to the floor bragging about the performance of this economy did not seek to share with the American people the facts about this economy that cause most Americans to say we are not moving in the right direction. You can give all the song and dance about what it means to have an increase in the gross domestic product in the second quarter, but if the American people are feeling what I have just described—stagnation in real wages; family income extremely stagnant and very, very low; increase in general taxes; lowest personal savings rate in 50 years—than this growth means nothing to them. It's time to be honest with the American people about these underlying weaknesses in the economy—if we won't admit to them, how can we set out legislation to improve them.

I submit that the tax increases imposed under President Clinton, for all they can talk about the increases in revenues, I submit that that is most responsible for all of these negatives that I have stated here. I have begun to believe that it is imperative that we understand we cannot have increased productivity, real wage gains, family income, average family income going up if we have higher tax rates. We must have lower tax rates if we expect that to occur. We cannot lose sight of things we must be doing. But what I have just been describing seems to me, having been briefed by many economists, to be the absolute crux of why there is such lack of stability and such anxiety among Americans because of stagnation in their pocketbooks, in their checkbooks.

I will yield the floor to any Senator who wants to speak on this subject. I yield as much time as Senator MACK desires.

The PRESIDING OFFICER. The Senator from Florida, [Mr. MACK], is recognized for such time as he desires.

Mr. DOMENICI. Mr. President, I say to Senator MACK, we have five or six Senators who want to speak along with us. We have assigned 10 minutes. Is that satisfactory?

Mr. MACK. That will be wonderful.

Mr. DOMENICI. I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized for 10 minutes.

Mr. MACK. Thank you, Mr. President. I thank the Senator for yielding me this time.

I do believe that the issue we are discussing is an important one, even though I must admit many folks, when you start talking about economics and the statistics related to that, have a tendency for their eyes to glaze over. But we are really talking about the engine that provides the hope and opportunity for the future. The engine of growth is what will allow for the formation of new businesses and the creation of new jobs in America. So the subject is an extremely important one. I appreciate the opportunity to address it.

Earlier today, a report came out on the growth rate of the economy. That growth rate for the second quarter of the year was stated at 4.2 percent, which is good growth, and I think we ought to be pleased with what has happened.

But what the administration is trying to create, or why they are so extremely excited about this growth number, really kind of belies the other things that they have been saying. Let me try to put that in perspective.

Earlier this year the President, during his State of the Union Message to a joint session of the Congress, said that this economy is the strongest economy in three decades. Well, if it is the strongest economy in three decades, then there is no reason to be excited about 4.2 percent growth. We should have been expecting that kind of growth each quarter, quarter after each quarter. But that is simply not the case.

In fact, I think the numbers will show that for the four previous quarters the economic growth was less than 2 percent. That is nothing to get excited about. In fact, the effect on the American families is significant. I will get back to that point in a few minutes.

I want to try to put into context what has happened to the economy, picking up on the point of 4.2 percent growth. There is a lot of excitement down at the White House about that. But if we look at the rate of growth that the economy has experienced since President Clinton took office, it is 2.4 percent, and that is including this new quarter, 2.4 percent. Keep that figure in mind. I will continue to mention that number.

I will first compare it to the growth the economy was experiencing the year before President Clinton became President. The growth rate of the economy at that time was 3.7 percent. For the last 3½ years the growth rate in the economy has been 2.4 percent under President Clinton.

You might say that is not a fair reflection to just pick one year and compare the growth in the economy to that one year. Well, let us take the 10 preceding years, the 10 years prior to President Clinton taking office. The growth in the economy was 3.2 percent.

President Clinton wants us to believe that he has created the strongest economy in three decades. I believe he is now using the words the ''strongest economy in a generation.'' I remind you again, the growth under President Clinton is 2.4 percent.

Again, somebody might say that that period of time is not a fair reflection of what has happened over a period of time. So I will just again focus in on the last five expansions. If you take the last five periods of growth that the country has experienced, we know that that growth averaged 4.4 percent. Compare that again to the growth of the Clinton years of 2.4 percent.

To go back even further, since World War II the country's growth rate has averaged 3.3 percent. The President of the United States during his joint session speech told the American people that this is the strongest economy in 3 decades.

But, Mr. President, I really do not have to worry about those numbers in really trying to get that message out because I have listened to the American people. I have listened to the people in my State. I have listened to the families who are struggling, who are working harder today and have less to show for it. We all hear it. We hear it in the sense of the anxiety that they express. We hear it in the fears they have about the future. We hear it in their concern about their children, what their opportunity will be as their children grow up.

There is a lot of insecurity in America today. I am not sure that a lot of Americans have at this point been able to articulate what that is. But they know that there is something wrong. They know that they have not reaped the benefits of the ''strongest economy in three decades.'' All my point there is to say that President Clinton may be saying one thing about the economy, but the people in this country understand that this is just not right. He is not accurate.

I have one additional chart, which is the first time I have seen this. It is the first time I have used it. It is a chart that has gone back to 1870—not 1970—1870. We have charted out every single expansionary period in the U.S. economy since 1870.

We have added the growth during the Clinton years. That is this last bar. As we look from now all the way back to 1870, this chart indicates that this is not the fastest growing economy, not the strongest economy in three decades. It shows it as being the weakest economy in over 100 years. Let me say that again. This is the weakest economy in over 100 years.

So, Mr. President, I am making the point that while we should be pleased that we have experienced some growth in the economy in this last quarter, people should put it in context. There could be some reason for excitement if there was a sense that the number that we heard this morning would continue into the third quarter and into the fourth quarter and into the next year.

But that is not what economists are telling us. They are telling us that the second half of this year is in fact going to be weak. It is going to be somewhere in the 2 to 2.5 percent growth range. That is not coming from just one economist. This is coming from a number of different groups of economists. The so-called blue chip forecasts are in the 2.5 percent range. Wall Street Journal, somewhere in the 2 to 2.5 percent range. CBO forecasted I believe about 2.5 percent growth through the balance of this year.

So while there is excitement, I am telling you, Mr. President, this is a short-lived excitement. We are going to hear a lot about it from the Clinton administration. But I suggest that the people in this country understand from their own experiences that this economy is not providing them with the opportunities that they hope for themselves and for their children.

I will use one additional graph here. It compares real median household income for the period of time from 1983 to 1992. Real median household income, $33,119. The Clinton average, 1993, 1994, $32,153, almost $1,000 less. And, yes, these are figures that have taken inflation into consideration. On average $1,000 less.

We have also calculated out, for example, what would have happened if the growth rate in the economy had been, say, similar to the 10 years prior to President Clinton taking office. How would that have affected the average family in America? And do you know what the number is? It is $260 a month in loss of income because we are growing at this rate versus this rate.

That is why the American people are concerned about the future. That is why they are worried about their opportunities. You cannot, Mr. President, layer on American business and American families a whole new layer of more Government, higher taxes, more spending, more Washington intrusions, more Washington involvement. You cannot layer all of that additional Washington interference and not expect the economy to slow down.

So in conclusion, I say, Mr. President, that the economic policies of the Clinton administration are robbing America of its economic potential. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I want to thank Senator MACK, not only for what he said today, but his constant vigilance with regard to what is really important for the average family.

I think it is pretty clear, would you not agree, that whatever the good news that is being announced on that side of the aisle, that it is the working people and the average families in America that are asking: If that is true, how come nothing is happening to my paycheck? How come nothing is happening to my family income, which is in stagnation? Those are the issues causing the anxiety out there. Am I correct in that?

Mr. MACK. I say to the Senator, I think you are absolutely correct. If you will give me just a moment to tell one little story.

Mr. DOMENICI. Please.

Mr. MACK. I think it reflects on the feelings of lots of Americans. I think about the family where both the husband and wife work and get up way before dawn, and in our large cities in America, commuting for a long period of time to get to work, working all day, both of them, getting back home after dark. The only time that they have off, the weekends, if things go right. And they see all of their resources being taxed by every level of government.

Mr. DOMENICI. You got it.

Mr. MACK. For programs and services they believe have failed and do not work. And they are tired of it. And they are not feeling what one would expect would be the results of the fastest growing economy in 3 decades.

Mr. DOMENICI. Before the Senator arrived we spoke of stagnant family income. That is what is causing the anxiety.

Real median family income was virtually motionless from 1992 to 1994. That is the last year for which we have data available. Under President Clinton, it has risen only two-tenths of a percent per year on average. Family income is below the level that it was in 1991 under President Bush. During the Reagan tenure, yearly family income growth was four times as fast. That might account for a poll back then saying people thought we were on the right track and a poll today saying they think we are on the wrong track.

Does that seem to be a correct analysis?

Mr. MACK. Absolutely. What concerns me is that most people do not know or have not been told that during the Reagan years, in which we tried to reduce the size and scope of Government to reduce the tax burden, providing incentives for business creation and capital incentive, that during those years family incomes went up. They went up consistently.

I can remember our former colleague, Senator Wirth, teaming up with now-Vice President GORE, coming to the floor and talking about this tragedy that has occurred in America from roughly 1973 to 1992, just talking about from one point to the next point, how incomes had gone down, but refused to tell people that during the Reagan years, those 7 years of growth, that American families were better off and American workers were better off.

Mr. DOMENICI. Senator BENNETT, I believe, was next, and we have reserved 5 minutes.

The PRESIDING OFFICER. The Senator from Utah, Senator BENNETT, is recognized for 5 minutes.

Mr. BENNETT. Thank you, Mr. President. I do not want to repeat some of the arguments that have been made, but I want to talk about one aspect of the numbers that have been discussed today so glowingly described by the President.

They look upon the last quarter and say, ''Isn't this magnificent? We are growing at over 4 percent a year.'' And I agree that a quarter in that atmosphere is a wonderful thing.

What were they saying just two quarters ago when they were growing at 0.3 percent a year? One quarter does not control what happens in a year. It can be a seasonable circumstance. It can respond to any one of the series of one-time events. You need to look at things over time.

I would like to look at one number over time that we have been hearing about in the Clinton administration crowing about the tremendous economic performance, and that is taxes. We all know that President Clinton made raising taxes the centerpiece of his economic program. He promised when he ran in 1992 that he would cut taxes. But he said when he got into office: I have suddenly discovered that things are far worse than I ever recognized, much worse than I realized. I not only cannot deliver on my promise to cut tax rates, I must give you increased tax rates, or the economy is going to be destroyed. So we had increased tax rates in the United States. He is now saying: Well, you see, because I had the wisdom and the courage to raise tax rates, we are getting all this tremendous revenue, and now I am responsible for the fact the deficit is coming down.

I point out a few things. If we go back to the last year in which the Reagan tax structure was in place, which was 1989, taxes from individuals were producing revenue to the Government at the rate of 8.6 percent of our gross domestic product. Then President Bush broke his tax pledge, and we had the tax increase in rates from President Bush. Then Mr. Clinton broke his tax pledge, and we had the increase in rates. What happened to revenue? Revenue as a percentage of gross domestic product went down, Mr. President—not up, down—from 8.6, where it had been in 1989, down to 8 percent. It started to come back up in 1995. It was 8.4—still not as good as we had during the Reagan years, but coming back a little.

How is it possible, people say to me, that when you raise rates you see revenue go down? Stop and think about what happens in the real world all the time. I use the example of Ford Motor. They introduced what they thought was a marvelous new car, the Ford Taurus. They thought there would be so much demand for it they could raise rates. They call them ''prices,'' but since we are talking about Government we will use ''rates.'' They will raise the rates on the new car. It hit the marketplace. The marketplace reacted by not buying Tauruses. What did Ford do? They lowered the rates and increased their sales and thereby increased the revenue that they were getting from the sale of the introduction of that new model.

Around here we do not understand that principle. But every businessman in the United States understands it and uses it every day. You raise your prices, you lower your prices, depending on what the market tells you. Here we just feed the numbers into the computer, and whatever the computer tells us, we say that is automatically the way it is going to be.

So President Bush, and then President Clinton, raised tax rates only to see revenue as a percentage of the economy go down, and even now in this wonderful report the President gives us, the tax revenue has not yet gotten back to the level that it was prior to the time when they told us that increased taxes were good for us.

Mr. President, I do not believe that increased tax rates are good for us. I think what we should focus on in the Government is tax revenue, how much money we get in from the economy in order to pay our bills and deal with the deficit. I recommend we go back to the revenue levels that we were getting in the days of the Ronald Reagan circumstance when we were getting 8.6 percent of the gross domestic product coming from individual taxpayers, rather than the anemic 8 percent we hit in the Clinton administration.

Referring to the charts quoted by my friend from Florida, Senator MACK, the increase has been the lowest of any expansion we have had. Just think, Mr. President, what we would have in terms of revenue for the Government and relief from the budget deficit if we had had a historic rate of growth in this expansion and 8.6 percent of that coming in in the form of revenue. We would be better off than the Clintons are claiming we are today.

Do not get carried away with a single order or with rhetoric in an election year. Keep our understanding on the historic pattern that tells us the best way to see growth in our economy is when we have tax rates that allow Americans to earn more and then to keep more so they can do more in their own lives, instead of having Government make all of the decisions. I yield the floor.

Mr. ROTH. Mr. President, I yield myself 5 minutes.

First, let me address the good news. Yes, the good news that we received this morning from the Commerce Department is that the GDP for the second quarter of this year is a strong 4.2 percent. This is up from the anemic growth rate of 0.3 percent in the last quarter 1995, and the first quarter 1996 growth rate of 2 percent.

However, Mr. President, let me remind my colleagues that the average growth rate since 1990 is a weak 1.9 percent. This is, in my opinion, unacceptable.

Let me refer my colleagues to a Business Week cover story in their July 8, 1996, edition. The cover reads ''Economic Growth—Don't be fooled by today's strong statistics. And don't be suckered by the political rhetoric. America needs faster growth.''

While the Business Week feature story goes on to outline their proposals for stronger growth, they highlight critical issues that we must address; namely, increasing savings and investment, balancing the budget, and reforming the Tax Code. Mr. President, it is the Republicans in Congress who have addressed these issues and will continue to fight for real tax reform in the coming years.

Also, a few weeks ago the Office of Management and Budget's new estimates of the deficit for fiscal year 1996 is $117 billion, down from the $211 billion target that Bill Clinton called for in his budget. The deficit is down because a Republican Congress forced the President to control spending. Despite five Presidential vetoes—remember those vetoes—congressional Republicans successfully managed to rescind nearly $40 billion in domestic discretionary spending from this administration's top-heavy budget.

This represents a good start, but it is only a start. Had Bill Clinton not been so wild with the veto pen—had he not vetoed the balanced budget amendment—we'd be even farther down the road. The deficit reduction we're celebrating is for the short term.

Long-term trends show increasing deficits. They show an upward trend, and Congress—along with the President—have a responsibility to reverse deficit growth.

Toward this end, our objective must go beyond controlling the spending side of the equation. Excessive taxation is as dangerous to the welfare of American families as is excessive spending, perhaps even more so.

These dangerous trends must be reversed. We are moving in the right direction to control Federal spending, now we must also push for tax reform to strengthen the economy.

Make no mistake about my feelings on this debate. I'm on record as a proponent of meaningful tax cuts, and this will be the direction I intend to move.

Holding the line on spending and stimulating optimal economic growth through responsible tax reform are the only ways that we will effectively find the resources and means necessary to meet the challenges and the enjoy the opportunities the future has to offer.

Mr. President, I yield 5 minutes to Senator KYL.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I thank the Senator from Delaware for making this time available to talk about this important matter this afternoon. I was reminded of the fabler, Stephen Leacock, who wrote the story about the fleas riding on the back of a chariot. They looked back and said, ''My, what a fine cloud of dust we have made.'' It seems to me that Bill Clinton's crowing about the latest GDP figures is analogous. If it were not for the Republican Congress, as Senator ROTH just pointed out, ensuring that the budget deficit went down to the extent it did, we would not have these GDP figures that begin to show some promise. As Senator ROTH pointed out, if the President had not vetoed the balanced budget we sent up, the figures would be even better. So I don't think this is the time for the President to be crowing.

There is another point here, too, Mr. President. We should be very leery of these preliminary statistics. It has been pointed out that the first-quarter GDP figures this year were actually overrated by 21 percent. The correct number was 2.2 percent growth. But they were originally estimated at 2.8 percent. So we need to be a little cautious about bragging too much about the figures before they are verified.

Third, as has been pointed out before in this debate, the overall economic performance during the Clinton administration is very poor. It is an annual growth rate of 2.3 percent, compared, for example, with 3.7 percent growth the year before the President took office. If you take the entire decade before he took office, it was 3.2 percent. So the President has very little to crow about with respect to the overall performance of the economy.

There is a final and most important point here, though, that I think needs to be addressed. The Senator from Utah, Senator BENNETT, made the point a moment ago. It has to do with the plight of the average American. We can quote these GDP statistics all we want. But what about the average American family? How does all of this affect them? The fact of the matter is that the average American family is not doing so good. The news there is not good. Households have lost, not gained, $2,100 in take-home pay during the 1990's. That is a 5-percent decline. If you look at the 1980's, families increased their income by 11 percent, or $4,100. That was the increase in median family income during the 1980's, mostly the Reagan decade, but the first part of the Bush administration as well.

If you look at the Clinton decade, the 1990's, median household income has actually dropped $2,100. So it is fine for the GDP to be finally showing some strength, but in terms of the average American family, it has not yet translated into a benefit to them.

In the 1990's, by the way, it is the rich who have been gaining, to the extent that there is any gain, and not the middle- and lower-income workers. Consumer debt has hit an all-time high of just over $1 trillion—a 44-percent increase during the Clinton years.

Personal bankruptcies were at an all-time high last year. Why is this? Because of the Clinton crunch, Mr. President, and the historically high tax rates. Americans today are paying the highest percentage of taxes in the peacetime history of the Nation—38.2 percent. I think it bears repeating that this is the highest percentage of their income that Americans have paid in taxes during peacetime in this country's history.

That is the Clinton crunch. That is why the GDP statistics, as good as they may be, are not being translated into benefit for the average American family. The stagnation of wages and incomes and the economic anxiety people feel is the result of three things—the weak performance of the economy under President Clinton, high taxes, and the burdensome regulation of the Clinton administration. These are what have hindered people's ability to get ahead.

Just a month ago, on July 4, we celebrated Independence Day in this country. I would note that July 3 is also ''independence day'' for the people in this country, because, until July 3, Americans literally had been working for the Government. In other words, if they had applied all of their income to taxes, it would not have been until July 3 that they would have fulfilled all of their tax obligations. From then on, they began working for themselves.

So it is really the Clinton crunch that has caused so many problems for American families. Until we can (a) get the economy moving again, and (b) reduce this burden of regulation and taxation on the American people, these generalized statistics are not going to translate into any real benefit for the average American family.

Mr. D'AMATO. Mr. President, I yield Senator ABRAHAM 5 minutes.

Mr. ABRAHAM. Mr. President, I, too, would like to put into perspective the statements made earlier today on the other side of the aisle relating to the economy. While it may be true that in this one quarter, growth statistics are up; the fact is, for this Presidency, as was clearly documented by the Senator from Florida earlier, growth has been anemic, 2.3 percent, the lowest economic growth for any recovery in this country, literally, in this century.

What is also important, as was pointed out, is the fact that the median family income of America's working families has stayed stagnant. What has not stayed stagnant is the rate of taxes paid by those average families. That has been going up, as the Senator just indicated, to an all-time record high of over 20 percent. That is why American families are feeling a squeeze. They are working harder, their incomes are not going up, but their Federal taxes are going up. We need to address that, Mr. President.

Now, earlier today, we heard from the other side of the aisle several critics of letting Americans keep more of what they earn. Tax cuts were criticized. It is not surprising that it came from the other side of the aisle; it is the other side of this aisle that voted in 1993 for the largest tax increase in the history of this country.

Let us talk about the kind of tax cuts that can help America's families, like those we saw in the 1960's under a Democratic Presidency and in the 1980's under a Republican Presidency. Those tax cuts stimulated economic growth and created millions of jobs for working Americans. Those tax cuts also stimulated the chance for this economy to grow, and grow at record rates.

In the 1980's we saw economic growth that greatly eclipsed what we are seeing this year. It is interesting. Notwithstanding the criticism that was leveled earlier at those tax cuts, and notwithstanding the myths that have been created about those tax cuts, the truth is those tax cuts did stimulate far greater revenue to the Federal Government from taxpaying Americans, because the economy did grow, and it grew at record levels, especially during the 1980's.

It is interesting also as to who paid those increased taxes. It was people at the highest ends of the income spectrum who, freed from the high-tax burdens, decided to invest and risk their dollars in creating new jobs and economic growth. That is what we had. We had economic growth. We had more jobs, and we had higher tax revenues to the Federal Government.

Interestingly, in the 1990's when tax rates were raised, upper income groups are paying less and lower and middle-income groups are paying more because the upper income groups have found ways to shelter their income to avoid taxation. In the 1980's they did not do it. They used their moneys to create jobs and opportunity, and paid more taxes.

The other myth that I think needs to be exploded here today is the myth that somehow cutting taxes created the deficits that we had in the 1980's. The fact is, revenues increased during the 1980's after the tax cuts by approximately 56 percent. What increased faster was Federal spending in virtually every dimension by almost 70 percent. That differential, Mr. President, is the reason we saw deficits increase—deficits increase—under a Democratic-controlled House of Representatives.

So, Mr. President, let us put this in perspective. Under this Presidency, median family income has remained stagnant while taxes have gone up. Under this Presidency, the growth rate has been the most anemic in any recovery of the Nation's history over the past century. That is not a track record of great accomplishment no matter how much it is sugar-coated.

What we need to do is to give the working families of this country a chance to really keep up with the needs that they have by being allowed to keep more of what they earn, and a chance for the people who create jobs and opportunity to have the incentives to invest, to risk and to create entrepreneurial activity that will give us the jobs we need for the balance of this century and the next.

Thank you very much.

Mr. D'AMATO. Mr. President, I yield 5 minutes to the Senator from Georgia, Mr. COVERDELL.

The PRESIDING OFFICER. The Senator from Georgia has 5 minutes.

Mr. COVERDELL. Mr. President, as everyone has said here this morning, we have had a trail of good news from the other side on the economy. I go back to a quote:

> We have the most solid American economy in a generation.

That was President Clinton's remark on July 6 of 1996. But perhaps of equal standing, perhaps even more, are these quotes. I have heard so much on this side of the aisle about what the real status of the economy is, but I have been taken with the remarks on the economy from the other side of the aisle:

> We have an anemic rate of economic growth.

I repeat:

> We have an anemic rate of economic growth.

Senator BYRON DORGAN on June 20, 1996, in the CONGRESSIONAL RECORD. Or how about this one:

> When I go home, I hear a lot of anxiety from farmers, small business people and families just trying to make a living wage. In fact, wages have stagnated. For many middle class working families, every year it seems harder and harder to make ends meet.

Mr. President, that is the statement of Senator TOM DASCHLE, the minority leader, and that statement was made on June 20, 1996.

Here is another:

> Even though some Clinton administration economic advisers have begun to highlight certain positive economic news, it is still true that for many, especially low and moderate income working people, the economic recovery is spotty, partial and has failed to increase their real take home pay.

That is Senator PAUL WELLSTONE of Minnesota, May 2, 1996.

Here is another one:

> We all know that the American people are anxious about their economic future. They are worried about the security of their jobs and their ability to take care of their families.

That is Senator JOE LIEBERMAN, the colleague of Senator DODD, who is on the floor. That was a statement made on May 17, 1996.

DASCHLE, WELLSTONE, LIEBERMAN, DORGAN, all contemporary statements reflecting anxiousness and anxiety among the average working families in America, and they are right. In a recent article in the Washington Times, we read that last month 63 percent of the American people said the country was on the wrong track compared with only 24 percent who thought it was on the right track. It says:

> A lot of people say their income is not keeping them ahead of the cost of living. Only 10 to 15 percent say they are doing better.

So the remarks by DORGAN, DASCHLE, LIEBERMAN, and WELLSTONE are right on the mark. The middle class, the average working family does not feel very good today. Why would that be? I can tell you one reason, Mr. President. It is because their checking account has $2,000 to $3,000 less since President Clinton came to office than they had in that account before he came to office.

I might add, that is about a 7 percent reduction in their disposable income. The average Georgia family today has to forfeit over half its wages to one government or another now, over half. If Thomas Jefferson were here today, he would roll into his grave that it would ever come to the point that over half a family's income is being consumed by the Federal, State, or local government. And here we are, with this administration having taken another $2,000 to $3,000 out of a family who only has about $25,000 of disposable income. That is like a 10 percent reduction in their disposable income in just 36 months. So it does not take a rocket scientist to figure out why there is so much anxiety in the working family. They have less to work with. The median household income has declined from $33,119 to $32,000.

Job lock: Anemic economic growth has frozen many workers into jobs they would like to leave for better employment, but they are afraid those jobs will not be there if they try to go someplace else.

Or how about credit cards? The delinquent payments on credit cards, which is a real consumer-connected device across our country, are the worst they have ever been in 50 years. Why? Because we have, by Federal policy, pushed the average family to the wall. And the policies of this administration have created the anemic economy, just as Senator DASCHLE has alluded to. Those policies have reduced the disposable income in that family's checking account and they have made middle America very worried.

Mr. GRASSLEY. Mr. President, but for the strength, determination and leadership of the Republicans in the Congress—and I am referring to this and past Congresses—we would not today have a better budget situation or have an article like the one which was printed in the Wall Street Journal this morning.

But for the economic wisdom of the Federal Reserve and the steady guiding hand of its chairman, Alan Greenspan, we would not today have the economic footing that we need to be closer to a balanced budget than we have been in recent years.

There are two facts of economic life. One is that Republicans have been more steadfast and committed to balancing the budget than has the President. I remind my colleagues of the vetoes he issued on our attempts to balance the budget last year. But for our steadfastness and commitment to this goal, but for Republican leadership, this President would be no where near to working on a balanced budget.

The second is a fact that this Senator addressed during Chairman Greenspan's confirmation. The Federal Reserve has played, and continues to play, a crucial role in stabilizing the economy and maintaining investor confidence in the face of big spending Congresses. This confidence has lead to increased participation by some Americans in the stock market. This increased capital investment is what has led to new jobs, and expansion.

The President has raised taxes, though. The Clinton tax increases have taken away from all Americans' ability to take care of their families. The Clinton tax increases have decreased the amount of money which mothers and fathers have to buy necessities for their children. This is wrong.

Several of my colleagues have very accurately described the reality of the so-called Clinton economic growth rate. I wish to associate myself with their remarks. The charts which they have shown the Senate depict an economy which is not growing as fast as past economic expansions. In fact one of the charts show that this is the weakest economy in 100 years.

Another of the charts clearly shows what has happened to real medium household income. It has decreased. As the Senator from Florida pointed out, real medium household income in the years between 1983–1992 was $33,119. During the Clinton years of 1993–1994 real median household income dropped to $32,153.

No wonder American workers are concerned about their future. This drop in income hurts hard working Americans.

Let us continue to reform Government programs, as we are with this welfare reform legislation. And let us continue our efforts in Congress to balance the budget. This is true economic stimulation. This will lead to real economic growth. This will put more money into the pockets of Americans.

Mr. D'AMATO. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Excuse me, I thought I had 10 minutes on welfare.

Mr. D'AMATO. We are running a little behind. We would appreciate it if you could keep it—

Mr. GRAMM. Mr. President, let me just reschedule time to talk about welfare.

Mr. D'AMATO. If the Senator would like to be yielded 10 minutes, why don't we start, instead of just talking about it.

Mr. GRAMM. All right.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, it is an incredible paradox that while today we celebrate one of the most dramatic legislative victories certainly in this Congress and in the last decade, we are here responding to our Democratic colleagues who came over to give us a lesson in perverted economics this morning. They tell us how things are great because they had the courage to raise taxes, and if only we had raised taxes more and spent more, things would even be better. I personally do not believe the American people are going to adopt that brand of economics.

I would simply like to say that if we had not raised taxes in 1993, but rather had cut spending and adopted the balanced budget amendment to the Constitution, the economy would be stronger, and we would not be having an economic recovery, which happens to be one of the weakest economic recoveries in any postwar period.

PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. GRAMM. Mr. President, let me now talk about welfare. We are going to pass here in the Senate tonight a welfare reform bill that has the promise of dramatically changing a system which has failed in America. Let me begin by talking about the failure.

In the past 30 years, we have spent $5.4 trillion on welfare programs; programs where we were trying to help poor people. Nobody in America knows what a trillion dollars is. So let me try to put that number in perspective.

If you take the total value of all buildings, all plants and equipment, and all productive tools in American industry and agriculture combined, they are worth about $5 trillion.

So if you want to know how much we have invested in the old welfare program over the past 30 years, it is roughly the equivalent of the value of all buildings, all plants and equipment, and all of the tools of all the workers in the United States of America. No society in history has ever invested more money trying to help needy people than the United States of America has invested.

Yet, what has been the result of all of those good intentions? What has been the result of that investment? The result of that investment, 30 years later, is that we have as many poor people today as we had 30 years ago. They are poorer today, they are more dependent on the Government today, and by any definition of quality of life, fulfillment, or happiness, people are worse off today than they were when we started the current welfare system.

When we started the War on Poverty in the mid-1960s, two-parent families were the norm in poor families in America. Today, two-parent families are the exception. Since 1965, the illegitimacy rate has tripled.

I know that we have colleagues on the other side of the aisle who are going to lament the passage of this new welfare reform bill. But I do not see how anybody with a straight face, or a clear conscience, can defend the status quo in welfare. Our current welfare program has failed. It has driven fathers out of the household. It has made mothers dependent. It has taken away people's dignity. It has bred child abuse and neglect, and filled the streets of our cities with crime. And we are here today to change it.

Let me outline what our program does. I think if each of us looks back to a period when our ancestors first came to America, or back to a time when those who have gone before us found themselves poor, we are going to find that there are two things that get individuals and nations out of poverty.

Those two things are work and family. I think it is instructive to note that those are the two things that we have never applied to the current welfare program of the United States of America.

The bill before us asks people to work. It says that able-bodied men and women will be required to work in order to receive benefits. It sets a time limit so that people cannot make welfare a way of life. It seeks to change the incentives within the welfare system. And I believe the time has come to change those incentives within the welfare system.

So what we have done in adopting this bill is make some very simple changes. No. 1, we have said that unless you are disabled, welfare is not a permanent program. It is a temporary program. We are going to help you for up to 5 years. We are going to train you. But at the end of 5 years, you are going to have to work.

We have also in this program given the States the ability to run their own programs. We believe that the Federal Government does not have all the wisdom in the world, and that States should run welfare. What we have done is we have taken a federally-run program, we have taken the funds that we have spent on that program, and we have given that money to the States so that, rather than have one program, each State in the Union can tailor its program to meet its individual needs.

I believe that we have put together a positive program. It is a program that asks people to work. It is a program that tries to make Americans independent. It is a program that for the first time uses work and family to help families in America escape welfare and to escape poverty. I think this is a major achievement. I am very proud of this bill, and I hope we can get a sound vote for it.

I know there will be those who say that the President, in committing to sign this bill, is going to end up taking credit for it. I do not believe the American people care who gets credit for this bill. We know that had there been no Republican majority in both Houses of Congress, we would never have passed this bill. We know that without a Republican majority in both Houses of Congress, we would not have a mandatory work requirement. We would not be changing welfare as we know it. But it seems to me that the return we are going to get for adopting this bill is worth letting the President take a substantial amount of credit for it.

I think this is a major step in the right direction. I am very proud of this bill. I commend it to my colleagues.

I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York has 5 minutes.

Mr. D'AMATO. Mr. President, let me reflect, if I might, not only on the economy but more particularly as to the impact, the adverse impact that the brutal welfare program—brutal, one that entraps people—has had on this country. It has not been beneficial. We have seen welfare spending move from approximately $29 billion in 1980 to something in the area of $128 billion today. Incredible. This is a program that was intended to help people temporarily, those people who were disabled, those people who, through no fault of their own, found themselves without a job.

> The lessons of history, confirmed by the evidence immediately before me, show conclusively that continued dependence upon relief induces a spiritual and moral disintegration fundamentally destructive to the national fiber. To dole out relief in this way is to administer a narcotic, a subtle destroyer of the human spirit. It is in violation of the traditions of America.

Mr. President, those were the words spoken by Franklin Delano Roosevelt when President Roosevelt gave his second annual message to the people on January 4, 1935. Indeed, how prophetic; 60 years later we see his admonition that where welfare becomes a long-term program, it is fundamentally destructive to the national fiber, and that it is a narcotic to the human spirit, and it is a violation of the traditions of America.

That is exactly what the welfare programs have done to this country. And let me say, as difficult as is the political process of campaigns and elections, thank God it is an election year; there is one good thing that has come about, and that is welfare reform.

Let me also suggest that without there having been a Republican Congress pushing, working, challenging, there is no way that we would have had any opportunity to pass a bill. And to those who are critical of the reform, let me say that no bill is perfect, but to continue business as usual, as if all is well, would have been a kind of conspiracy, a conspiracy to continue to keep our people on that narcotic. Absolutely not acceptable.

I have to tell you, if you want to get this economy going, then we have to give educational opportunity a helping hand and move people who have become dependent, dependent upon that welfare narcotic, that drug, that drug that President Roosevelt warned us about, off of the welfare rolls into a system of work.

To those of my colleagues who have legitimate concerns that there may be some imperfections, we will deal with those. We have the ability to fix them. We have the ability to make the bill a better bill. But to do nothing, to sit back, to languish in the bureaucracy of entrapping people, keeping people from meeting the opportunities that this country has of freedom, real freedom, freedom to participate, freedom to undertake a challenge, is morally destructive and is wrong. This change is long overdue.

So if there this is anything good that comes from those elections and the partisanship back and forth and the bickering, I say this welfare reform, in my mind, would never have taken place—never, never have taken place were it not for this election.

Mr. President, I am pleased to have worked for this program. Workfare, not welfare, is long overdue.

Mr. President, I yield to the Senator from New Hampshire for 5 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I wonder if the Senator from New York could make that 10 minutes?

Mr. D'AMATO. I yield 10 minutes to the Senator from New Hampshire.

Mr. SMITH. Mr. President, I rise in very strong support of the welfare reform bill, H.R. 3734, that is before the Senate at this time. This is historic legislation that the Senate later will be passing by an overwhelming majority—a bipartisan majority, I might add. There will be some who will be voting for this today because they are caught up in the wave of welfare reform and there will be others of us who will be voting for it because we caused the wave. But it really does not matter because the result will be the same. This Republican Congress has gotten it done. After all the years and years of talk, we have finally gotten it done. We sent the President two bills. He vetoed both of them. This is the third attempt. He now says he will sign it.

The Senator from New York has already quoted President Franklin Roosevelt who, in 1935, talked about what welfare, or in those days they called it relief, does to a society and does to a family. It does destroy the human spirit and it is a violation of the traditions of America, as Franklin Roosevelt correctly said in 1935.

Mr. President, in terms of welfare, we did declare a war on poverty, and poverty won. That is the problem. This program has not worked. When something does not work, we have to try something new. It does not mean we say we have all the answers, but it does mean we have to try.

In 1965, per capita welfare spending was $197. By 1993, per capita welfare spending was $1,255. That is a 600-percent increase. For all this increased spending, have we seen a corresponding drop in poverty? No, we have not. In 1965, 17 percent of Americans lived in poverty. In 1993 it is a little over 15 percent, barely a change. So we need to try something new, which is why this Republican Party has fought so hard to make these changes.

This is historic because it ends a 60-year status of welfare as a Federal cash entitlement. As a result, once this bill becomes law, no person will be able to choose welfare as a way of life. And no person will be entitled to cash benefits from the Federal Government simply because he or she chooses not to work.

It is amazing some of my colleagues can defend this failed system, where people who make $18,000 or $19,000 a year, working hard with their bare hands to make just enough money to put food on their tables and pay taxes, we should ask those people to continue paying forever for somebody who won't work. Won't—not can't, won't. Because that is what welfare is all about.

Yes, there are some who cannot and they are not going to slip through the net. It is the ones who won't work. Yet, time after time after time, speaker after speaker after speaker in this body has defended this system, saying people who work hard for a living, trying to put food on the table, trying to pay their mortgages, trying to get their kids through college, working hard, paying their taxes—honest, hard-working Americans—should continue to pay for people who won't work.

We are changing it. That is why this is historic. The President, in announcing he was going to sign this bill, kind of apologized for signing it, if you listen to his remarks. But again, the result is the same. He is going to sign it. We will get the results. So I give him credit for signing it. It took him a little while to get there, but he is there.

As the Senator from Texas said a few moments ago, ask yourself this question. Would we have welfare reform, would we have workfare today, were it not for people in a Republican Congress who pushed and pushed and pushed to get it through this Congress and into the White House where the President can sign it? I think the answer is: Obviously, no, we would not have. By dramatically cutting the Federal welfare bureaucracy and replacing it with block grants to the States, this bill recognizes the best hope for making welfare programs successful lies in shifting major responsibilities for their administration to a level of government where innovation and experimentation can flourish. This is a giant step toward reinvigorating federalism in our system of Government.

I heard the Senator from Massachusetts, Senator KENNEDY, earlier in the debate, talking as if somehow all these people were going to slip through the safety nets because the Federal Government no longer is assuming responsibility. We all know that we have 50 Governors out there, frankly, Democrats and Republicans—I have confidence in those people. I do not think any Governor in any State in the Union is going to put a starving child on the street. I will believe that when I see it. That is not going to happen and we all know it. It is an outrage to define this welfare reform in those kinds of terms.

Governor Steve Merrill, the Governor of New Hampshire, using my State as an example, is a compassionate, decent man and a good Governor. He is not going to let that happen. I want him to have this program. I want him to be able to administer this program, this block grant, because in the State of New Hampshire, Governor Merrill and the legislature and the others who work every day in these welfare programs, know who the needy people are. They also know how to help them find work. That is compassion and it is compassion at the local level, where it should be. Because people in Washington, DC, do not know all the answers, in case you have not figured that out yet.

No Governor is going to let a child starve and it is an outrage and an insult for anybody to even insinuate it rather than say it. Our Governors have been leading the way, from both parties. President Clinton, when he was Governor, talked about welfare reform and as a Presidential candidate said he would end welfare as we know it. He knew then as a Governor it was not working, which is why he spoke out about it. This is landmark legislation. This is dramatic. This is the kind of thing that I have been working on for all the years that I have been in Congress, and I am so happy just to see it come to fruition.

I am going to be pleased and proud to work with Governor Merrill and see that this program is administered properly to help the people in the State who need help.

This is a huge accomplishment just to get this bill through this Senate and the House and on the President's desk.

Mr. President, this bill transforms welfare from a handout that fosters dependency into a temporary helping hand for those who fall on hard times. It places a 5-year lifetime limit on receiving welfare benefits and requires able-bodied adults to work after 2 years.

Surely after 5 years, an able-bodied individual can find a job. Of course, they can find a job, if you want to find a job. But you are not going to want to find a job if somebody is taking care of you all the time.

When I was a kid, I had a favorite uncle, Uncle George. He used to sell toys, and I used to look forward to Uncle George coming around with toys. My family at sometime would say, ''If Uncle George keeps coming around, we won't have to buy toys for little Bobby,'' because they expected it.

Where is the respect for the people who are paying the bills? It is not the Federal Government paying these bills for people who will not work. It is the taxpayers. It is the hard-working men and women across America who work hard for a living. There is no reason why this is an entitlement for somebody who does not work.

There is not a person out in America today who does not have the compassion in their heart to help somebody who needs help. We see it every time there is a tragedy. Whether it is the TWA bombing, a flood, earthquake, American people are always stepping forward in a compassionate, helpful way to help their fellow man. It happens every day. It is happening now, and it is not going to stop because we pass a bill that says people who will not work cannot get benefits for the rest of their lives.

Mr. President, another very important point here is that this bill cracks down on the so-called deadbeat dad by requiring that father to pay child support, and it mandates that welfare applicants must assist in establishing the paternity of their children in order to qualify for their benefits.

What is wrong with that? That is responsibility, Mr. President.

I am also pleased that this bill takes a number of steps toward ending the abuse of the welfare system by those legal immigrants who come to America, not to go to work but to go on welfare. That is not true with every person who comes to America, it is not true with most people who come to America, but it is true with some, and they ought not to be getting welfare benefits if they are not an American citizen while Americans who are working hard, trying to pay their bills are providing it. That is simply wrong. It ought to stop, and this bill does stop it. But it also provides when you are sponsored, the sponsor can assume some responsibility for you. If they want to bring you to America, they can assume some responsibility. That is what built this country—responsibility, not running away from it.

Deeming is a good policy. Noncitizens, after all, remain, by definition, citizens of other countries. They should not, in all fairness, expect to be supported by Americans who are not their fellow citizens.

Finally, Mr. President, H.R. 3734 provides a total of $22 billion to help the States provide child care for parents who are participating in work and job training programs. It also provides additional grants for States that experience high unemployment or surges in their welfare populations.

Mr. President, I commend those among my colleagues in the Senate who have worked long and hard to make this such a strong, landmark welfare reform bill. I also commend a former colleague—Senator Bob Dole—for working tirelessly since the beginning of this historic 104th Congress to deliver landmark welfare reform for the American people.

Thank you, Mr. President. I yield the floor.

Mr. EXON. Mr. President, I yield 7 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I thank the distinguished Senator from Nebraska.

Mr. President, a number of my colleagues have talked about their very deep concerns about various aspects of this legislation, including the estimates that go as high as 1 million more children being thrown into poverty, the very harsh cut in food stamps that is contained in this legislation, the limitation on the time period for receiving food stamps, which will hit workers who have been laid off and their families very hard in the years to come, the extreme cuts in benefits for disabled children and the treatment of legal—not illegal, but legal, and I stress that—legal immigrants coming into the country. These are people who, under our laws, are legitimately in the country, and yet, if they encounter personal disaster financially, we are not going to provide any help to them. All of these factors constitute a valid basis for voting against this bill.

I am not going to go back over those issues. They have been discussed at some length by others. There is another matter I wish to discuss, another dimension to this legislation which I think is another strong reason to oppose this legislation which I intend to do. And that dimension is the situation we will confront in times of economic downturn and recession. All of the discussion here is about the limitations and constraints that are being placed upon existing programs in the context of current economic circumstances.

Current economic circumstances are a 5.3-percent unemployment rate across the country. But we must consider the question of what is going to happen when we have a downturn in the business cycle. People are discussing this legislation almost as though the business cycle has been repealed and is not going to happen again.

This legislation provides block grants to the States. The size of those grants does not vary with such factors as unemployment or the poverty rate, and, therefore, in recessions, States will face rising caseloads and corresponding large gaps in funding for assistance programs.

The bill has a contingency fund of $2 billion, but it is completely inadequate—completely inadequate—it fails to address this issue. Let me just give you an example. In our Nation's most recent recession during the Bush administration in the period from 1989 to 1992, the Federal share of welfare spending increased 36 percent—an additional amount of $7.2 billion over the four years—that is, almost four times the contingency fund.

There was a 35-percent increase in the number of children in poverty over those years. This was a period when the unemployment rate rose from 5.3 percent to a high of 7.7 percent.

What are the States going to do under this legislation when a recession hits and more and more people slip into poverty, people lose their jobs, they are out of work? Under the current system, the Federal Government assures to the States additional money for each of the additional persons who are placed into dire circumstances by a worsening economy. Under this bill, no such support. This bill essentially gives the State a block grant based on 1994 figures, and that's it.

Much of the discussion has been about the difficulty of handling the situation under current economic circumstances and the problems are very real and severe. What happens when you get an economic downturn and the number of people showing up in the poverty category on the unemployment rolls is on the increase, rising very substantially? Are the States then going to come up with more money in order to handle this problem?

Our experience to date is every time a recession strikes the States come in and say, ''We need help. We're constrained. We can't deal with this recession. Look what this recession has done to our sources of revenue. Our sources of revenue are down. We can't handle the situation.''

That is what they say today when the Federal assistance is automatically adjusted. What are they going to say next year or the year after and the year after that when a recession comes along, when people are added to the unemployment rolls, out of a job, families go into poverty? Where are the resources then going to come from?

Under the current system, the Federal Government, since President Roosevelt, assumed an obligation to provide help to the States to help them work through this situation. Now the Federal Government automatically steps in when a recession hits. That will not be the case in the future under this legislation.

It is true there is a contingency fund. But as I said, it is totally inadequate for any recession of any consequence, let alone a very deep recession as we experienced under President Reagan in the early 1980's, or just the recession we experienced in the early 1990's during the Bush administration when the unemployment rate went from 5.3 to 7.7 percent. That was its peak, 7.7 percent, contrasted with the Reagan recession where it went just shy of 11 percent unemployment.

In the Bush recession in the 1990's, the fact of the matter is that there was about a 40-percent increase in the Federal expenditure on welfare during that recession period. This bill fails to address the consequences of such an economic downturn.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. Will the Senator yield me 1 more minute?

Mr. EXON. I am glad to.

Mr. SARBANES. Mr. President, this bill does not do that. The Federal Government is out of it in terms of assuring the States that the full burden of recession will not fall upon them. In the last recession, when the unemployment rate went close to 8 percent, millions of Americans lost their jobs and had a difficult time finding new jobs.

What is going to happen in the next recession? Does anyone realistically believe that the States will step in and pick up the burden? Even now with additional Federal assistance the States come in during a recession and say, ''We can't handle our situation because our revenues have been impacted by the recession.'' What is going to happen is you will have literally millions of people affected by the economic downturn and without any support. No additional Federal assistance as now, because of the block grant provision. We will pay dearly for failing to provide a fail-safe mechanism against an economic downturn. The consequences will be such that we will rue this day.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Will the Chair kindly advise the Senator when I have used 15 minutes? I yield such time as is necessary to myself.

Mr. DOMENICI. I think we rotate.

Mr. EXON. Before the chairman came in, we had three Republicans in a row. I thought that we would proceed——

Mr. DOMENICI. They were part of the 1 hour where you had 1 hour and——

Mr. EXON. No, they were not. They were after that. I yield the floor.

Mr. DOMENICI. I ask Senator NICKLES, do you need 15 minutes?

Mr. NICKLES. Yes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first, I wish to congratulate and compliment our colleague from New Mexico for his leadership on this bill. In addition, I compliment Senator ROTH, Chairman ARCHER in the House, and Chairman CLAY SHAW for putting this bill together, as well as Chairman KASICH in the House. I would like to go back a little farther and also compliment Senator Dole and Speaker GINGRICH for laying the groundwork for fundamental welfare reform, fundamental welfare reform that is long overdue, fundamental welfare reform that today will have bipartisan support. I am very pleased with that and I am pleased the President said he would sign this bill.

He is correct in making that decision. I know he agonized over it. He was not sure what he was going to do. That is evidenced by the fact he vetoed two similar bills earlier. He actually vetoed a bill in January, a bill that passed the Senate with 87 votes. I thought that veto was a mistake. I thought that veto was a repudiation of his campaign statement when he said we need to end welfare as we know it.

When candidate Bill Clinton made the statement, ''We need to end welfare as we know it,'' I applauded it. I thought he was exactly right. Unfortunately, I think welfare had become a way of life for far too many families. Maybe that was their fault, maybe it was Congress' fault. I think most of the welfare programs that we have were well-intentioned, but many have had very suspect results.

In addressing the issue of welfare, on January 4, 1935 Franklin D. Roosevelt said that:

> The lessons of history, confirmed by the evidence immediately before me, show conclusively that continued dependence upon relief induces a spiritual and moral disintegration fundamentally destructive to the national fiber. To dole out relief in this way is to administer a narcotic, a subtle destroyer of the human spirit. It is inimicable to the dictates of sound policy. It is a violation of the traditions of America.

That was in his second annual message to the country. He was right. Maybe he was a little bit prophetic because, if you look at what has happened in our welfare system, we now have under the Federal Government 334 federally controlled welfare programs.

The Federal Government determines who is eligible, for how long, and for how much they will receive. We have 156 job training programs stacked on top of each other, all with good intentions but a lot with results that are not very desirable, results that in many cases have not helped a lot of the intended beneficiaries and certainly have not helped taxpayers.

This Congress has done several historic things. I have been around here now for 16 years. This Congress, for the first time, has actually passed some reform and some curtailment of the growth of entitlement programs.

We passed it in the Balanced Budget Act, but the President vetoed it so that did not become law. We passed it in the welfare bill, but the President vetoed that and it did not become law. We passed entitlement reform in the farm bill, a historic rewrite of decades of farm policy. That was a good bill. The President signed it. I compliment him for signing it.

Now we are passing welfare reform. Is the bill perfect? No. But it is a good, giant step in the right direction. I am pleased the President will sign it.

Mr. President, this bill does change the way we do welfare. The so-called AFDC, aid to families with dependent children, will no longer be a cash entitlement. We are reforming its entitlement status. The current program says that if you meet eligibility standards—in other words, if you are poor—you can receive this benefit for the rest of your life. There is no real incentive to get off. There is no real incentive to go to work. We are really falling into exactly what Franklin Delano Roosevelt said. We are destroying human spirit. So now we have a chance to fix that in this bill today. This is a giant leap.

Again, I mentioned that I am pleased President Clinton is signing this bill. But if you look at the bill he introduced, his bill was a continuation of the entitlement of aid to families with dependent children. They would go on continually. It was a continuation of an entitlement.

Today we are breaking that continuation. We are going to say that we trust the States. I have heard some of my colleagues say, ‘‘Wait a minute. What about the kids?’’ What we are doing is taking this money and we are going to give this cash welfare program to the States and let them determine eligibility. I happen to think that the States are just as concerned, maybe even more concerned than we are about kids in their own territory.

What makes people think that the source of all wisdom comes from Washington, DC, that Washington, DC, should determine who is eligible and who is not? Who can make the best determination of those requirements? I believe the individual States can.

In this bill we have work requirements. We have time limits. We have a 5-year lifetime limit. I think we have taken some big steps in the right direction.

So I want to compliment Senator ROTH and Senator DOMENICI, Senator Dole, and others.

Also, I would like to make a couple of other comments. I have heard the President say we have cut too much in food stamps. In this bill we require able-bodied adults age 18 to 50 with no dependents, no kids, to work 20 hours a week, with the exception that they have 3 months in a 3-year period when they can receive food stamps. Other than that they are going to have to work at least 20 hours a week. That is real reform. I know my colleague from North Carolina thinks that is right.

Under current law you can receive food stamps forever. Eligibility is pretty easy. If you meet these income requirements, you can receive food stamps. There is not a time limit. Under this bill we are telling able-bodied people, now you are going to have to get a job.

There are now going to be work requirements in order to receive welfare. You are going to have to get a job. We turn the money over to the States, yes, but it is a transition. We call it temporary assistance for needy families. It is temporary assistance; it is not a way of life. It is not a system that we are setting up where people can receive this income forever, as many families do under the current system.

There was an investigation in areas of my State that had drug problems and crime problems, and I learned a little bit about the drugs and the crime. But I probably learned a little bit more about welfare. This area had a very high incidence of crime and drug problems but had an even higher incidence of welfare dependency.

As a matter of fact, I talked to a young person who had a couple of kids and found out that, yes, she had been on welfare for a few years and her mother had also been on welfare for several years. I was thinking, we have to break this cycle. What about the kids? I looked at her kids, and I really felt sorry for them, and they were growing up, now the third generation of a welfare family. We have to break that trap of welfare dependency.

This bill will help give people a hand up and not just a hand out; to where they will be able to go to work; where we provide job training; where we have child care; where we have an opportunity for people to climb up out of this welfare dependency cycle. This is a giant step in the right direction.

With the old system, if they met the income standards, then they kept getting the cash. There is no limit whatsoever. So this bill is, again, a very positive step in the right direction toward rewarding work, encouraging work, encouraging people to become independent, and not dependent on taxpayers. I compliment Senator Dole and others who are responsible.

I want to correct some misstatements that have been made by the President and other people. The President stated yesterday that the reason why he is signing the bill is that it allows States to use Federal money for vouchers for children and for parents who cannot find work after the time limit has expired. The President says he lobbied for this. To clarify, we did not put money in specifically under the welfare bill, but we have said they can use money under title XX, the Social Services Block Grant, for those purposes. That is the same policy we had in the bill H.R. 4, that unfortunately the President vetoed. There was not really a change in that area.

President Clinton made a statement saying the congressional leadership insisted on attaching to this extraordinarily important bill a provision that will hurt legal immigrants in America, people working hard for their families, paying taxes and serving in our military. Well, the President is wrong. Just to state the facts, noncitizens who work for their families, pay taxes, can become eligible for welfare in two ways under this bill. First, they can become citizens. If they become citizens, they can qualify for any benefits any other American can. Second, even if they decide not to become citizens, they can become eligible for welfare by working and paying Social Security payroll taxes for 40 quarters, basically 10 years.

Third, and this is most important, noncitizens who serve in our military are eligible for welfare under this bill. The bill explicitly exempts them from the bans on welfare to non-Americans. It is in the bill.

I was surprised by the President’s statement. His statement was this: ‘‘You can serve in our military, you may get killed for defending America, but if somebody mugs you on a street corner or you get cancer or get hit by a car, or the same thing happens to your children, we are not going to give you assistance anymore.’’

Mr. President, President Clinton is wrong. As I mentioned, people who serve in our military, veterans and their dependents all continue to be eligible for assistance under this bill, this is title 4, page 5. So are refugee and asylees and people who pay Social Security taxes for 40 quarters, title 4, page 5. People mugged on a street corner or hit by a car, whether or not they are citizens and whether or not they work and whether or not they are in the country legally or illegally, qualify for emergency medical assistance under this bill.

I think it is important we stay with the facts. President Clinton also said yesterday, ‘‘I challenge every State to adopt the reforms that Wisconsin, Oregon, Missouri, and other States are proposing to do.’’ Fact: On May 18, President Clinton spoke favorably of the welfare waiver application submitted by the State of Wisconsin: ''Wisconsin is making a solid welfare reform plan. I pledge my administration will work with Wisconsin to make an effective transition to a new vision of welfare. States can keep on sending me these strong welfare proposals, and I will keep on signing them.'' That was May 18. Guess what? Wisconsin's waiver was proposed on May 26, over 2 months ago, and he has not signed it yet.

President Clinton, before a speech of National Governors' Association in 1995, told the Governors he would act on their waiver application within 30 days, some of which have taken well over a year, some almost 2 years. It has been 60 days since the Wisconsin waiver. We tried to put the Wisconsin waiver into the bill to make it applicable. We get a message, according to Speaker GINGRICH, that if it is in the bill, the President will veto it. At the same time he was bragging on Wisconsin's waiver and their new approach yesterday on national TV, he was telling us if we put it in the bill, he would veto the bill.

Mr. President, I could go on. I think it is important we not try to scare people, that we stay with the facts, that we do try to do what is right.

Let me make a couple of other comments. I heard the President and other people saying this bill is too hard on noncitizens, on legal aliens. We eliminate benefits for illegals; what about noncitizens who are legally here? We make some changes. The President and others say we went too far.

Let's look at what we did. Our legislation has a priority that says fundamentally we should take care of Americans. When aliens come to this country, their sponsors pledge to support them and they sign a statement that says they will not become a public charge. People come to this country voluntarily. If noncitizens want to stay in this country, they sign a statement saying they will not become a public charge. We will start holding them to that statement and hold their sponsors who also signed the statement saying, ''We will make sure they do not become a public charge; we will make sure they do what they committed to do.'' I think that is very important.

I might mention a couple things about taxpayers. If you look at the number of noncitizens currently receiving SSI, Social Security supplemental income, in 1982 there were almost 128,000 noncitizens receiving SSI; in 1994 that number had increased by almost sixfold, and there were 738,000 noncitizens receiving SSI. The program has exploded since 1982—almost six times as many.

What happens is a whole lot of people determine they can come to the United States not asking for a land of opportunity to grow and build and expand, they come to the United States for a handout. What did they do? They received SSI and Medicaid. They received a lot of Government assistance. Thank you very much, taxpayer, and the sponsors who signed statements saying, ''We will take care of them and make sure they do not become a charge to the Federal Government.'' But who have not done their share, they have not held up their side of the bargain when they said they would not become a charge to the American taxpayers, and they did.

We are saying they have a couple of choices. If they want to become citizens, they will be eligible for benefits. If they do not become citizens, that is certainly their option, but they do not have the option to say, ''Yes, take care of us, taxpayers.'' If they pay taxes for 40 quarters then they could become eligible for benefits.

A couple of other comments. We deny noncitizens from receiving food stamps until they become citizens or pay taxes for 10 years. We did the same thing with food stamps. Why should someone come to the United States as a noncitizen and say, ''Give me food stamps''? Some people have criticized this by saying, ''Wait, cuts in food stamps are draconian.'' We spent $26.2 billion this year in food stamps. In the year 2002, if you listen to some of the rhetoric, you would think we cut that in half. That is not the case. In the year 2002, 6 years from now, we will spend over $30 billion in food stamps. So we are spending more money in food stamps every year, but we are saying to the people who are noncitizens who come to the United States, they are not automatically entitled to continue receiving benefits forever.

Mr. President, I have several charts to be printed in the RECORD, and I compliment my friend and colleague from New Mexico for his leadership. I mentioned food stamps, and I will mention SSI, the growth rates in SSI.

In 1980, SSI cost the taxpayers $6 billion; in 1996, it costs $24 billion, four times as much. This program is exploding. The growth rates in SSI for the last 5 years are 10 percent, 14 percent, 21 percent, 18 percent, and 20 percent. The program has exploded in many, many cases because noncitizens have said this is a good way to get on a gravy train. We need to close that abuse. We do that under this bill. I think that is positive reform.

I ask unanimous consent to have printed in the RECORD charts to substantiate these facts.

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

FEDERAL SPENDING ON MAJOR WELFARE PROGRAMS

[Current law in billions of dollars]

Year	Outlays	Growth (dollars)	Growth (percent)
FOOD STAMPS			
1980	9		
1981	11	2	24
1982	11	(0)	−3
1983	12	1	7
1984	12	(0)	−2
1985	12	0	1
1986	12	(0)	−1
1987	12	0	0
1988	12	1	6
1989	13	1	4
1990	15	2	17
1991	19	4	25
1992	23	4	21
1993	25	2	11
1994	25	0	0
1995	26	1	4
1996	26	0	1
1997	28	2	7
1998	30	2	6
1999	31	1	5
2000	32	1	4
2001	34	1	4
2002	35	1	4
FAMILY SUPPORT*			
1980	7		
1981	8	1	12
1982	8	(0)	−2
1983	8	0	5
1984	9	1	6
1985	9	0	3
1986	10	1	8
1987	11	1	6
1988	11	0	3
1989	11	0	4
1990	12	1	9
1991	14	1	11
1992	16	2	16
1993	16	0	3
1994	17	1	6
1995	18	1	6
1996	18	0	2
1997	19	0	2
1998	19	1	3
1999	20	1	3
2000	21	1	3
2001	21	1	3
2002	22	1	3
SSI			
1980	6		
1981	7	1	11
1982	7	0	6
1983	7	1	7
1984	8	1	12
1985	9	0	6
1986	9	1	8
1987	10	1	6
1988	11	1	13
1989	11	0	0
1990	13	1	10
1991	14	2	14
1992	17	3	21
1993	20	3	18
1994	24	4	20
1995	25	1	2
1996	24	(1)	−4
1997	28	4	16
1998	30	2	8
1999	33	2	8
2000	38	5	17
2001	35	(3)	−9
2002	40	6	17
CHILD NUTRITION			
1980	4		
1981	4	0	0
1982	3	(1)	−14
1983	3	0	10
1984	4	0	9
1985	4	0	3
1986	4	0	3
1987	4	0	5
1988	4	0	8
1989	5	0	7
1990	5	0	9
1991	6	1	12
1992	6	0	7
1993	7	1	10
1994	7	0	6
1995	8	1	13
1996	8	1	7
1997	9	0	6
1998	9	1	6
1999	10	1	6
2000	11	1	6
2001	11	1	6
2002	12	1	5
EARNED INCOME CREDIT			
1980	1		
1981	1	0	0
1982	1	(0)	−8
1983	1	0	0
1984	1	0	0
1985	2	0	38
1986	2	0	25
1987	2	0	1
1988	4	2	91
1989	6	2	47
1990	7	1	11
1991	7	0	8
1992	11	4	51
1993	13	2	23
1994	16	3	20
1995	19	4	22
1996	23	3	18

FEDERAL SPENDING ON MAJOR WELFARE PROGRAMS—Continued

[Current law in billions of dollars]

Year	Outlays	Growth (dollars)	Growth (percent)
1997	24	2	8
1998	25	1	3
1999	26	1	4
2000	27	1	4
2001	28	1	4
2002	29	1	3
	TOTAL		
1980	27	....	....
1981	31	4	14
1982	30	(1)	−2
1983	32	2	7
1984	34	1	5
1985	35	1	4
1986	37	2	5
1987	38	1	4
1988	43	5	12
1989	46	3	7
1990	51	5	12
1991	59	8	15
1992	72	13	22
1993	81	9	12
1994	89	8	10
1995	96	7	8
1996	100	4	4
1997	108	8	8
1998	114	6	5
1999	120	6	5
2000	129	9	8
2001	129	0	0
2002	139	10	7

*Family Support includes AFDC, child care, child support enforcement, and JOBS.

Sources: CBO & OMB.
Prepared by the Office of Senator Don Nickles.

Mr. NICKLES. I thank my colleague from New Mexico and my colleague from Nebraska for yielding.

Mr. DOMENICI. First, I am not sure everyone that has sent the message down that they want to speak will speak, but without wrap-up by our leader and without any wrap-up by me, there are 14 Senators on our side who have requested some time to speak.

I ask the Parliamentarian, how much time remains on the Republican side under the 5 hours?

The PRESIDING OFFICER. Approximately 2 hours and 15 minutes.

Mr. DOMENICI. That still means with 14 Senators, we clearly will not be able to give 20 or 25 minutes to everyone. We hope we can keep everyone to somewhere around 10 minutes or less.

Having said that, Senator EXON has not even spoken today. He is next, and he will choose as much time as he wants, obviously. Following him, my understanding is that Senator SPECTER of Pennsylvania will speak on our side. Who will speak on your side?

Mr. EXON. Senator MOSELEY-BRAUN, who was here at 9:30 this morning trying to speak, will follow me.

Mr. DOMENICI. Senator FAIRCLOTH will be next.

Mr. EXON. Following Senator MOSELEY-BRAUN, Senator BRADLEY.

Mr. DOMENICI. All right. We know that many other Senators on this side want to speak. Since Senator GRASSLEY is here, I am going to say that, on our side, he will follow Senator FAIRCLOTH. Senator CHAFEE wants to speak, also. Where would the Senator go next on the Democratic side?

Mr. EXON. Mr. President, may I inquire from the Chair, are there 2 hours left on the Republican side? I thought when I inquired a half an hour ago, at that time there were 2 hours on the Republican side and 2 hours 20 minutes on our side. Now I understand that the Chair said the Republicans had 2 hours 15 minutes left.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Republicans have approximately 2 hours 15 minutes remaining. The reason is that there was an inadvertent addition that was made on the time allowed.

Mr. EXON. How much time do I have remaining?

The PRESIDING OFFICER. Two hours twenty-one minutes.

Mr. EXON. I thank the Chair.

Mr. DOMENICI. Can we go beyond that and get a couple more sequenced in? Who was the last one?

Mr. EXON. Senator BRADLEY. I have 8 or 10 other speakers. I do not have a scenario beyond Senator BRADLEY.

Mr. DOMENICI. On our side, when the time arrives, the next Senator would be Senator CHAFEE, and then Senator GREGG is after the Senators I had previously announced. If any other Senators have difficult times, call us and we will try to put them in sooner. As soon as we can schedule you in, we will. Come down and tell us.

So the order on our side is Senators SPECTER, FAIRCLOTH, GRASSLEY, CHAFEE, and GREGG.

Mr. EXON. Mr. President, many of my colleagues have given very thoughtful and rigorous descriptions of the economic growth of our Nation under the dedicated leadership of President Clinton. Much of that growth is due to the deficit reduction in the President's 1993 budget that we passed with strictly Democratic votes, and not a single Republican vote in either the House or the Senate. The Federal Reserve Chairman, Alan Greenspan, agrees. He said, earlier this year, that President Clinton's budget was ''an unquestioned factor in contributing to the improvement in economic activity that occurred thereafter.''

Mr. President, we have been on the right course since we passed the 1993 deficit reduction plan. At that time, dire predictions were made on that side of the aisle. If anybody is interested in those, I would be glad to supply the doomsday forecast if that became law—which it did—from that side of the aisle.

In 1992, the deficit was $290 billion, the highest dollar level in history. Today, thanks to the President's budget, it has been cut more than in half, to $117 billion. That is living up to both your promises and the promises that have been emphasized so often in debate here.

I don't customarily use charts, but I want to put up a chart that may have been used before, which drives this point home. I suggest, Mr. President, that this may be the best kept secret in America.

In 1980, when President Carter was President of the United States, we had a deficit of $74 billion for that year. That was an awful lot of money. I remember how concerned we were about that. Several years later, after 1980, in the intervening 12 years of Republican Presidents—first Ronald Reagan and then George Bush—and supply side economics, that deficit loomed from a high $74 billion, we thought, to $290 billion. When President Bill Clinton became President of the United States, look what has happened since then under his leadership. That deficit has been more than cut in half, to the 1996 projection of $117 billion.

I don't know what tells the history of success in this particular area more than a chart like this, which is factual. I ask anyone to challenge it. The Republicans like to carp a lot about the President's 1993 budget. A distinguished Republican said that President Clinton's taking credit for deficit reduction is like a rooster crowing very loudly at sunrise. I say to my Republican friend that the President has every right to crow, if you want to use that word. He has every right to lay claim to reducing the deficit, because that he has done.

That enormous fiscal egg laid by the previous two Republican administrations had to be attacked by someone, and President Bill Clinton did the job. Facts are facts. He has cut it more than in half.

As much as I am gratified by the economic and fiscal performance of the current administration, I am deeply concerned with what is being said by the Republican campaign to challenge this administration. The same folks who were part of the fiscal wrecking crew in the 1980's, and who voted against the only real deficit reduction plan in the 1990's, are now ready to sabotage the 21st century with billions of dollars in new tax cuts, which they don't pay for. That is more of the supply-side economics that got us into this mess in the first place.

Mr. President, I ask my colleagues here, and I ask the people of the United States, why on Earth would Bob Dole change his mind from a strict and sound fiscal conservative and become the Willy Loman of supply-side economics and perhaps destroy the economy by going back on this track?

Mr. President, the lessons learned in the 1980's through the 1992 period are very clear: You can't grow your way out of tax breaks of this magnitude. That is why President Clinton came into office, saddled with a $290 billion deficit. Supply-side economics, or so-called dynamic scoring are, at best, a toss of the dice.

To gamble the fiscal integrity of our Nation on such speculation is totally irresponsible. It is shameless. It is truly shameless. Only it is a way of disguising the true costs of tax cuts.

How did they make up for them with the supply-side economics, or voodoo economics, to use a Republican phrase, from the period 1980 to 1992 that caused this?

Fed Chairman Alan Greenspan said, ''We must avoid resting key legislative decisions on controversial estimates of revenues and outlays.'' We sure did that from the period 1980 to 1992.

I find it curious, Mr. President, that the advocates of supply-side Dole tax cuts seem to be trying to cash two fiscal dividends at the same time. And it will not work. On the one hand, they want to take credit for the fiscal dividend that the Congressional Budget Office said we will get from the conservative fiscal policies needed to balance the budget. On the other hand, they want to simultaneously take credit for a fiscal dividend that would come from the stimulative fiscal policies of a tax cut. We have a record to show what happens when you go down that road.

I hope the American voters will find out quickly what the Dole medicine show is really trying to sell. It is pure poison, and it hurts. The American people reject out of hand the heartless reductions, indeed, in the latest Republican 7-year budget plan. I tell my fellow Americans that these needs pale in comparison to what may lie ahead if we follow their lead to supply-side economics once more. Those reductions from real need will be twice as bad if we have to pay for the total tax breaks that are about to come.

That is right, Mr. President. That is right, and all should understand that President Clinton cut the deficit in half, as evidenced by this chart. Bob Dole wants to double the amount that the Republicans are taking from ordinary Americans to pay for his $600 billion or so in tax breaks for the wealthy. The American people know and the American people understand who is heading in the right direction, and it is President Bill Clinton.

Mr. President, an important part of all of this—to keep the promises that were made during the campaign—is the matter of the welfare reform bill that is presently before the body.

Mr. President, the conference report that is before us in the Senate today is not the best possible welfare bill, but it may be the best welfare bill that this divided and weary Congress can pass.

I salute my good friend, the chairman of the Budget Committee, for doing his able best, and he did a lot to smooth over the rough edges of the House measure, and there were many.

I also want to compliment the tenacious and effective work of the Senator from Rhode Island, Senator CHAFEE, in the conference committee. This is a better bill for their efforts.

Throughout the consideration of this bill, my primary concern has been with our Nation's children. A hungry child should be an affront to all men and women of good will.

I am at a loss to understand why the Republican leadership felt it necessary to force their caucus to vote against allowing States to provide noncash vouchers for children's food and clothing under the State's block grant. The conference report allows States to use another program for that purpose, but provides no additional funds, and has even reduced that program by 15 percent below the baseline.

It is certainly not the intention of this Senator to throw more children into poverty, or to create more want in our land of plenty. Should this legislation become law, I would hope that we monitor its effects very carefully. We are giving the States more powers and flexibility; with that will come new responsibilities. A midcourse correction may be needed 2 or 3 years hence, if the critics are right and the number of children living in poverty swells.

I am heartened, however, that the conference moderated some of the very worst of the welfare bill and retained many of the improvements added by the Senate. For example, there was the Kasich food stamp amendment that was cruel and heartless in the extreme. It limited unemployed people without kids to only 3 months of food stamps in their adult lifetime. Thank goodness cooler heads prevailed. Eligibility has now been modified to 3 months for any 3-year period, with an additional 3 months if one is laid off.

I was also most gratified that the conference retained the Chafee amendment maintaining current eligibility standards for Medicaid, as well as the Conrad amendment eliminating the food stamp block grant. These two amendments were critical to this Senator's support of the conference report. Removing them would have been tantamount to pulling the keystone from an arch. Bipartisan support for this bill would have collapsed.

I and many of my Democratic colleagues will vote for this conference report today. We do so with some misgivings, but also with the sincere hope and desire that we are helping our fellow citizens to reclaim the dignity and pride that comes from work and providing for one's family—no matter how humble the calling. I hope our efforts prove worthy of both those we are trying to help and the American people who have asked for reform.

I hear a great deal these days about ending welfare as we know it. But to this Senator, that does not mean ending our responsibility to our fellow man. It does not mean just cutting off the welfare check, and then cutting and running on our poor.

Mr. President, our responsibilities do not end with this bill. Quite the contrary. As we ask those who have been in welfare's rut to become breadwinners, it is our responsibility to provide them with a living wage through an increase in the minimum wage.

Since few minimum-wage jobs offer it, we must also help them find affordable, available, and accessible health care, especially for their children. We must assist too with education and job training to help them get and hold better jobs.

Mr. President, one final observation. I believe that this will be the sole reconciliation bill of the three promised by the Republican majority to make it to the President's desk.

Their grotesque Medicare and Medicaid bills are being locked up in the attic, out of sight of the electorate. The tax breaks may, however, be a different story. We hear rumors that, if Bob Dole's numbers plummet any further, we may see some tax breaks shoot up to the front of the legislative agenda. I am deeply concerned that the Republican majority may try to use the welfare savings we achieve today to justify their tax breaks. Some things never change.

Other things certainly have changed. Senator Bob Dole once scorned supply-siders, but Candidate Dole is now a fellow traveler. He has jettisoned the hard, dirty work of cutting spending, and now peddles comforting tales about tax cuts that pay for themselves.

They did not pay for themselves in the 1980 to 1992 period, and they will not pay for themselves between now and the turn of the century and thereafter.

These policies that they are trying to invoke once again evidently broke the bank in the 1980's. We will repeat this foolhardiness again under the new name of dynamic scorekeeping and supply-side economics. A rosy scenario is a rosy scenario by any name. I pray for the sake of our children and grandchildren that the Republican majority reclaims its wits.

The bill before us today asks those who receive a helping hand to take responsibility for their lives and to find work. I will vote for the bill. In the same vein, I ask those who have been entrusted with the fiscal responsibility of the Nation not to fritter it away. Face up to your responsibilities. Do not pander. Do not promise what cannot be delivered. Do not hide behind economic fairy tales. It will take hard work to balance the budget. It is high time that we get back to work with the rest of America and do our job right.

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

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. EXON. Mr. President, one further item for insertion into the RECORD.

The President yesterday delivered a statement indicating he would sign the welfare bill when it is presented to him. I ask unanimous consent that a copy of that statement be printed in the RECORD.

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

THE WHITE HOUSE,
July 31, 1996.

STATEMENT BY THE PRESIDENT

The PRESIDENT. Good afternoon. When I ran for President four years ago, I pledged to end welfare as we know it. I have worked very hard for four years to do just that. Today, the Congress will vote on legislation that gives us a chance to live up to that promise—to transform a broken system that traps too many people in a cycle of dependence to one that emphasizes work and independence; to give people on welfare a chance to draw as paycheck, not a welfare check.

It gives us a better chance to give those on welfare what we want for all families in

America, the opportunity to succeed at home and at work. For those reasons I will sign it into law. The legislation is, however, far from perfect. These are parts of it that are wrong, and I will address those parts in a moment.

But, on balance, this bill is a real step forward for our country, our values and for people who are on welfare. For 15 years I have worked on this problem, as governor and as a President. I've spent time in welfare offices, I have talked to mothers on welfare who desperately want the chance to work and support their families independently. A long time ago I concluded that the current welfare system undermines the basic values of work, responsibility and family, trapping generation after generation in dependency and hurting the very people it was designed to help.

Today we have an historic opportunity to make welfare what it was meant to be—a second chance, not a way of life. And even though the bill has serious flaws that are unrelated to welfare reform, I believe we have a duty to seize the opportunity it gives us to end welfare as we know it. Over the past three and a half years I have done everything in my power as President to promote work and responsibility, working with 41 states to give them 69 welfare reform experiments. We have also required teen mothers to stay in school, required federal employees to pay their child support, cracked down on people who owe child support and crossed state lines.

As a result, child support collections are up 40 percent, to $11 billion, and there are 1.3 million fewer people on welfare today than there were when I took office. From the outset, however, I have also worked with members of both parties in Congress to achieve a national welfare reform bill that will make work and responsibility the law of the land. I made my principles for real welfare reform very clear from the beginning. First and foremost, it should be about moving people from welfare to work. It should impose time limits on welfare. It should give people the child care and the health care they need to move from welfare to work without hurting their children. It should crack down on child support enforcement and it should protect our children.

This legislation meets these principles. It gives us a chance we haven't had before—to break the cycle of dependency that has existed for millions and millions of our fellow citizens, exiling them from the world of work that gives structure, meaning, and dignity to most of our lives.

We've come a long way in this debate. It's important to remember that not so very long ago, at the beginning of this very Congress, some wanted to put poor children in orphanages and take away all help for mothers simply because they were poor, young and unmarried. Last year the Republican majority in Congress sent me legislation that had its priorities backward. It was soft on work and tough on children. It failed to provide child care and health care. It imposed deep and unacceptable cuts in school lunches, child welfare and help for disabled children. The bill came to me twice and I vetoed it twice.

The bipartisan legislation before the Congress today is significantly better than the bills I vetoed. Many of the worst elements I objected to are out of it. And many of the improvements I asked for are included. First, the new bill is strong on work. It provides $4 billion more for child care so that mothers can move from welfare to work, and protects their children by maintaining health and safety standards for day care. These things are very important. You cannot ask somebody on welfare to go to work if they're going to neglect their children in doing it.

It gives states powerful performance incentives to place people in jobs. It requires states to hold up their end of the bargain by maintain their own spending on welfare. And it gives states the capacity to create jobs by taking money now used for welfare checks and giving it to employers as income subsidies as an incentive to hire people, or being used to create community service jobs.

Second, this new bill is better for children than the two I vetoed. It keeps the national nutritional safety net intact by eliminating the food stamp cap and the optional block grant. It drops the deep cuts and devastating changes in school lunch, child welfare and help for disabled children. It allow states to use federal money to provide vouchers for children whose parents can't find work after the time limits expire. And it preserves the national guarantee of health care for poor children, the disabled, pregnant women, the elderly and people on welfare.

Just as important, this bill continues to include the child support enforcement measures I proposed two years ago, the most sweeping crackdown on deadbeat parents in history. If every parent paid the child support they should, we could move 800,000 women and children off welfare immediately. With this bill we say to parents, if you don't pay the child support you owe, we will garnish your wages, take away your drivers license, track you across state lines and, as necessary, make you work off what you owe. It is a very important advance that could only be achieved in legislation. I did not have the executive authority to do this without a bill.

So I will sign this bill. First and foremost because the current system is broken. Second, because Congress has made many of the changes I sought. And, third, because even though serious problems remain in the nonwelfare reform provisions of the bill, this is the best chance we will have for a long, long time to complete the work of ending welfare as we know it by moving people from welfare to work, demanding responsibility and doing better by children.

However, I want to be very clear. Some parts of this bill still go too far. And I am determined to see that those areas are corrected. First, I am concerned that although we have made great strides to maintain the national nutritional safety net, this bill still cuts deeper than it should in nutritional assistance, mostly for working families with children. In the budget talks, we reached a tentative agreement on $21 billion in food stamp savings over the next several years. They are included in this bill.

However, the congressional majority insisted on another cut we did not agree to, repealing a reform adopted four years ago in Congress, which was to go into effect next year. It's called the Excess Shelter Reduction, which helps some of our hardest pressed working families. Finally, we were going to treat working families with children the same way we treat senior citizens who draw food stamps today. Now, blocking this change, I believe—I know—will make it harder for some of our hardest pressed working families with children. This provision is a mistake, and I will work to correct it.

Second, I am deeply disappointed that the congressional leadership insisted on attaching to this extraordinarily important bill a provision that will hurt legal immigrants in America, people who work hard for their families, pay taxes, serve in our military. This provision has nothing to do with welfare reform. It is simply a budget-saving measure, and it is not right.

These immigrant families with children who fall on hard times through no fault of their own—for example because they face the same risks the rest of us do from accidents, from criminal assaults, from serious illnesses—they should be eligible for medical and other help when they need it. The Republican majority could never have passed such a provision standing alone. You see that in the debate in the immigration bill, for example, over the Gallegly amendment and the question of education of undocumented and illegal immigrant children.

This provision will cause great stress for states, for localities, for medical facilities that have to serve large numbers of legal immigrants. It is just wrong to say to people, we'll let you work here, you're helping our country, you'll pay taxes, you serve in our military, you may get killed defending America—but if somebody mugs you on a street corner or you get cancer or you get hit by a car or the same thing happens to your children, we're not going to give you assistance any more. I am convinced this would never have passed alone and I am convinced when we send legislation to Congress to correct it, it will be corrected.

In the meantime, let me also say that I intend to take further executive action directing the INS to continue to work to remove the bureaucratic roadblocks to citizenship to all eligible, legal immigrants. I will do everything in my power, in other words, to make sure that this bill lifts people up and does not become an excuse for anyone to turn their backs on this problem or on people who are generally in need through no fault of their own. This bill must also not let anyone off the hook. The states asked for this responsibility, now they have to shoulder it and not run away from it. We have to make sure that in the coming years reform and change actually result in moving people from welfare to work.

The business community must provide greater private sector jobs that people on welfare need to build good lives and strong families. I challenge every state to adopt the reforms that Wisconsin, Oregon, Missouri and other states are proposing to do, to take the money that used to be available for welfare checks and offer it to the private sector as wage subsidies to begin to hire these people, to give them a chance to build their families and build their lives. All of us have to rise to this challenge and see that—this reform not as a chance to demonize or demean anyone, but instead as an opportunity to bring everyone fully into the mainstream of American life, to give them a chance to share in the prosperity and the promise that most of our people are enjoying today.

And we here in Washington must continue to do everything in our power to reward work and to expand opportunity for all people. The Earned Income Tax Credit which we expanded in 1993 dramatically, is now rewarding the work of 15 million working families. I am pleased that congressional efforts to gut this tax cut for the hardest pressed working people have been blocked. This legislation preserves the EITC and its benefits for working families. Now we must increase the minimum wage, which also will benefit millions of working people with families and help them to offset the impact of some of the nutritional cuts in this bill.

Through these efforts, we all have to recognize, as I said in 1992, the best anti-poverty program is still a job. I want to congratulate the members of Congress in both parties who worked together on this welfare reform legislation. I want to challenge them to put politics aside and continue to work together to meet our other challenges and to correct the problems that are still there with this legislation. I am convinced that it does present an historic opportunity to finish the work of ending welfare as we know it, and that is why I have decided to sign it.

Q. Mr. President, some civil rights groups and children's advocacy groups still say that they believe that this is going to hurt children. I wonder what your response is to that. And, also, it took you a little while to decide whether you would go along with this bill or not. Can you give us some sense of what you and your advisers kind of talked about and the mood in the White House over this?

The PRESIDENT. Sure. Well, first of all, the conference was not completed until late last evening, and there were changes being made in the bill right up to the very end. So when I went to bed last night, I didn't know what the bill said. And this was supposed to be a day off for me, and when I got up and I realized that the conference had completed its work late last night and that the bill was scheduled for a vote late this afternoon, after I did a little work around the house this morning, I came in and we went to work I think about 11:00.

And we simply—we got everybody in who had an interest in this and we went through every provision of the bill, line by line, so that I made sure that I understood exactly what had come out of the conference. And then I gave everybody in the administration who has there a chance to voice their opinion on it and to explore what their views were and what our options were. And as soon as we finished the meeting, I went in and had a brief talk with the Vice President and with Mr. Panetta, and I told them that I had decided that, on balance, I should sign the bill. And then we called this press conference.

Q. And what about the civil rights groups—

The PRESIDENT. I would say to them that there are some groups who basically have never agreed with me on this, who never agreed that we should do anything to give the states much greater flexibility on this if it meant doing away with the individual entitlement to the welfare check. And that is still, I think, the central objection to most of the groups.

My view about that is that for a very long time it's hard to say that we've had anything that approaches a uniform AFDC system when the benefits range from a low of $187 a month to a high of $655 a month for a family of three or four. And I think that the system we have is not working. It works for half the people who just use it for a little while and get off. It will continue to work for them. I think the states will continue to provide for them.

For the other half of the people who are trapped on it, it is not working. And I believe that the child support provisions here, the child care provisions here, the protection of the medical benefits—indeed, the expansion of the medical guarantee now from 1998 to 2002, mean that on balance these families will be better off. I think the problems in this bill are in the non-welfare reform provisions, in the nutritional provisions that I mentioned and especially in the legal immigrant provisions that I mentioned.

Q. Mr. President, it seems likely there will be a kind of political contest to see who gets the credit or the blame on this measure. Senator Dole is out with a statement calling—saying that you've been brought along to sign his bill. Are you concerned at all that you will be seen as having been kind of dragged into going along with something that you originally promised to do and that this will look like you signing onto a Republican initiative?

The PRESIDENT. No. First of all, because I don't—you know, if we're doing the right thing there will be enough credit to go around. And if we're doing the wrong thing there will be enough blame to go around. I'm not worried about that. I've always wanted to work with Senator Dole and others. And before he left the Senate, I asked him not to leave the budget negotiations. So I'm not worried about that.

But that's a pretty hard case to make, since I vetoed their previous bills twice and since while they were talking about it we were doing it. It's now generally accepted by everybody who has looked at the evidence that we effected what the New York Times called a quiet revolution in welfare. There are 1.3 million fewer people on welfare today than there were when I took office.

But there are limits to what we can do with these waivers. We couldn't get the child support enforcement. We couldn't get the extra child care. Those are two things that we had to have legislation to do. And the third thing is we needed to put all the states in a position where they had to move right now to try to create more jobs. So far—I know that we had Wisconsin and earlier, Oregon, and I believe Missouri. And I think those are the only three states, for example, that had taken up the challenge that I gave to the governors in Vermont a couple of years ago to start taking the welfare payments and use it for wage subsidies to the private sector to actually create jobs. You can't tell people to go to work if there is no job out there.

So now they all have the power and they have financial incentives to create jobs, plus we've got the child care locked in and the medical care locked in and the child support enforcement locked in. None of this could have happened without legislation. That's why I thought this legislation was important.

Q. Mr. President, some of the critics of this bill say that the flaws will be very hard to fix because that will involve adding to the budget and in the current political climate adding the expenditures is politically impossible. How would you respond to that?

The PRESIDENT. Well, it just depends on what your priorities are. For one thing, it will be somewhat easier to balance the budget now in the time period because the deficit this year is $23 billion less than it was the last time we did our budget calculations. So we've lowered that base $23 billion this year. Now, in the out years it still come up, but there's some savings there that we could turn around and put back into this.

Next, if you look at—my budget corrects it right now. I had $42 billion in savings, this bill has about $57 billion in savings. You could correct all these problems that I mentioned with money to spare in the gap there. So when we get down to the budget negotiations either at the end of this year or at the beginning of next year, I think the American people will say we can stand marginally smaller tax cuts, for example, or cut somewhere else to cure this problem of immigrants and children, to cure the nutritional problems. We're not talking about vast amounts of money over a six year period. It's not a big budget number and I think it can easily be fixed given where we are in the budget negotiations.

Q. The last couple days in these meetings among your staff and this morning, would you say there was no disagreement among people in the administration about what you should do? Some disagreement? A lot of disagreement?

The PRESIDENT. No, I would say that there was—first of all, I have rarely been as impressed with the people who work in this administration on any issue as I have been on this. There was significant disagreement among my advisers about whether this bill should be signed or vetoed, but 100 percent of them recognized the power of the arguments on the other side. It was a very moving thing. Today the conversation was almost 100 percent about the merits of the bill and not the political implications of it. Because I think those things are very hard to calculate anyway. I think they're virtually impossible.

I have tried to thank all of them personally, including those who are here in the room and those who are not here, because they did have differences of opinion about whether we should sign or veto, but each side recognized the power of the arguments on the other side. And 100 percent of them, just like 100 percent of the Congress, recognized that we needed to change fundamentally the framework within which welfare operates in this country. The only question was whether the problems in the non-welfare reform provisions were so great that they would justify a veto and giving up what might be what I'm convinced is our last best chance to fundamentally change the system.

Q. Mr. President, even in spite of all the details of this, you as a Democrat are actually helping to dismantle something that was put in place by Democrats 60 years ago. Did that give you pause, that overarching question?

The PRESIDENT. No. No, because it was put in place 60 years ago when the poverty population of America was fundamentally different than it is now. As Senator Moynihan—you know, Senator Moynihan strongly disagrees with me on this—but as he has pointed out repeatedly, when welfare was created the typical welfare recipient was a miner's widow with no education, small children, husband dies in the mine, no expectation that there was a job for the widow to do or that she ever could do it, very few out-of-wedlock pregnancies and births. The whole dynamics were different then.

So I have always thought that the Democratic party should be on the side of creating opportunity and promoting empowerment and responsibility for people, and a system that was in place 60 years ago that worked for the poverty population then is not the one we need now. But that's why I have worked so hard too to veto previous bills. That does not mean I think we can walk away from the guarantee that our party gave on Medicaid, the guarantee our party gave on nutrition, the guarantee our party gave in school lunches, because that has not changed. But the nature of the poverty population is so different now that I am convinced we have got to be willing to experiment, to try to work to find ways to break the cycle of dependency that keeps dragging folks down.

And I think the states are going to find out pretty quickly that they're going to have to be willing to invest something in these people to make sure that they can go to work in the ways that I suggested.

Yes, one last question.

Q. Mr. President, you have mentioned Senator Moynihan. Have you spoken to him or other congressional leaders, especially congressional Democrats? And what was the conversation and reaction to your indication?

The PRESIDENT. Well, I talked to him as recently, I think, as about a week ago. When we went up to meet with the TWA families, we talked about it again. And, you know, I have an enormous amount of respect for him. And he has been a powerful and cogent critic of this whole move. I'll just have to hope that in this one case I'm right and he's wrong—because I have an enormous regard for him. And I've spoken to a number of other Democrats, and some think I'm right and some don't.

This is a case where, you know, I have been working with this issue for such a long time—a long time before it became—to go back to Mr. Hume's question—a long time before it became a cause celeb in Washington or anyone tried to make it a partisan political issue. It wasn't much of a political hot potato when I first started working on it. I just was concerned that the system didn't seem to be working. And I was most concerned about those who were trapped on it and their children and the prospect that their children would be trapped on it.

I think we all have to admit here—we all need a certain level of humility today. We are trying to continue a process that I've been pushing for three and a half years. We're trying to get the legal changes we need in federal law that will work to move these folks to a position of independence where they can support their children and their lives as workers and in families will be stronger.

But if this were an easy question, we wouldn't have had the two and a half hour discussion with my advisers today and we'd all have a lot more answers than we do. But I'm convinced that we're moving in the right direction. I'm convinced it's an opportunity we should seize. I'm convinced that we have to change the two problems in this bill that are not related to welfare reform, that were just sort of put under the big shade of the tree here, that are part of this budget strategy with which I disagree. And I'm convinced when we bring those things out into the light of day we will be able to do it. And I think some Republicans will agree with us and we'll be able to get what we need to do to change it.

Thank you.

The PRESS. Thank you.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I understand Senator SPECTER is next, and I might ask, will the Senator yield me 1 minute without losing his right?

Mr. SPECTER. I do.

Mr. DOMENICI. Mr. President, if I was representing President Clinton, as my good friend from Nebraska has, I would be trying to divert attention to what Senator Dole might do. I would be diverting attention away from Senator Dole who might cut taxes for the American people because, speaking of a dismal record, the President seeks to hide behind a statistic that says we have had great economic growth. But the big fairy tale, to borrow a word from my friend from Nebraska, is that we have had the second lowest productivity growth in 50 years; real-wage growth is the lowest in 32 years; stagnant family incomes like we have never seen; tax burdens have risen sharply, almost 1 whole percent more of tax burden on the American people.

That is why they do not think we are doing very well. That is why they say: What is happening to our salaries and our wages?

Now, having said that, clearly if I had that record, I would be worried and trying to set up a smokescreen as to what Bob Dole might do when they do not even have the slightest idea what Bob Dole is going to do; he has not told anyone. We anxiously await a plan which will dramatically improve these kinds of economic facts. That is what we hope for.

I thank the Senator for yielding time to me.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Pennsylvania?

Mr. DOMENICI. I have already yielded to him in sequence. I stated it, but I did not state how much time.

Mr. SPECTER. I may be able to do it in less than the 20 minutes I request. I will try to.

Mr. DOMENICI. I hope the Senator will try. The Senator is yielded up to 20 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I support the welfare reform bill with substantial reservations. I support the welfare reform bill because I think it is our best chance to break a pattern which has existed for decades where people rely upon welfare and find themselves dependent upon welfare and have no way to break out of the welfare cycle, the welfare chain to find jobs. I believe this legislation, while far from perfect—it does not contain many amendments that I voted for—is the best chance to do it at this time.

This legislation has advanced to this stage with substantial bipartisan support; 23 of 46 Democrats voted for this bill. The President of the United States has stated his intention to sign the bill when it reaches his desk if the conference report is passed. It seems to be a very high probability.

One of my colleagues on the Republican side has voted against the bill because it is not tough enough, not strong enough in limiting welfare benefits. Those are some of the indicators that this bill perhaps is, if not balanced, about as good a job as we could do given the problems of our society and given the problems of a campaign year.

I think it does not advance our cause at all to talk about Bob Dole and Willy Loman or to talk about a Republican majority coming to its wits, but, instead, to try in a bipartisan way to fashion welfare reform which will serve the American people, which will help take those on welfare off welfare, because I think it is certainly true that people on welfare would much rather have a job and not be on welfare, and to try to take away the burden of this entitlement on our society.

The issue of welfare reform is something which this Senator has been concerned about for a long time. In the 99th Congress, I cosponsored S. 2578 and S. 2579 with Senator MOYNIHAN, those bills being directed toward improving the welfare system. In the 100th Congress, I introduced similar legislation on a bipartisan basis with Senator DODD, and then worked closely with Senator MOYNIHAN on the legislation that first became comprehensive welfare reform on the 1988 Family Welfare Reform Act, which was signed by President Reagan.

This year, after welfare reform had faded from the picture, after the President's vetoes, I joined my colleague from Delaware, Senator BIDEN, on June 12 in introducing bipartisan legislation captioned S. 1867, which was an identical bill to a bipartisan bill introduced by Congressman CASTLE and Congressman TANNER in the House.

The Biden-Specter bill was not successful, nor was the Chafee-Breaux proposal successful, both of which would have eased the problems for children and eased the problems for immigrants, and I think made for a more orderly transition on welfare reform.

I regret very much that Senator BREAUX's amendment did not pass, Senator BREAUX's amendment being directed to provide vouchers for children beyond the 5 years. Senator FORD's amendment did not pass. It was a narrow vote. I supported it. It would have provided noncash benefits after 5 years.

We have crafted a bill here which takes out a good bit of the inflexibility which was presented in the legislation by the House of Representatives and comes somewhat close to the bill which passed the Senate last year by a lopsided vote of 87 to 12.

Mr. President, this bill does provide an opportunity for those who are on welfare to take a job which they would have never taken before because there are many jobs which pay less than their welfare benefits. Why would someone take a job which pays less than their welfare benefits? They stay on welfare.

This legislation, going to a core issue, will provide an opportunity for someone to take a job which pays less than welfare, which that individual would not now take since welfare pays more, because there will be flexibility to add a supplement, so that there will be a supplement from welfare funds, which means the welfare payment is less and the individual will be getting more with his lower wage in the private sector and the welfare supplement, and will have the benefit of Medicaid where the employer does not pay health benefits. So there is an opportunity to move from the welfare roll to the payroll.

This legislation provides that able-bodied individuals will be limited as to how long they can be on welfare, receiving 2 years of assistance if they are not working; lifetime benefits are limited to a maximum of 5 years, but the States do have flexibility to provide a hardship exemption up to 20 percent of the State's caseload if those requirements are not met. This, I think, is realistically calculated to encourage able-bodied men to work.

With respect to finding jobs, there is job training provided and flexibility to the States, and the States are given substantial incentive to take individuals off the welfare rolls.

This legislation also moves to a core problem of teenage mothers who are on welfare with the requirement that they live at home unless there is some showing that there is brutality at home or something which is incompatible with living at home. But the teenage mothers are required to live at home. They are required either to be in school or on jobs or in job training, and there is a very substantial amount of funding in this bill for child care so that mothers can realistically do that.

There are some provisions in this legislation which I think should have been corrected. I think the amendments offered to leave noncitizens on the welfare rolls and apply the limitations only to the future would have been more sensible so people who come into the United States would have notice that they are not going to have the benefits. I think the moratorium which was suggested on Medicaid benefits would have been sensible.

This bill provides for tough enforcement measures for child support, so parents have an obligation to support their children.

When you take a look at this legislation in its totality, it is a step in the right direction. It has been crafted in a contentious political year where there are deep political divisions in the Congress, so there is a substantial block of Democratic support—23 Democrat Senators having voted for it; an equal number on the other side. The President, a Democrat, has stated his intention to sign the conference report. There is very substantial support on the Republican side, with one Republican Senator having voted against it because it gives too much to welfare recipients. But there is a real need to move ahead, to try to give people an opportunity to have jobs.

During my tenure as district attorney of Philadelphia, I saw many people in that big city trapped in the welfare cycle. I think, when they have an opportunity to take a job which is a low-paying job, they are not going to take it today if they lose medical benefits under Medicaid and they get less on the low-paying job than they have on welfare. But, when you have flexibility with the States—and there are many examples where the States have moved ahead on a flexible system, Wisconsin, illustratively, Michigan, illustratively, and other States. Governor Thompson is ending welfare, not just talking about it but ending welfare in 1997—this welfare bill goes a substantial distance.

I know it is going to result in some holes in the safety net. But we will have an opportunity to revisit those issues. But taken as a whole, my view is it is a significant step forward, and that is why I am supporting it.

I yield the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time to the Senator from Illinois? The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I understand the Senator from Nebraska is not on the floor as yet.

The PRESIDING OFFICER. The Senator may yield herself time.

Ms. MOSELEY-BRAUN. I will do so.

Mr. EXON. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. I yield to the Senator from Nebraska for a question.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my colleague for yielding. Before she starts in on her speech, which I assume is on her objection to the welfare bill, but she may be talking about economics because she has been very much involved in things that we need to do to shape up America, I want to ask her a question. Did the Senator hear when the Senator from New Mexico made quite a point in answer to my dissertation on supply-side economics and skyrocketing deficits that have been corrected and turned around by President Clinton? He was complaining about the productivity of America.

If we want to look at the productivity of America, I think we ought to put that in terms that people can understand: not productivity, but job growth. The percentage of change on an annual basis during the Reagan/Bush years—and I think it is consistent because I talked about the Reagan/Bush years and the skyrocketing deficits that were created then—all during those Reagan/Bush years, the private sector job growth was 1.6 percent. Under President Clinton it is 2.9 percent. That says something about productivity, does it not?

Does that not say also something about jobs and job creation, which is what the economy is all about?

Ms. MOSELEY-BRAUN. It certainly does.

Mr. EXON. I thank my friend from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I say to my colleague from Nebraska, my colleague referenced the fact that I am kind of an armchair economist. I like these issues. But I must tell you, I find it more than a little ironic on a day on which we are talking about how well the American economy is doing, we are declaring defeat and failure on our response to poverty and throwing in the towel on poor children in America.

I point out, in the first instance, I have heard a lot of discussion about the numbers pertaining to this welfare ''reform'' debate, about how much money is being spent. For the general public, it sounds like an awful lot of money because that is what we do here. We talk about a budget that is almost $2 trillion. So the numbers associated with welfare, which impacts very dramatically on the lives of the most vulnerable people in our society, sound like an awful lot of money. Still, all told, those numbers relate to about—well, actually less than 1 percent of the Federal budget. It is 1 percent of the Federal budget, but that has an impact on Americans, particularly American children who are poor, greater than the other 99 percent that we spend. I just want to put that in context.

Mr. President, the French have an expression, if I may in my broken French, ''plus ca change, plus c'est la meme chose,'' and it means essentially the more things change the more they remain the same. The fact of the matter is, this bill no more warrants the title ''reform'' than any of its predecessors. This bill is still an abomination, which is what I called the previous bill, and I intend to vote against it for precisely that reason—and I keep coming back to the question, and no one has answered the question: What about the children? What happens to them when all is said and done, with all the cuts and the changes that we are making in this legislation?

When I talk about the children, I talk about them in the context that, again, welfare is simply a response to poverty. The system is broken. It needs to be reformed and fixed. The problem, however, is that, that is not what this bill does. Welfare reform should not be about pushing people, and pushing children particularly, into poverty.

The Urban Institute has concluded that 1.1 million children will be thrown into poverty by this bill. Estimates for previous welfare bills passed by the Congress were 1.5 million children thrown into poverty. Now 1.1 million is less than 1.5 million, but it is still too many. The earlier Senate bill would have cut off 170,000 children in my home State of Illinois because their families had reached the time limits. That is about 28 percent of the children presently receiving the AFDC subsidy in my State.

I want to talk about AFDC again, the misconceptions and the welfare mythology, because there has been a whole lot of conversation about how this system is broken, let us turn it over to the States, let us let them do it. That is where I come back to the notion that we have ''been there, done that.'' This is called ''back to the future.''

I have to mention that the Presiding Officer and I worked together, when we first got here, on the whole question of unfunded mandates and the relationship between State and Federal Government. But it is precisely that relationship that is at the base of the debate going on here. For those who do not know the history, I want to refer my colleagues to the history of what happened before we had a national safety net for poor children in this country.

I have referenced previously this issue, I am looking at the spring 1995 issue of Chicago History magazine. I want to read the title of the article, ''Friendless Foundlings and Homeless Half-Orphans.'' I never read the first line, which I think I will share with my colleagues. It says:

> In 19th century Chicago, the debate over the care of needy children raised issues of Government versus private control and institutional versus family care.

Mr. President, that is exactly the argument I have heard all day long on this welfare debate in this Senate today. So we are facing some of the same issues and some of the same questions that came up in our country 100 years ago.

Let me show you what State flexibility got us last time, Mr. President. The last time we had State flexibility, we had children sleeping in the streets, which was the first poster.

Here is another one. This is another part of the experiment, again, the history that people maybe have forgotten. The fact is, they were scooping children up from the alleys in New York, shipping them to Rockford, IL, and auctioning them off. This is what happened with poor children.

This is the ''Asylum Children'':

A company of children, mostly boys, from the New York juvenile asylum will arrive in Rockford, IL, and remain until evening. * * * they are from 7 to 15 years of age. * * * Homes are wanted for these children with farmers. * * *''

This is the response States came up with before we had a national safety net.

I have another poster which another response by states called the orphan trains. To be candid, maybe Speaker GINGRICH really had studied the history when he talked about we will just have to put these kids in orphanages. That is what happened at the turn of century. They took children from the alleys of New York, put them on trains and took them out West to give them homes. Some are still living and can give testimony to what happened before we had a national safety net for poor children in this country, and getting rid of that safety net is what this so-called welfare reform is all about. We are rending that safety net apart just because it has not worked.

Mr. President, I submit to you, it may not have worked, but we can do better by way of reforming it. This is not reform. Real welfare reform would mean we give people jobs, we give them some way to work, we give them some way to take care of themselves, we give them some way to take care of their children. That would be real welfare reform. That is not what this legislation does.

Mr. DOMENICI. I wonder if the Senator will yield for a question.

Ms. MOSELEY-BRAUN. Only if it will not take from my 20 minutes.

Mr. DOMENICI. I ask it be on my time.

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

Mr. DOMENICI. In all those cases you described, 1900 in Chicago, 19th century, do you have any idea how much the States and the National Government was spending on these kinds of poor people then?

Ms. MOSELEY-BRAUN. It depended on the State. In fact, I commend the article to my colleague. What they say here is depending on the State—some States had better programs for handling poor children than others—in fact, one of the tragic things about it, and I was kind of ashamed, my State of Illinois did not do well with poor children.

Mr. DOMENICI. I was wondering if you knew how much we were going to be spending on these programs, including food stamps, which is an entitlement. One-hundred thirty billion dollars.

Ms. MOSELEY-BRAUN. I say to my colleague, I am prepared to debate this with you, but, in the first place, again, that is less than 1 percent of the budget. We spend that much in an afternoon on some other programs that I know my esteemed colleague supports. But I also point out to my colleague that this bill cuts $54 billion from these programs over the next 6 years in the name of welfare reform, with most of the cuts coming out of food stamps and coming out of help for legal immigrants.

The real problem, Mr. President, is that this bill is not designed to move people from welfare to work. There is not an adequate investment in child care, in job training or in job creation, factors which are critical to moving people into the work force.

Instead, this bill is arguably about saving money. The $54 billion cut simply represents, and I again go back to unfunded mandates, a shift in funding from the Federal to the State and the local governments. Poor people are not going to go away the day this legislation goes into effect, and in light of the fact we have failed to provide for any employment, we have failed to create any jobs, we have failed to provide adequate child care funding, we have failed to address the fundamental causations of poverty, the fundamental reasons they are poor to begin with, e.g., they do not have a job to take care of themselves. And, we are talking about the able-bodied people. Unfortunately, the fine print of this bill also has an effect on non-able-bodied people as well.

Nonetheless, the fact is, with regard to able-bodied, anybody who can work should work, and anybody who can work ought to take care of their own children. But this bill makes no provision for that, and that is the fundamental problem. On October 1, the effective date of this legislation, there still will be areas in this country with excessive poverty and excessive unemployment. Those people, Mr. President, are not going to go away.

I point out that the Congressional Budget Office has said that most States will not and cannot meet the work requirements in this bill. That alone should tell us that something is wrong with this picture. If the work requirements are not met, and that means the people do not have jobs and families then get cut off because of the time limits in the bill, then what happens? What do these people do with their children?

Do we put them on trains and send them out West? Do we scoop them out of alleys and auction them off? What are we going to do with the children? That is the essential question that has not been answered: What happens to the children once the time limits are reached, once the assistance is cut off?

There is no provision for them. Even assuming for a moment the 20-percent cushion that is given in here, the kind of hardship exemption that States can use or the title XX funding, the entire program along with the title XX funding are cut about 15 percent in this bill. This entire thing is predicated on cutting money. So you are talking about less money for a problem that is going to result in the great unanswerable about what it is we do with children.

Are we going to have the State and local governments pick up the costs associated with the children of the jobless poor? Or are we going to then say, ''Well, private charities can pick it up''? What do we do about these children?

And then, Mr. President, and this is where we get to Speaker GINGRICH's remark about orphanages, what do you do when you have someone who has reached the time limit, has children, still does not have a job and cannot feed those children? Do we then start child custody cases in the State courts of this Nation? Do we then put them in orphanages, as the Speaker suggested? No one has answered that question.

Mr. President, I have a friend who is a juvenile court judge back in Illinois, and she tells me that she already is seeing cases that come in as child neglect cases which really are a reflection of people who do not have enough money to take care of their children. She is seeing that happen already.

Mr. President, this legislation that we are calling by the misnomer of ''reform'' is going to exacerbate that problem. This bill does not provide enough money for people to go to work. It does not provide any job training, it does not provide any jobs, it does not provide any education, it does not provide adequate child care, and we are going to see an increase in costs passed along to State and local governments.

On the child care question, are we now going to also see an increase in latchkey kids and ''home alone'' children, because the bill requires for those who do get employed that they go work. So if you are able-bodied and can find a job, you must, under this legislation, come off welfare, you have reached the limit, you have to go to work. What if you have a 3-year old child? Where does that child go? There is inadequate money, as the Presiding Officer, I know, is well aware, inadequate money to pay for child care.

The Governors and the mayors will discover that this bill, which in the beginning looked like it offered them something significant, is really a Trojan horse. We are going to deliver to the Governors and the mayors the responsibility for masses of poor children that we, as national legislators, do not want to face.

I ask unanimous consent to have printed in the RECORD a letter from the National Association of Counties urging us to vote against this welfare bill because, and I quote, ''counties will bear the brunt of the cost shift and will be left with only two options: to cut essential services, such as law enforcement and fire protection, or to raise local taxes.''

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

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, July 30, 1996.

DEAR SENATOR: The National Association of Counties (NACo) urges you to vote against the conference agreement on welfare reform (H.R. 3747). If this bill is enacted, counties will bear the brunt of the cost shift and will be left with only two options: to cut essential services, such as law enforcement and fire protection, or raise local taxes. Counties are already developing more efficient welfare programs, but there is no way we can absorb the federal government's costs all at once.

NACo has long standing policy supporting the entitlement nature of Aid to Families with Dependent Children (AFDC) and opposing funding caps including those in the legislation. Ending the entitlement for AFDC essentially dismantles the federal safety net for children.

We also oppose the denial of benefits to legal immigrants. NACo has consistently opposed denying Supplemental Security Income and Food Stamps to this population. These provisions will disproportionately affect counties in states with large immigrant populations. The California State Association of Counties estimates that the legal immigrant exclusions will cost California counties more than $10 billion over six years.

Counties are also deeply concerned about the legislation's work requirements. Because of the funding cap, the bill lacks the sufficient funds to meet these requirements and operate welfare to work programs efficiently and could result in substantial unfunded mandates. Minnesota counties alone said that they would need to spend about $44 million to meet the work requirements for FY 1997. Since the participation rates increase every year, this cost will increase as well. Able-bodied individuals should be expected to work, but effective programs require substantial initial investments and counties cannot be expected to pick up the full costs.

The bill will ultimately shift costs and liabilities, create new unfunded mandates upon local governments, and penalize low income families. NACo therefore urges you to vote against the conference agreement.

Sincerely,

MICHAEL HIGHTOWER,
President.

Ms. MOSELEY-BRAUN. Mr. President, no one is here to argue that the current welfare system is a wonderful and perfect response to poverty. It is not. We do want to encourage independence. We do want to encourage family structure. We want to discourage illegitimacy, give people an opportunity to come together, create families, raise their children and take care of them themselves.

We want to inspire hope in our people. We want to lift Americans out of poverty. Poverty should be something we have conquered in this great Nation with such a healthy economy as we heard tell about today. But we have not gotten there.

As we tinker with this situation, as we try to work this situation, we cannot just say we are going to slash the money, cut the money, send it to the States and try to do reform on the cheap, which is what this bill does. Governor Thompson—and it has been talked about as the great welfare experiment out of Wisconsin—Governor Thompson acknowledges that welfare reform has to encompass jobs, child care, and creation of real opportunity for people. That costs money. You cannot do it on the cheap. And that is not what is in this legislation.

Believe it or not, Mr. President, I actually pray that this approach is going to work. I mean, it is hard to say. I pray it will because, quite frankly, I do not want to see the harm that this history suggests that we are about to visit again. I do not want to see this happen to anybody, particularly poor children in a country as great as ours.

But I have to tell you something. I believe that it is a fundamentally flawed premise that if you simply stop giving people assistance, if you stop helping them with their subsistence, they will go to work and stop having babies. If this bill cures illegitimacy, dependency, joblessness and hopelessness, I will congratulate my colleagues who support this legislation. However, Mr. President, I tell you it is not likely to happen.

For all of the rhetoric about reforming the welfare system and helping the poor take care of themselves, this bill provides nothing—nothing—to help them get there. Cutting the income of the poorest Americans will not reduce the number of poor babies. It will not. It is not likely that we will cure the problem of dependency by just cutting people off and telling them their children's needs can just fall off the edge of the Earth. That is why the legislation is so flawed.

Mr. President, I also question whether or not the savings in this bill coming from food stamps and the elimination of benefits for illegal aliens is going to help move people from dependency to independency. I doubt this legislation is going to do anything about providing protections for children after all title XX, the social services block grants, are cut in this legislation by some 15 percent.

So we are doing, I think, great harm to children. There are some, Mr. President, who suggest that this bill is not perfect, that we can fix the flaws later. I do not think, Mr. President, that it is appropriate for us to play games and to be so generous with the suffering of the poor, with the potential and the effect on their lives this legislation suggests. We do not have the luxury of guessing in this area and making policy based on mythology and not on fact. This system may be broken, but the fact is that it affects the lives of real people.

We have been talking in this Chamber about the States and their interests, about the system and how it operates or does not operate. The fact is, they are real people, real lives and real faces and real feelings and children who deserve a chance in this, the greatest country on the planet.

We are not giving them this chance, Mr. President, with this legislation. That is why I do not believe that we can call this reform in good conscience. I believe that, unfortunately, this is again back to the future, to the politics of 100 years ago, where we saw this happen before in history. They were not any more or less compassionate than we are today.

This Senate does not hold a monopoly on vision or compassion or political will. The fact of the matter is, we are responding, this legislation is a response to the same political will that existed at the time.

We have met the challenge of poverty, and we have declared failure, and we have declared retreat. I think that is a real ironic situation for us to face in light of the good economic news that was given today.

In closing, Mr. President, I say to you this. I hope that the political calculation that says that we can experiment like this based on the vulnerability and the lack of political clout of people who do not vote or who cannot vote, I believe that that is political expediency. It does a disgrace to the well intentions of the Members of this body.

I know this bill is going to pass. It has the votes. And this is my third time giving a speech on this subject. But I can tell you, Mr. President, we are going back to the future. This is history repeating itself. And all we can do is pray that the harm to the children does not become what everything tells us it is likely to be. I yield to the Senator from Washington.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. Based on a previous agreement, the next Senator to be recognized would be the Senator from North Carolina. The Senator from Washington, as the floor manager, is recognized.

Mr. GORTON. Mr. President, that is correct. I think we do have an agreement to go back and forth. And just simply for——

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Except, I say to my colleague from Washington, I believe, Mr. President, I had 20 minutes allocated to me. I do not believe I have used up the 20 minutes.

The PRESIDING OFFICER. All time has expired.

Ms. MOSELEY-BRAUN. All time has expired? All right. Thank you.

Mr. GORTON. Mr. President, just for Republican purposes, the next four Republicans listed in order are Senators FAIRCLOTH, GRASSLEY, CHAFEE and GREGG in that order. But, as I understand, we go back and forth. So after Senator FAIRCLOTH, the Democrat will be—is that Senator BRADLEY or Senator BOXER? Senator BRADLEY.

I yield 10 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Chair may clarify. The Democratic order would be the Senator from New Jersey, then the Senator from North Dakota, the junior Senator from the State of Washington, and then the Senator from Montana.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, it is my understanding that after I speak, then it would be the Senator from California. I know the Senator from New Jersey speaks after the Senator from North Carolina. The Senator from North Carolina shall speak, and then I will speak.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 10 minutes.

Mr. FAIRCLOTH. Mr. President, I had asked for 15 minutes. I see I was allocated 10. I think that will probably handle it. But I had been granted 15.

Mr. GORTON. If the Senator would yield, we are beginning to run out of time. The next three Republicans are even going to get 10 minutes. So we hope the Senator can do it in that.

Mr. FAIRCLOTH. I hope I run out of speech before I run out of time.

Mr. President, I said many times, and many times over, that in this welfare debate we have not addressed the root cause of welfare, and that is illegitimacy. The root cause of welfare dependency is illegitimacy. Until we address that, we will not have addressed the root cause of welfare. And my belief has only been strengthened by what I have seen during this year of welfare debate.

Some of the weaker points in the welfare bill have been strengthened by the conference. The conference report contains a provision for work for welfare recipients, a concept known as pay for performance. If you have ever heard of anything ludicrous, it would be being paid not to perform work. Only in the Federal Government, only in the welfare system could anybody conceive of not having to work to get paid, where that would be an unusual concept that you had to require pay for performance. It is incomprehensible to me that anybody would be paid that did not perform.

To truly reform welfare, we have to reverse the current welfare policies which subsidize and promote self-destructive behavior and illegitimacy. These policies are and have destroyed the family.

This conference report will serve as a good starting point for changing welfare in a culture that is based entirely on a system of personal responsibility. That is where we need to return to—a system based on personal responsibility.

I have heard several times here today that we could correct the mistakes in this bill at a later date. I think by correcting mistakes, they meant make it a softer, weaker bill. I hope we will correct the mistakes by making it a stronger, better bill and put more emphasis on personal responsibility.

I had hoped this bill would contain, like a previous conference report, a provision known as the family cap. In plain language, the family cap says that if you are a welfare recipient drawing AFDC and have more children, you do not get more money for having more children.

We did not put that in this bill. We absolutely should have. It is one of the glaring weaknesses of it, that you can continue to have children and continue to be paid by the taxpayers. The middle class American family that wants to have children has to prepare, to plan, to save, to accept, to take on the responsibility of having children. At the same time, we are taking their tax money to support these people who are not accepting personal responsibility and having children, on and on and on. We are taxing the working people that plan to have children. We are taking their money to pay for this irresponsible behavior.

Today, more than one in every third child is born out of wedlock, and in many communities it can go up to 85 percent. Children born out of wedlock are three times more likely to be on welfare when they become adults, and children raised in single-parent homes are six times more likely to be poor and twice as likely to commit crimes.

It is clear that the cost of this has become an extreme burden on the American people. Each year, half a million children are born to teenage mothers. Over 75 percent of these occur out of wedlock. The estimated cost to the American people, our taxpayers, are $29 billion to care for society's part in child-bearing adolescents under 18. That is the stated cost to the American people.

I commend the conferees who were able to restore an important provision of the bill. This is the funding for the abstinence education program which I initially offered as an amendment to our first Senate bill. Abstinence education has worked in those counties, cities, and States that have put it in. It has done as much or more to break the cycle of out-of-wedlock pregnancies and teenage welfare recipients as anything we have done. I plan to continue to promote this program and to introduce it again in later bills.

After 30 years of the so-called Great Society, we are on the verge of passing legislation that will return welfare to what it was supposed to have been 50 or 60 years ago. Actually, when it was first began, it was temporary help for responsible individuals who had fallen on hard times. It is no longer that. We have converted it to a way of life in which generation after generation after generation receive welfare. It is not temporary help for those people who have had a hard time. No, we have taxed these people; we have spent $5.2 trillion to create the worst system that was ever made. Nobody likes it. It is long since time that we change what we have been doing. It is not designed for people on hard times. It is designed as a way of life for people who choose not to work.

With the $5.2 trillion we put into it—$5.2 trillion is very close to the exact amount of our national debt—we have more poverty than we had when we started. When we started this program of AFDC about 33 or 34 years ago, less than 7 percent of the children were born out of wedlock. By subsidizing illegitimacy, we now have it to over 37 percent of the children, and it is rapidly rising. It is even agreed by the President that it will soon exceed 50 percent of the children in this country.

It is long since time that we do something about it. This bill makes a start. This bill makes a start. We are going to see the States that fully implement the work requirements, that fully implement the requirements that people work for their welfare, they are going to see such a great response and reduction in their welfare rolls until they will be applauded, and the other States will attempt to emulate and copy what they are doing.

I hope most of the States will take advantage of the opportunity given them to cut their welfare rolls, and they will see a dramatic reduction and the other States will attempt to emulate.

The real test ahead will be changing the lives of today's welfare recipients by helping them become self-sufficient and ensuring that fewer and fewer people will come to need welfare. That is the real purpose of what we are trying to do, bring people to accept personal responsibility. I believe this bill will do it. I intend to support it.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from New Jersey.

How much time does the Senator yield himself?

Mr. BRADLEY. I yield myself 9 minutes.

Mr. President, this conference report on welfare reform is a politician's dream, a poor person's nightmare, and a continuing source of anger and frustration for the taxpaying public that wants real welfare reform.

First, what about the politician's dream? Welfare, AFDC, $15 billion out of a $1.5 trillion budget has been a political football in this country for generations; in some cases, a racialized political football, as politician after politician created in the mind of the public the idea that black women had children so they could collect $64 per month for that third child in New Jersey. This bill allows those politicians, those Federal politicians, to end welfare and claim they will end poverty and illegitimacy and mind-numbing bureaucracy with one stroke. You can send a signal to multiple constituencies under this welfare reform bill.

Mr. President, this bill is a poor person's nightmare. The Urban Institute says, as a result of this bill, there will be 2.6 million more people in America living in poverty, 1.1 million more children living in poverty, and they will be living 20 percent deeper in poverty. The gap between their income and the poverty level will be 20 percent lower.

We say to send it back to the States and they can take care of it. Mr. President, you have an economic downturn in the States, and they have a fixed amount of this money in a block grant. There is nothing that prevents them from cutting this poor person's grant more, cutting benefits, saying you cannot go beyond 3 years, 2 years, 1 year. There are no requirements that we put in this bill. It is a poor person's nightmare.

Mr. President, it is a continuing source of anger and frustration for our taxpaying public that wants real welfare reform. When the public hears ''end welfare as we know it,'' they think ''end welfare.'' When people hear that people are going to have to work for welfare, they believe what politicians say—beware. If you believe what politicians say in this bill, that you have to work for welfare, imagine how surprised those individuals who have believed the politicians' rhetoric about work and welfare, imagine how surprised they are going to be when they find out that States can pay about a $50 bounty per person instead of putting money up to put people to work.

The nonpartisan Congressional Budget Office says that most States will simply ignore the request to put people to work and instead pay the 5 percent, $50 penalty for the failure to meet the work requirements. It will pay them to do that.

Just taking one example, the biggest city, New York City, which operates the largest work program in this country. Only 32,000 welfare recipients are in it out of 850,000 New Yorkers on welfare. The reason? Not because they do not want to do it—lack of money to create jobs.

The mayor of New York City said that to meet the work requirements in the bill, the city would need $100 million more than it will receive in this block grant. It can't do it, and so it will pay less, pay the $50 bounty per person, to get out from under that work requirement. The politicians who claim the bill will put people to work will suddenly discover a lot of people are not working.

Imagine, there are those who think this bill will promote marriage. This bill will not promote marriage at all. This bill will not promote two-parent families. This bill will not promote reward for marriage. This bill will not promote reward for work or penalties for additional children. This bill will not change the face of the bureaucrat that sits in his or her State office listening coldly to whatever is said, responding in a way that is at least insensitive and often demeaning. This bill will not change that.

Imagine you are a taxpaying citizen in a State that has tough economic times. The State will have a lot more people on welfare, and their block grant may not cover them. The only way you are going to get more is by raising taxes. Imagine how you would feel when a State three or four States over from you is in good times and it gets its block grant and only has to deploy 80 percent to welfare and can use the rest to give its citizens tax cuts. That is why you need a national program, not a program of block grants.

For those who believe in this remarkable federalism, anybody who thinks the State legislatures in Trenton, Albany, Sacramento, or wherever, are going to be more sensitive to issues related to people who are poor or to children who are poor than national legislators, I have a bridge I would like to sell you shortly after I finish speaking.

Mr. President, why is this bill such a mistake, in addition to the points that I have made? Well, when I left a small town on the banks of the Mississippi in Missouri, outside St. Louis, and went to college in New Jersey—a decision that changed my life—in St. Louis, 13 percent of the kids born that year were born to single parents. In 1994, 63 percent were born to single parents, and 85 percent of the black children were born to single parents. If we were honest about this, Mr. President, we would admit that no one knows what will change this around. No one knows what combination of incentives and penalties and values will begin to change this. That is why what we need is a Federal commitment and State experimentation, with a lot of different kinds of combinations of programs. Then maybe we can get the mix that will break this rising number of children in this country born into single-parent homes.

But what this bill creates is State chaos, not State experimentation. What this bill does is simply pass the buck from Federal politicians to State politicians; one group of politicians take the pot of money and give it to another group. Let us have a baseline. What is the illegitimacy rate in cities in this country? What is the poverty rate? What is the unemployment rate? What is the violence or crime rate? In 5 years, let us see whether this bill has miraculously changed all those statistics for the better because, deep down, that is the claim of this kind of legislation, built on generations of using this issue as a code word for a lot of other things in American politics.

Mr. President, welfare was not the cause of these rising illegitimacy rates, and so-called welfare reform in this bill will not be the solution. The silver lining—if there is a silver lining in this bill—is the child support enforcement provisions. They are the provisions that say that if you father a child, you have an obligation to support that child. I strongly support those parts of this bill. But, Mr. President, I regret to say that the rest of this bill is sorely lacking. I admit that it is a politician's dream, a message to multiple constituencies. But it is a poor person's nightmare, and it is a source of continuing anger and frustration for the taxpaying public that wants real welfare reform and will not get it in this bill.

Mr. GORTON. Mr. President, I yield 10 minutes to the senior Senator from Iowa.

Mrs. BOXER. Will the Senator yield for a unanimous consent request?

Mr. GRASSLEY. If it doesn't come off my time.

Mrs. BOXER. I ask unanimous consent that following Senator GRASSLEY, I be allowed to address the Senate for 9 minutes on another subject.

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

Mr. COATS. Mr. President, are we following an order of going back and forth?

Mrs. BOXER. I am on the Democratic list.

Mr. GORTON. Yes.

The PRESIDING OFFICER. There is a suggested list, but it is not formally agreed to.

Mr. GRASSLEY. First of all, Mr. President, we all should thank President Clinton for keeping his campaign promise of 1992 to end welfare as we know it. He announced yesterday that he would sign our legislation. After two vetoes of very similar welfare reform legislation that we passed last year, we were beginning to wonder whether or not he was serious about that campaign promise of 1992. We are glad now to know, after 4 years of talk, that he is serious about ending welfare as we know it and that he won't be stonewalling anymore and that he will be doing what he, as a Governor, said ought to be done—return more authority over to the States. So we thank him.

We also know that Congress has made a very serious effort to reform welfare. The last was in 1988. Such welfare reform was supposed to move people from welfare to work, to save the taxpayers money, to reduce those on the rolls, to move people to self-sufficiency. All of those things were proclaimed in that 1988 legislation that passed 96 to 1.

Now, 8 years later, we see 3 million more people on the welfare rolls. We see billions of dollars more being spent, and we also conclude that reform of the system, regardless of our good intentions and the reform that we were wanting to enact, did not happen.

The current welfare system has failed. The programs were well-intended, but they proved to be inefficient, they proved to be unfair and, most importantly, they proved to damage those they were meant to help. We are concerned about the children. Our present welfare program was passed decades ago out of concern for children. But after six decades, we find that our children are the POW's of the war on poverty.

This has not helped our children. It has not strengthened our families. And we are insistent, in this legislation, upon making up for those wrongs of the past. In other words, to help our children.

I said that the last time Congress tried reform we failed. We built upon what we had been doing for 60 years—to have everything run from Washington; to micromanage everything from Washington. But now, as we change the approach for the first time in 6 decades, it is not as, Senator BRADLEY tried to imply, just some casual effort to send it back to the States to solve all of our problems. No. We send it back to the States because we have seen the States succeed where we have failed. I said that we wanted to move people from welfare to work. We wanted to save the taxpayers' money. We wanted to make people self-sufficient. We have failed.

But we have seen States succeed.

My own State of Iowa in 3 years of reforms has 12 percent less people on welfare; that is 4,000 less people on welfare. The monthly checks have gone down from $371 to $335, not because we want to spend less to help families, but because there are more families working and earning income. And as a State we have seen the highest percentage of welfare recipients in the Nation in the work force at over 33 percent. Under the waiver Iowa received, we have a control group which is still under the old program. And in that control group under the old program, only 19 percent of the people have moved from welfare to work. Of those in the new program, over 33 percent of the people have moved from welfare to work.

So my State, Wisconsin, Michigan, and many other States, have a track record of succeeding on welfare reform where the Congress in our last attempt in 1988 has failed.

These local and State solutions can be—and are—more innovative and targeted. They promote new opportunities. I think they are doing what every welfare reform intends to accomplish—moving people from dependency to self-sufficiency, building self-esteem, moving people from welfare to work, saving the taxpayer dollars, and, most importantly, ending the hopelessness that welfare recipients have experienced.

In the process of passing this legislation—we are saving the taxpayers' over $55 billion. We are limiting the amount of time that people can be on welfare to a 5-year lifetime limit. We are helping recipients find jobs because they have to do this within 2 years of joining the program.

States can do better if they want to. We are turning over the management of these programs to the States because they do a better job. We do it by block grants to give the States more freedom to use their money. We are still going to have food stamp programs and child nutrition programs. But these programs as well are going to be reformed.

Most importantly, individual people have a responsibility, other than the taxpayers, to take first and primary care of their own families. Absentee dads are required to do better in providing for their kids. This in the end will do a better job than our giving government aid to the children in need.

We are going to get more for our money. Yet, we also provide for growth in this program at 4.3 percent annually. What we are hoping for here is to make sure that we provide hope for the future. Families that want self-esteem but do not have it will have the opportunity to restore it again as they work off a system that is a dead end.

Part of the hope of the future is not only that we pass this welfare reform and do good for people who are on welfare, but we hope that we are able to energize this economy so that there are more jobs not only for those who are leaving welfare for work but for people who have never been on welfare. We need to create jobs and good paying jobs at that.

We have seen during this administration a 2.4-percent growth, the slowest growth of any administration since World War II except the administration of President Nixon. If we had been experiencing the growth on average that other Presidencies have had, we would have had many more jobs created. And we would not have the situation where productivity growth has averaged a meager six-tenths of a percent per year under President Clinton's tenure compared to the 1 and one-tenth percent average pace that we have had since 1973. That productivity per worker is going to mean more wages, more job opportunities, and more take-home pay.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President.

First, I ask unanimous consent to have printed in the RECORD a number of editorials from newspapers in my home State of California in opposition to this welfare reform bill.

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

[From the Fresno Bee, July 27, 1996]

BACKWARD WELFARE REFORM

Bills passed by Congress go too far; the president should use his veto pen and demand a better legislative effort.

Once again, Congress has passed welfare bills that are more about saving dollars and winning votes than reshaping lives. As much as Americans may want to reform welfare, they don't want a system that goes from a hand-out to the back of the hand.

The House bill passed last week and a similar bill passed Tuesday by the Senate would end the 60-year-old federal guarantee of assistance to poor children. In its place, the bills substitute block grants to the states, which would have wide power to set eligibility rules for assistance, but would be required to cut off recipients after two years if they did not find work. Aid over a lifetime would be limited to five years.

There's a wide consensus that welfare needs to be converted to a jobs-oriented system. But moving welfare recipients, many of whom lack a high school diploma or marketable skills is a complex and expensive business. The most serious of the state workfare reforms, put forward by Republican governors in Michigan and Wisconsin, recognize that reform must make upfront investments—in things like job training, child care and transportation—if long-term welfare recipients or teen-age mothers are going to move into jobs and achieve self-sufficiency.

But the bills passed by Congress are more punitive than supportive. The House bill aims to save $60 billion over the next six yeas. That means many states will not receive adequate federal funds to move welfare recipients into work or to provide expanded assistance in times of recession, when job losses push more families into need.

Welfare reform doesn't require shredding the safety net for children and workers; the House bill attacks it with a cleaver. It cuts food stamp dollars and removes eligibility for adults after three months if they aren't working. That means people who worked a lifetime would be left in hunger after three months if severe unemployment, such as California has recently endured, prevented them from finding jobs. The bill would also deny food stamps to legal immigrants, regardless how hard they work.

Moderate Republicans and Democrats tried to add protections for children and working families with amendments that provide vouchers for services to children whose parents can't find work after the time limits. But the GOP majority defeated them.

Now the last line of defense for decency is once again President Clinton's veto pen. Having twice vetoed bad welfare bills, the president's political advisers are pushing him to sign any welfare bill that looks like it will redeem his 1992 pledge to reform welfare. But Clinton has already proved his welfare reform credentials by approving federal waivers for state reforms. He's already ushered in a new era in social policy around the country.

It isn't necessary to sign a bad bill to "end welfare as we know it"; Clinton should demand a bill that replaces welfare with something more promising than a stingy plan that would put a million more kids in poverty, strap local governments and take the safety net away from millions of working families.

[From the Los Angeles Times, Aug. 1, 1996]

IT'S WELFARE REFORM AT CALIFORNIA'S EXPENSE

When President Clinton signs the compromise welfare bill, as he says he will, the financial brunt will fall on California, home to more immigrants than any other state. This is unfair to California taxpayers. Immigration is a national issue and its effects should be shouldered evenly. But that's not what's going to happen.

At least 40% of all legal immigrants live in this state, and half of those in California reside in Los Angeles County. When needy noncitizens lose their federal benefits under the welfare reform most of them obviously will turn to the counties and the state for assistance. They cannot legally be denied. But how to pay for it?

State and county governments are required to provide aid to all needy legal residents. Expect lines of elderly, blind or disabled immigrants at relief agencies, for they will no longer be eligible for federal benefits. Needy noncitizens will also lose access to federal food stamps. All this adds up to general relief at local expense.

Immigrants have been popular scapegoats in Congress and were especially so in negotiations on welfare reform. Though the immigrant poor account for a mere 5% of federal social spending, cuts in their benefits are expected to produce 60% of the planned welfare savings. For California, that load off the federal budget could stick state taxpayers with more than $1 billion in new bills.

The punishing elements of this welfare reform distract from the positive provisions of the bill, such as greater flexibility for states in designing their own programs to put welfare recipients to work, a major theme of the national reform.

Another key compromise allows states to provide non-cash vouches for diapers and other child-care items to welfare mothers who have exhausted the five-year limit on cash benefits under the bill.

American children, however, will no longer be entitled to federal subsistence aid simply because their families are poor. The national safety net established by President Franklin D. Roosevelt in the 1930s is, in essence, evaporating. The changes could plunge an estimated 1.1 million children deeper into poverty. Poor parents will be able to receive benefits for two years. A time limit is certainly appropriate, but should recipients be cut off if they are responsibly looking for work?

Some of these changes are shameful, but it is the political will of a Congress determined to decentralize the system, partly in response to the pressure of a presidential election year.

The threat to legal immigrants, people working and living in the United States under a green card or other protection, is the most obvious fault of the legislation. President Clinton says he believes, as do most Americans, that welfare should be a second chance, not a way of life. But legal immigrants won't get even temporary federal aid, even if they had paid taxes for years before losing a job, losing a limb or losing the income provided by spouse.

By signing the welfare reform legislation, Clinton will be able to say he fulfilled a key campaign promise to ''end welfare as we know it.'' But he won't be able to say that he lived up to his more recent assertion that children ''need to come out ahead.''

[From the Sacramento Bee, July 30, 1996]

CLINTON'S WELFARE TEST

Bill Clinton, the man from Hope, ran for president as the candidate who would do something for children and the forgotten working families who played by the rules but found themselves falling behind in the economic race. But that promise won't mean much if he does not veto the misshapen welfare reform bill headed for his desk.

No American leader has spoken more passionately than has Clinton about how the declining wages of workers in the bottom half of the job market have dragged millions of full-time workers and their families into poverty and raised child poverty rates to levels unseen anywhere else in the industrialized world. Yet instead of offering hope and assistance to those struggling families, Congress' pending welfare reform bill delivers them a cruel body blow.

Lost in the attention lavished on the bill's overhaul of Aid to Families with Dependent Children, the grant program that goes primarily to single, nonworking mothers of poor children, are the totally unnecessary cuts the legislation would make in food stamps, the key safety net program for low-income working people. According to the Congressional Budget Office, nearly half the $61 billion the bill cuts would come from nutrition programs.

Those cuts spell more suffering for families and children. An analysis by the Urban Institute projects that the changes would push 2.6 million more people below the poverty level, 1.1 million of them children. Altogether more than 5 million working families would lose an average of $1,000 a year in income if the bill becomes law.

There's a widespread consensus that welfare must be reformed to reduce long-term dependency and encourage work and personal responsibility. But the current bill, underfunded and overly punitive, ignores everything we have learned over the last decade about moving welfare recipients into the job market.

More than half of welfare recipients lack a high school education at a time when labor markets put a premium on education and skills. Two-thirds live in central cities, places from which employers have fled. At their most successful, past efforts to move welfare recipients into jobs, such as the GAIN program in Riverside County, have reduced welfare rolls by only 10 percent and incomes of welfare recipients by a few hundred dollars a month.

Yet the welfare bill requires states to move half of all recipients into jobs, even though, according to Congress' own experts, the bill falls $12 billion shy of full funding for the work program. Even if one heroically assumes that two-thirds of welfare families would find permanent employment, the bill's five-year lifetime limit on benefits would leave 1 million families—adults and children alike—without any source of income.

The president knows welfare reform doesn't require the sacrifice of millions of young lives. If Clinton doesn't have the gumption and leadership skills to stand up and explain to the country the difference between real welfare reform and Congress' act of callousness, what differentiates him from his Republican opponents?

[From the Fresno Bee, Aug. 1, 1996]

CLINTON'S WELFARE SURRENDER

President's reasoning for acquiesing on reform bill, despite ''serious flaws,'' is barely credible and clearly a political calculation.

President Clinton eloquently explained Wednesday the flaws in Congress' welfare reform bill. It will punish hundreds of thousands of low-income working families by cutting back their food stamps, he said. It will take away the federal safety net from legal resident workers who have paid their taxes and played by the rules. It will leave vulnerable poor children whose parents can't find jobs within the bill's five-year time limits.

And after explaining all the reasons why this bill is wrong, Clinton announced he would sign it. It was the least principled act of a presidency in which principle has often run a poor second.

Clinton's rationale for signing the bill, despite its ''serious flaws,'' is barely credible.

No one doubts that the welfare reform core of the bill, which turns welfare from a federal entitlement into a block grant for state-designed programs to assist needy families and move them into the workplace, could be passed again by this or subsequent Congresses. There's widespread consensus that the current welfare system is broken.

But if Clinton truly believes be can fix the flaws in this bill, he belongs to a very small church. In an era of sound bites and attack ads, what Congress, Democratic or Republican, will soon dare to restore federal safety net programs for legal immigrants, no matter how needy or deserving? At a time of growing budget stringency, what are the chances that Congress, once having slashed food stamp spending, will reverse course and come to the aid of the working poor?

No matter how hard he tries to decorate his action with policy arguments, Clinton's decision to sign this bill came down to a brutal political calculation born of a failure of leadership on this issue.

Had Clinton made welfare reform a top priority in 1993, he could have shaped the national debate and produced a new system that protected children even as it enforced our values about work and personal responsibility. Instead, he left the issues to be defined by a GOP Congress more intent on budget savings than shaping a humane and workable welfare alternative. He thus put himself in a political position where opposing a bad bill could be made to look like opposition to reform.

And now, for his failure of leadership and political nerve, children and the working poor will pay.

[From the San Francisco Chronicle, July 22, 1996]

WELFARE BILL TOO HARSH

Members of the U.S. Senate had a chance Friday to maintain a valid 60-year federal commitment to help the truly needy while still moving toward a work-oriented welfare program. They didn't take it, and unless the lawmakers significantly change direction this week, President Clinton has an obligation to veto the third welfare reform bill that comes before him.

Clearly, Clinton wants desperately to sign an election-year bill that will allow him to say he made good on his 1992 campaign promise to ''end welfare as we know it.''

And the American public is squarely on the side of both the president and the many members of Congress who want welfare to become a work program and not remain in never-ending handout.

But the Republican bill as currently constituted goes way too far in taking away the federal government's duty to see that children do not go hungry or homeless.

History shows that states do not always take care of the neediest among us, even when they make the best possible effort to find work. The federal government should maintain authority over welfare programs, a responsibility that would be taken away with the Republican plan to give states welfare money in block grants.

On Friday, the Senate turned down Democratic amendments that would have altered the Republican plan to ensure that children could continue to receive federal help even after their parents were cut off.

For that reason alone, the bill should be rejected. While the culture of welfare as entitlement clearly must change, wholesale abandonment of the most helpless is not acceptable.

The Clinton administration has been liberal in its granting of federal waivers to allow states to try their own get-tough welfare-to-work programs, and the president has said he would continue to allow creative state initiatives.

Democrats are going to try again this week to amend the GOP bill. But so far, administrative directives, not legislation, offer the best hope for welfare reform.

[From the San Francisco Examiner, July 24, 1996]

PUNISHING THE POOR

The Dictionary defines ''reform'' as ''to make better'' and ''welfare'' as ''the state of being or doing well,'' It's a pity that corruption of the language hasn't been added to the federal Penal Code. Otherwise, members of the 104th Congress would be sentenced to an afternoon in the stocks, splattered with rotten vegetables.

Bad enough that they have produced a package of kick-the-poor legislation that is callous, cruel, marble-hearted and mean spirited. Worse, this vote-pandering measure has been given a supremely cynical label, ''welfare reform.''

The richest nation on Earth, with a military budget of $260 billion, is led these days by politicians who assert with a straight face that federal funds for public assistance and support services are causes, not symptoms, of what's wrong with our society.

In its latest version, the welfare bill would shop federal funds to each of the 50 states in the hopeful expectation that their governors and legislators can come up with effective programs that will end poverty as we know it. This is not a joke.

Conservatives say they want to end the propensity on liberals to throw money at the poor without doing much to beak cycles of dependency. And yet, given the punitive rhetoric by well-fed politicians of both parties, we're not surprised that the expulsion of families from welfare is not accompanied by funds or mandates for training, schooling or child-care programs.

Sure, let's get able-bodied men and women off the dole. But let's remember that 9 million children are among the 14 million people who now get monthly survival checks under the federal-state programs called AFDC, or Aid of Families With Dependent Children. Most AFDC parents are single moms, few with job skills or work experience. Perhaps their problems will go away if state bureaucrats replace federal bureaucrats, but we doubt it.

It's one thing to want to fix the enormous disappointments and dilemmas of the nation's 60-year-old programs of federal aid to the poor, but it's another for Congress to dump the responsibilities on the states in the name of ''reform.'' This is particularly galling for California, because ''welfare reform'' proposals included a cutoff of social and health services for the state's legal immigrants. And we'll have to make up the difference.

''Reform'' is supposed to make things better, not worse. It doesn't make sense from any viewpoint, including the cry for governmental thrift, to create a terrible situation where children will be forced into orphanages or jails at many times the expense of AFDC. Sen Daniel Moynihan, D-N.Y. says the ''reform'' amounts to ''legislative child abuse.''

[From the Los Angeles Times, July 18, 1996]

PASSING THE BUCK ON WELFARE

Tucked into the Republicans' welfare reform package in Congress is a wrongheaded proposal to cut benefits and social services to most immigrants who are legally in the United States but who have not yet become citizens. Under the proposal, Washington, which is seeking ways to finance federal welfare reform, would shift billions of dollars in costs to states and counties. The provision should be rejected.

Sen. Bob Graham, a Florida Democrat, plans to offer an amendment to the bill to strike out restrictions on public benefits to legal immigrants. a host of eligibility issues ranging from student aid to Medicaid for legal immigrants already is part of a separate immigration bill now in conference committee. There is no logic in including those matters in a welfare bill. The two issues should be handled separately.

The welfare bill now proposes to help finance the costs of reform by cutting $23 billion over six years in benefits to legal immigrants, including children and the elderly. This would be an unfair and punitive move against legal immigrants who have played by the rules.

The bill would make most legal immigrants now in the country ineligible for Supplemental Security Income (SSI) and food stamps. Future legal immigrants (except for refugees and asylum seekers) would be ineligible for most other federal means-tested benefits (including AFDC and nonemergency Medicaid services) during their first five years in the country.

The cutbacks would disproportionately hit California, Florida, New York and Texas, the states with the biggest immigrant populations. California alone could lose $10 billion, or about 40% of the proposed $23 billion in benefit reductions. Those ineligible for such benefits would have to turn elsewhere for aid. In Los Angeles County, for example, if all affected SSI recipients sought general assistance relief instead it would cost the county $236 million annually. The cost shifting could have potentially disastrous results for the already fiscally strapped county.

The immigration bill now under consideration already includes $5.6 billion in savings from tightening eligibility requirements for legal immigrants on a variety of federal programs, including Medicaid. the attempt to use welfare reform to slip through further curbs on public assistance to legal immigrants should be called what it is—a deplorable money grab by Washington that can only hurt California.

Mrs. BOXER. Mr. President, thank you.

Mr. President, I am putting in the RECORD a number of editorials.

From the Fresno Bee in the conservative heartland of my State that says:

Once again, Congress has passed welfare bills that are more about saving dollars and winning votes than reshaping lives.

The Los Angeles Times wrote:

The financial brunt will fall on California, home to more immigrants than any other State. This is unfair to California taxpayers. Immigration is a national issue and its effects should be shouldered evenly.

In another L.A. Times editorial:

Passing the Buck on Welfare. U.S. provision affecting immigrants would hit States and counties.

The one from the San Francisco Examiner:

Punishing the poor.

San Francisco Chronicle:

Welfare Bill Too Harsh. Wholesale desertion of the most helpless is not acceptable.

And they go on.

So, today I stand here for welfare reform but against this bill. I am voting no, because I am not for punishing kids, and I am not for punishing California or other States that have most of our legal immigrants.

Saying that I am for welfare reform but against this bill is not inconsistent. My desire for reform was expressed by my vote for the Senate welfare bill last year in the two Democratic leadership welfare reform proposals. Mr. President, those bills were tough on work, compassionate to children, and cracked down on parents who were irresponsible.

It was interesting to note the Senator from Iowa talking about how this bill goes after deadbeat dads. Well, I want to note that my deadbeat parent amendment which unanimously passed in the Senate bill last year is gone from this bill. My amendment would have cut off benefits to deadbeat parents who refuse to pay their overdue child support. I think the proponents of this bill seem to be more interested in getting tough with the kids than their deadbeat parents.

The provisions to cut assistance to legal immigrants will cost California an estimated $9 to $10 billion over the 6 years of the bill. Of all the legal immigrants in the United States on supplemental security income, which is help to the aged, blind, and disabled, and of those on AFDC, which is help for families with children, 52 percent live in my home State of California. Among those who would be cut off are elderly immigrants who are too disabled to naturalize and young legal immigrant children.

Let us face it. For every move we make, there is a counter move. For every action we take, there is a reaction. And speaking as a former county supervisor from the County of Marin, I can tell you at the bottom line it will be California's counties that will feel the brunt. When your county supervisors come in to see you to tell you about the increase in homelessness and helplessness, I hope then at least you will be ready to take some action.

In Los Angeles County, the effects will be staggering. Senator FEINSTEIN and I have been contacted by their elected officials. In Los Angeles, 190,000 legal residents could be cut off of AFDC; 93,000 legal residents will lose SSI, which is assistance for the aged, the blind, and the disabled; 250,000 legal residents will lose their food stamps; and 240,000 legal residents could lose their Medicaid.

Los Angeles County could be faced with a cost shift of $236 million per year under this bill. And if the State of California opts to bar Medicaid coverage to legal immigrants, it could shift an additional $100 million per year to the County of Los Angeles.

The conference report will place California at serious risk of a huge negative impact on health services. Again, for every action there is a reaction. Our public hospitals and our children's hospitals that got reimbursed for these medical costs will no doubt have to downsize, shut down, cut back, and shift costs. And the bottom line is, if legal immigrants cannot receive Medicaid, all Californians and all Americans will be placed at greater risk of communicable diseases because these people will not be treated.

Senator FEINSTEIN and I worked hard on an amendment which said this very simply. This is a massive change of law. Let us phase in the changes to our legal immigrants. Many of these legal immigrants came here escaping persecution. Many of them do not have sponsors to pick up the tab. They have no one else to turn to. If we are going to change the rules, Senator FEINSTEIN and I said, make it prospective. Unfortunately, the conference report did not move in that direction.

It really amazes me to think about the message we are sending to an asylee or a refugee who risked their life to get to this country. Many of them are working. Many of them are paying taxes, and doing well. If they fall on hard times, they are out. They are out of luck. And the costs will be shifted to the counties.

Many of these legal immigrants are children. We profess to care about children. Look in the eyes of a child before you cast this vote, because this bill will subject even more children to poverty.

I have to tell you, the Urban Institute says more than 1 million children will be thrust into poverty under this bill. I hope that we can move quickly after this bill passes and is signed—and we know that is going to happen—to soften the blow on children.

I could not believe when this Senate turned down the Breaux-Chafee amendment. The Breaux-Chafee amendment did not get the 60 votes it needed. Do you know what it said? That if little children are cut off because for some reason their parents cannot find work within the mandated time period, children cannot get any help to get diapers; they cannot get any help to get special medicine, school supplies, or other necessary items.

This is the United States of America. We know that a nation is judged by how it treats its most vulnerable people. And I do not think it asks very much of very healthy U.S. Senators with big fat paychecks, big fat paychecks, to provide for vouchers for a baby who is unfortunate enough to be in a family with a mom who, even if she tries every day, cannot land a job. That was it for me.

I thank my colleagues very much for bearing with me. This bill is not fair to my State. That is clear. That is why nearly every major newspaper in California has said it is wrong. This bill is not fair to innocent children. For that reason, I stand here for welfare reform and against this bill which will bring harm to children and which will bring harm to my State. I hope we can mitigate its ill effects.

I thank the Chair. I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. I yield 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would appreciate it if I could be notified when I have 1 minute remaining.

I am pleased today to speak in behalf of the welfare proposal which came from conference. It is a good bill, and while there are areas which still could be improved, overall I think it is a positive first step toward real welfare reform. Indeed, it does represent a compromise. The administration had some thoughts they contributed. Obviously, the House did, and clearly, of course, the Senate did.

We can no longer continue the current welfare system. I think that is clear. This system has encouraged long-term dependency, and that has been addressed several times this afternoon and this morning. There is one thing we all know, that the surest prescription for a life of poverty is to be born to young, to unmarried, and to poor parents. It is time to give the States a chance to improve the lives of all these poor families.

This bill does that. It turns the AFDC Program over to the States and allows them, the States, to create programs suited to the needs of the residents of those States. We are doing this with very few restrictions on the States. Indeed, we can practically rattle off the restrictions. The States will be required to impose time limits on benefits. The States will have to meet tough work participation rates. But how they achieve these goals is left almost entirely to the State and to the local government.

I would like to see more Federal oversight of the program. I was on the conference. I presented my views but did not prevail in that particular area.

The Governors insist that they will do the right thing and we ought to have confidence in them. I am hopeful, indeed optimistic, that they will, but I certainly will be keeping a close eye on the progress in this area.

While we are giving the States maximum flexibility, there are several important protections in this bill. First, we have ensured that families who lose cash benefits because of changes in the State's cash assistance program, those families will still be entitled to receive Medicaid. If the State goes down, lowers the level at which an individual can qualify for cash assistance, the families still receive Medicaid based on the old formula. This is the critical provision for the success of welfare reform.

In the last 2 years, in the Finance Committee welfare reform hearings, one thing we heard over and over is that we cannot pull the rug out from beneath these poor families. In order to be able to support themselves, they must have Medicaid coverage. I am very pleased that this bill includes the amendment Senator BREAUX and I sponsored to continue Medicaid coverage for these individuals.

Earlier versions of welfare reform included block grants in several child welfare and foster care programs. I have long believed that despite the name ''child welfare''—that is a misnomer, Mr. President. Child welfare is not a cash or an in-kind assistance to poor families. Child welfare programs deal with abused children. It deals with neglected children regardless of their income. It does not have anything to do with a poor child. Child welfare programs deal with neglected and abused children regardless of income.

So, child welfare has no place in a welfare reform bill, and I am pleased we were able to have those block grants removed. We stay with the present entitlement system in the child welfare program.

The present welfare bill has also made more cuts to the children's SSI program than I would have liked to have seen. That is the way it started off, with rather severe cuts. This bill is much less damaging in that area. It does tighten the eligibility for participation in children's SSI programs, but retains cash assistance for those children who remain eligible. This is the right thing to do. These families are under enormous strains, families with SSI children, and they need the benefits, the cash assistance that comes so they can care for those children. I want to pay special tribute to Senator CONRAD, who worked with me and others to achieve this compromise.

Welfare, as we know, has always been a shared responsibility between the States and the Federal Government. That will continue under this bill. It is true that States ought to have a financial incentive to reduce the welfare caseloads. We all agree with that. However, when they are reducing these caseloads, they should benefit from it, but also the Federal Government ought to benefit from it, too. That is why we provide that, if the States reduce their spending below a percentage mark, Federal dollars will be reduced likewise. In other words, the Federal Government will share in the savings.

There is one thing that does bother me about this bill, and that is the denial of benefits to legal immigrants. I think the bill is harsh in that area. We made some improvements, in other words we made it less harsh, because we allow States to decide whether to extend Medicaid coverage to legal immigrants. In other words, the States still have the option to extend Medicaid coverage to legal immigrants.

I had hoped during the legislative process, consideration here and the conference, we might have mitigated some of the harsher provisions, especially those affecting currently elderly and currently disabled recipients. I think it is very tough to take away some of the benefits of those individuals that they are currently enjoying.

In closing, I congratulate those who worked so hard to reach this agreement. Former Senator Dole deserves a lot of credit for laying the groundwork for this bill. Senator ROTH picked up after Senator Dole left and helped steer this bill through the Senate. On the other side of the aisle, my colleague from the centrist coalition, my colleague Senator BREAUX, did splendid work to forge a compromise between the two parties.

On the other side of the Capitol, Congressman Shaw and Congressman Archer were dedicated to this cause for some time and deserve a lot of credit. So my congratulations to each and all, and to all here who worked hard to make this bill a success, the success I believe it can be. It is not perfect. We all recognize that. But there are a lot of very fine provisions in this bill.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, the time is on the other side now.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise today to indicate that I will support this welfare reform legislation. I do it with some reservations. I think anybody who has been deeply involved in this process understands that there are weaknesses in this legislation and that there are risks. But, make no mistake, there are risks in sticking with the status quo. The status quo cannot be defended. The current system does not work and is unlikely to work in the future.

I have visited with literally dozens of welfare recipients and with people who work in the current welfare system. I cannot find anyone who believes the current system is a good one. I cannot find taxpayers who support it, who believe in it. I cannot find welfare recipients who believe in it. I cannot find the people who work to deliver the services who believe in it. Without exception they say to me, ''There has to be a better way.'' I do not know if we found the best way in this welfare reform legislation, but I do know it is time to try something different.

I have concluded from my conversations with welfare recipients that there is very little question that the current system is encouraging children to have children. I do not know how one can conclude otherwise. When we set up a system in which we say to a young woman, in many cases a child, that if you leave home, we will see that you have an apartment, that you get assistance, the precondition is that you have a child, what kind of system have we set up here? I talked to one of my colleagues who met with a number of welfare mothers in the last several weeks. He asked them the direct question, ''Did the fact that there is a welfare system that you knew would support you and provide an apartment to you encourage you to have a child?'' About half of them denied that it contributed to their decision, but about half of them said, ''Yes, Senator, it did contribute to my making the decision to have a child, because I knew I could get an apartment, I could get assistance, and that I could move away from a family situation.'' In many cases that family situation is not a very pleasant one.

That does not make sense for our society, to have structured a system that encourages children to have children. That is a disaster. I say to my colleagues who have talked about their concern for children, and in every case I believe they are well motivated and feel deeply that we need to protect children, I share in that belief. The question is, how we do it? It is not in children's interests to be born to children. That is a disaster. We know what happens in those circumstances. In case after case it leads to more poverty, more crime, more abuse. Children are not prepared to have children. We need to take away the incentive that is in the current system for that to occur.

There are many parts of this bill that concern me. I believe the percentage that is allowed for hardship cases, and therefore exempt from the time limits, is unrealistic. I think that is going to have to be revisited in the future. I personally believe there are marginal people in our society, people who, either because of mental disability or physical disability, simply are unable to hold full-time employment. A 20-percent hardship exemption is not sufficient to cope with the percentage of our population that simply will never be fully employable. I think we are going to have to revisit that issue.

But there has been much done to improve this legislation from where it started. I was very pleased my amendment to maintain a Federal safety net in the food assistance programs was adopted here on the Senate floor and was kept in conference. I think that is critically important. That provides the food safety net for millions of Americans, one that adjusts automatically for natural disasters or severe economic downturns.

I also think the provisions that were adopted that were offered by Senator CHAFEE and Senator BREAUX to maintain the Medicaid coverage was critically important to this legislation.

I salute my colleagues, Senator CHAFEE and Senator BREAUX, for their amendment. That was maintained largely intact in conference and was critically important.

So, Mr. President, there are defects here. I think we all recognize that. I think we all understand that this is going to have to be revisited. But we have also heard from the Nation's Governors. They have told us, ''You can trust us, we are going to be responsible with this charge.''

I say to them, we will be watching, we will be watching very carefully what you do, and we urge you to step forward and shoulder this responsibility with great seriousness.

They have insisted there is not the flexibility and the resources to address the problems of poverty and welfare without these changes. They have assured Congress and the American people they care as much about the well-being of children and other vulnerable populations as Federal representatives and that they are in a better situation to target these resources. We take them at their word. They have pledged to protect these populations, and Congress is going to hold them to their word.

While this bill gives States flexibility they insist they need to end the problems associated with welfare, I want to be clear. Congress maintains the right and the duty to intervene in the future if States, in fact, do not live up to their word and run their programs in an arbitrary or capricious manner.

We are counting on the States to live up to this responsibility. I take them at their word, and I have confidence that in each of the States, the Governor and the State legislature will step forward to shoulder these obligations in a serious and responsible way.

I am confident that in my home State of North Dakota that will be the case. I conclude by saying to my colleagues, in looking at the risk associated with any change, clearly there is a cause for concern, but the status quo cannot be defended. It is time for a change. The time is now. We will have other opportunities to address shortcomings in this legislation. I intend to support this bill.

I thank the Chair and yield back any time I have remaining.

Mr. GORTON. Mr. President, I yield 10 minutes to the junior Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, with the passage of this welfare reform legislation, I think we can confidently state that the New Deal is old news. As we all know, this legislation will end the Federal Government's entitlement to welfare, an entitlement created 6 decades ago during the New Deal. Yet, the reason that it must be overturned is found in the reasoning of Franklin Roosevelt himself who said, ''When any man or woman goes on the dole, something happens to them mentally, and the quicker they're taken off the dole the better it is for them the rest of their lives.''

He added: ''We must preserve not only the bodies of the unemployed from destitution, but also their self-respect, their self-reliance, and courage and determination.''

The welfare reforms that we will pass today are designed not just to save money and reduce waste, although those are important goals, but they are also designed to help restore certain basic values: self-respect and self-reliance.

Some critics have claimed that these welfare reforms will lead to catastrophe. Mr. President, I suggest the catastrophe has already arrived. It is obvious in an exploding population of fatherless children, rising violence in our cities and streets, suburbs and rural towns, endless dependence and fractured families. No one can honestly defend the current system as compassionate. No one can be proud of the results of the last 30 years. We are tired of good intentions and dismal results. We need to take another path.

This legislation that we are proposing is not experimental nor it is not untested. It is rooted in proven principles of American tradition. It transfers powers to the States where that power should have belonged all along. It emphasizes the dignity of work. It shows compassion, but it also expects individual responsibility, and it begins to encourage private and religious institutions as partners in social renewal.

Mr. President, I am pleased that the personal responsibility agreements that I authored, along with Senator HARKIN, are part of this final welfare package. States like Indiana and Iowa have used these agreements as effective tools, moving thousands of citizens from welfare to work. The welfare bill we are passing today gives States the options to include those personal responsibility agreements in their welfare programs, and I hope they will follow the examples of Indiana and Iowa.

I have argued in the past, Mr. President, that devolution of power to the State governments is necessary but not complete. Such devolution encourages innovation, but State government is still government, prone to the same problems of ineffective bureaucracy and red tape that we see in Washington, and that is why I am glad this legislation gives States the opportunity and the option to contract with faith-based organizations without forcing those institutions to compromise their spiritual identity. This, I believe, is the beginning of an important idea.

It is also important to remember that the reforms that we are passing today directly affect human lives. That is the only measure of our achievement. I am convinced on the evidence of 3 decades that people need independence, work, responsibility and hope far more than they need endless checks from the Federal Government.

Our current system treats the disadvantaged as merely material, to be fed and forgotten. We need to be treating them as human beings with high hopes and high potential. When you expect nothing of an individual, you belittle them. We must stop belittling the able-bodied poor in America with low expectations.

Mr. President, I argue that there is a next step to welfare reform, a step that this Congress and this President, or whoever occupies the Presidency, needs to address in the next Congress. We need to go beyond Government. We need to begin to encourage and strengthen, nurture and expand those mediating institutions of family, community, volunteer associations of charity, of church, faith-based charities—those institutions that offer real solutions and real hope.

We need to begin to look at transforming our society by transforming lives one at a time inside out. For the most part, this is work that cannot be done by institutions of government. Government can feed the body and help train the mind, but it cannot nurture the soul or renew the spirit. This is the work of institutions outside of government.

This shift of authority in resources can be accomplished in many ways, but we need to recognize tradition and the time-honored practice of reaching out to the poor in effective ways, giving them renewed hope, renewed spirit, a renewed place in American society. It has not been accomplished in an effective way by institutions of government but can be effective by institutions outside of government.

How do we make this transition? Because it will be a transition, and normally the problem is such that it will require a significant increase in the involvement of these institutions. But it is important because they are the institutions that bring about the real solutions and bring about real hope.

I propose the charity tax credit as a means of beginning this process, a way in which the taxpayer can designate on a joint basis up to $1,000 of taxes otherwise due the Government as charitable contributions to institutions that have dedicated themselves to the proposition of alleviating or preventing poverty.

Who wouldn't rather give $1,000 of their hard-earned money to institutions like Habitat for Humanity, rather than Housing and Urban Development, if you really care about providing decent, affordable housing to low-income individuals?

For those concerned about fatherless children, who wouldn't believe that $1,000 of their money would be better served through Boys and Girls Clubs or Big Brothers and Big Sisters or other mentoring organizations, rather than giving it to ''Big Brother'' in Washington?

For those concerned about the homeless on our streets, who wouldn't rather support the gospel missions and church feeding programs, Catholic Charities and other organizations that reach out to those in our local communities, rather than turning the money over to HHS, where, by some estimates, over two-thirds of the money fueled by the Federal social welfare system never goes to the poor? It goes to those above the poverty line; it gets eaten up in bureaucracy, administration, fraud, and abuse. It has created a compassion fatigue in this country where people have no faith that their tax dollars, sometimes generously given and well-intended to help those most in need, ever reach those most in need.

This is a stark alternative that can be provided to the individual without the constraints of the first amendment. They can give it to secular or nonsecular institutions, faith-based institutions which have proven and demonstrated their capability of providing services to the poor far more effectively, with far better results, at a fraction of the cost of Government.

These are the institutions that we need to strengthen. And this, I hope, will be the agenda of the next Congress as we move to the next step of welfare reform, to defining compassion in an effective way, the spirit of the American people, which has always been generous, which has always reached out to help those in need, which responds to emergencies time and time again, which provides and allows grain farmers from the Midwest to ship grain down to famine areas and drought areas of other areas of our country, which cause people to jump on planes and trains and buses and go to the latest hurricane area or ravaged area to pitch in, on a volunteer basis, to help their fellows Americans.

We are a country of generous spirit, yet a country that has lost confidence in the ability of Government to effectively deliver compassion to those in need. So let use energize, renew and strengthen and nourish and encourage those institutions in our own communities that are making a difference in people's lives.

Community activist Robert Woodson makes the point that,

> . . . every social problem [in America], no matter how severe, is currently being defeated somewhere, by some religious or community group. This is one of America's great, untold stories. No alternative approach to our cultural crisis holds such promise, because these institutions have resources denied to government at every level—[the resources of] love, spiritual vitality, and true compassion. It is time to publicly, creatively, and actively take their side in the struggle to recivilize American society.

Mr. President, I yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, it is clear that most Americans agree we need to change welfare as we know it. Our current system does not work, not for those on public assistance and not for those who pay for it.

The American people feel strongly that personal responsibility has to be a part of this country's welfare system. I could not agree more.

Mr. President, for nearly 4 years I have spent countless hours examining the current welfare structure, talking to participants and listening to the frustrations of both reformers and people on public assistance.

This Senate has debated many ideas for welfare reform. I have worked with my colleagues to do everything possible to help create a welfare bill that will move able-bodied adults off welfare and into work. The transition from welfare to work is the core of this policy debate. But my concern is this. We are creating a system in which people will not get a welfare check, but they will not be able to get a paycheck either.

If people leave welfare, but are not qualified or cannot find work, they are faced with one fundamental problem: The grocery bill is still there, and there is no way to feed their kids.

My vote on this final welfare bill is one of the most difficult I have had to cast. There are no easy answers. I want welfare to be reformed. I hear from those recipients who complain that the current system does not work. There is too little job training. There is too little child care. And the programs try to fit every single welfare recipient into one single mold.

As this bill worked its way through the Senate and House, I have sponsored and cosponsored numerous amendments to protect the well-being of children, from preventive and emergency health care, nutritious meals, safe child care, illiteracy, issues that are important because they affect the ability of parents to move successfully from welfare to work while they are still taking care of their own kids.

I agree with President Clinton that this welfare reform bill makes significant strides toward ending welfare as we know it. It will help put some people back to work and end the cycle of dependency that this system is accused of breeding. It will give more flexibility to the States and allow for more local decisionmaking authority.

But I also agree with President Clinton that this bill has serious flaws.

Nine million children will be cut off from services. Legal immigrant children will be ineligible for almost all Federal and State services, other than in an emergency, leaving them hungry, uneducated and desperate on our streets.

One-half of the $60 billion cut in spending will come from nutrition programs. It will have a dramatic impact on the very individuals who need the most help today in this country, and that is our children.

It has been clear for quite some time that this bill is going to be passed by an overwhelming majority and signed by the President, but I realize that I cannot in good conscience support a bill that will put so many of our children in jeopardy.

Mr. President, I am the only former preschool teacher to serve in the U.S. Senate. I have looked into the faces of 2- and 3- and 4-year-olds who are hungry every single day. I have worked as a parent education instructor with adults who have lost their jobs. Food stamps provided the only chance they had to feed their children while they desperately were looking for work. I knew immediately when a child in my class was unable to learn and felt frightened because of tough financial times at home, and I saw the effects those kids had on all the other kids in my classroom.

Many times I have sat and listened to young women whose lives have been devastated. They have been left alone to care for young children. They have no job skills and no ability to go to work because their full-time job was being a mom.

For me, the bottom line in the welfare reform discussion is, what will happen to our Nation's children? What will happen to those children I held in my lap in my preschool? For me, it is a risk that I am not willing to take.

It is vital that parents return to work. But we have to help ensure that our children receive adequate health care, nutrition, and are not left home alone or, worse, to wander on our streets.

When this welfare reform proposal passes, we have to ask, what is next? This bill only tells people what the Federal Government will not do anymore. In its place will come 50 different experiments in 50 different States. It may help some people, and it most certainly will hurt others. But whether it works or not, from this day forward I believe that we have to begin a national commitment to our children and to give them a fair chance, every one of them, at succeeding in life.

We all want a country where every child is secure, where every person can be a contributing member of our society and our economy, and where the world around us is a healthy and safe place to live. No one disagrees with that. To make sure it happens, we have to start a discussion in every single community and neighborhood and every single dinner table in this Nation. We have to ask, what is important to us as Americans? Are we going to be a compassionate Nation? When push comes to shove, are we going to help our neighbors when they need it? And if, as I suspect, the answer is yes, we are going to have to say how. In the aftermath of this welfare reform bill, these are the questions that every one of us as adults in this country will have to answer.

I am not going to dwell on changes brought about in this welfare reform. Instead, I am going to aggressively seek answers to the questions I have raised, and I will reaffirm my own commitment to children. I will work for constructive solutions to problems that arise in the future.

I have already formed a bipartisan working group within the Senate to help develop and create ideas to help adults find more time to spend with our young children. And I formed an advisory group at home in Washington on youth involvement to help support this effort. Hopefully, the people of this country will ultimately work to create the kind of communities that we can all be proud of.

But, Mr. President, one good thing will come out of this for sure that will happen as a result of us passing welfare reform. Finally, we will no longer, either here on the floor of the Senate or in living rooms across this country, be able to blame welfare as the cause of our Nation's problems. After today, instead, perhaps, we can all sit down and work to agree on what we can do to keep our young children in this country healthy and secure and educated and growing up in a country that we are all proud of.

I yield the floor.

Mr. GORTON. Mr. President, I yield 10 minutes to the Senator from New Hampshire.

Mr. GREGG. I wish to rise in support of this welfare proposal, and I congratulate the Members of the Senate who have worked so hard.

I want to mention three reasons why I think this is an appropriate action to take. First, this is one of the five major programs which is weighing down the Federal budget and which is causing us to careen towards bankruptcy as a Nation in the beginning of the next century if we do not address the Federal spending patterns. The other four are the farm programs, the Medicare and Medicaid Programs, and Social Security.

We have addressed the farm programs. Now we are addressing the welfare programs. That is two out of the five major entitlement programs that will be addressed as a result of this bill by this Congress. That is a major step forward. If this were a game of Myst—which it is not, but it is as complicated as a game of Myst—we would have gotten through two levels. We have three levels to go and, hopefully, we will continue to pursue those aggressively.

The bill involves returning to the States significant flexibility over managing the welfare accounts. This means better services for our citizens. It is that simple. There is a certain arrogance in this town, a certain elitism in this town that tends to believe all the ideas, all the feelings of goodness, all the compassion is confined within the corridors of Washington. Well, it is not true. The fact is, in our States at our State legislative level and in our cities and at our county level, there is not only great compassion but there is an extraordinary knowledge. That knowledge and compassion would be brought to bear on the welfare programs of this country as a result of this bill.

I know, for example, that in New Hampshire we will get a lot more services for actually less dollars, and our people will be better taken care of as a result of this flexibility being returned to the States.

Third, there is the cultural issue. This represents a significant cultural change in the way we address the issue of welfare in this country. We are no longer creating this atmosphere of dependency. We are no longer undermining generation after generation of individuals relative to their own self-worth. We are saying to people: ''You are important, you do have self-worth, you should have self-respect, you should be working and taking care of yourself and your families and obtaining the personal respect and confidence that comes from undertaking that approach.'' It is a cultural shift.

Obviously, it will not impact the entire culture. Obviously, there are a lot of people on welfare who deserve to be there. For some percentage, and it will not be a dramatic percentage, I admit to that, they will be moving off the welfare rolls because they will have to go to work, something they have not done before. That will be very positive, I think, for them and for this society generally.

So I believe this is a very good bill and something that takes us in the right direction in the area of fiscal solvency, in the area of managing government policy through flexibility at the State level, and in the area of how we approach the cultural issue of caring for people who are less fortunate or in hard times.

I also want to address today just briefly, because it is a topic that I am intimately involved with as chairman of the Commerce, State, and Justice Committee, the issue of terrorism—one minor area, a secondary point to what is going on here today, but I want to raise this point at this time.

We just reported out of the full Appropriations Committee a bill, the Commerce, State, Justice bill, which had a major initiative in the area of terrorism, countering terrorism, trying to get some comprehensive planning into the issue of how we approach it as a Federal Government, and beefing up those projects that are going on in those agencies, such as the FBI, that are trying to counter especially international terrorism. It is a major step forward. We have actually been working on this for months. It is ironic it came to fruition today, so soon after the Atlanta bombing, but it is a very important step.

Second, we cannot do all this at the Federal level. The issue of countering terrorism cannot entirely be accomplished by the Government. There has to be a change of attitude within our population as to how we approach the terrorists.

I made a proposal today which I think moves along that issue a little bit—not dramatically, but a little bit—but it is important. We see on the Internet today a massive amount of information about how to make weapons, how to make bombs, how to use instruments of death. Now, the Internet is a Wild West of information. I have no interest in regulating it. I think that would be a mistake. There are, today, developing a whole series of industries that develop the information and information access in the area of Internet, people like America Online, Comp USA, Yahoo, Netscape, Magellan—the list goes on and on.

What I have done today is write a letter to the CEO's of these various organizations and asked them to exercise a little common sense and a little community value and to expunge from their database access capability of items which are clearly directed at creating bombs. I had my staff quickly run the Internet. I wanted to do it quickly, so I had my staff do it. They came up with, on their first test under the question of ''explosive,'' they came up with an identification of how to make a bomb, which was followed by ''leaving your bomb in your favorite airport and Government building.''

That is the type of information that should not be accessed easily through some sort of accessing agency. So I have asked the leaders of these various industries to think about it, to think about putting into their processes some sort of self-voluntary block that eliminates the ability to easily access this type of information which is so patently inappropriate. I hope they will take such action.

I yield the floor.

Mr. DODD. Will the Senator yield?

Mr. GREGG. I am happy to yield to the Senator.

Mr. DODD. I commend my colleague from New Hampshire. I hope everyone listens to his last remarks on this subject matter and that people will heed his advice. This is a serious matter.

Our colleague from Arkansas, Senator BUMPERS, yesterday I think, made similar comments and brought to the floor the documentation that came off computers on this information. I think his advice is extremely worthwhile.

Mr. GREGG. I can show the Senator a copy of the letter and have him be a cosponsor, as well as any other Senators.

Mr. BAUCUS. I yield myself 5 minutes.

I first want to very much thank my colleague from California, Senator FEINSTEIN, and Senator DODD of Connecticut for very generously and graciously yielding me their time and allowing me to proceed ahead of them. I thank the Senators.

Mr. President, I rise today in strong support of welfare reform. The welfare reform debate is emotional, we all know that. It is complex, that is clear. But I must say I find almost universal agreement that today's Federal welfare program does not do what we would expect of a welfare system.

It does not help people get back on their feet and back to work. It does not promote worth or promote personal responsibility or self-sufficiency. Most of us envisioned a different system, a welfare system that encourages personal responsibility, one that encourages work and self-sufficiency, one that lets States like Montana create their own systems that make sense to their State's own unique problems, one that protects children, helps keep families together, prevents communities from deteriorating, and is fair to taxpayers.

The Nation's welfare problems took a long time to develop, and they will take some time to solve. Our solutions will not come overnight. We have to work on them. I believe this proposal is a clean break with the past and a good start for the future. It is based on two essential elements that encourage work and self-sufficiency.

First, there will be a time limit on welfare assistance to make sure that people have an incentive to leave welfare and move to work; second, we will remove some obstacles that now deter people on welfare from moving to work. They will have more help available for child care, and Medicaid will still be there to provide basic health care.

I might add, Mr. President, that the imminent passage of the increase in minimum wage will be a big boom, will be a big part of the solution to welfare reform.

On the whole, I believe this effort reflects the views and values of Montanans and of Americans. Undoubtedly, it is not perfect, and we can learn from experience. We can and will improve it as time goes by. However, it is a good start and a step we have to take.

Finally, I am glad that the President has chosen to sign it. It was not an easy decision. But it is time that the system reflects the consensus now existing in America for welfare reform. I believe this bill is a good start. It is not perfect. Nothing is perfect. But we cannot let perfection be the envy of the good. It is a good start, and I believe we will have many opportunities to improve upon it as days, months, and years go by.

I yield the floor.

Mrs. HUTCHISON. I yield myself up to 10 minutes.

Mr. President, this is landmark legislation, and it is a pivotal point in our Nation's history and future. What it does, this bill before the Senate, it does, indeed, change welfare as we know it.

This is what the hard-working American people have been asking Congress to do for years. It limits welfare to 2 years for able-bodied individuals, and there will be a 5-year lifetime on welfare for any individual in our country.

Mr. President, this sends a message to the working people of our country that, yes, we understand how hard it is to make ends meet. All Americans work hard. Welfare recipients should not be an exception. If we have uniform requirements for work, we will then say that this Nation is a Nation that has a work ethic and values people who are trying to be productive citizens.

This bill requires all able-bodied welfare recipients to work within 2 years, or lose their benefits. States will be required to have 50 percent of their welfare recipients working by 2002. And to ensure that child care is available for a single parent, this bill provides an additional $4.5 billion more than current law for child care. So we are making sure that there is a safety net, while at the same time we are going to save the taxpayers of our country $58 billion.

Now, I want to put this in perspective just to show what the American people are seeing in our welfare system as it is today. In many States, welfare systems provide the most perverse incentives. In 40 States, welfare pays more than an $8 per hour job. In 17 States, it pays more than a $10 per hour job. In six States, and in the District of Columbia, welfare pays more than a $12 per hour job—more than two times the minimum wage. In nine States, welfare pays more than the average first-year salary of a teacher. In 29 States, it pays more than the average starting salary for a secretary. In the six most generous States in this Nation, benefits exceed the entry-level salary for a computer programmer.

Mr. President, no wonder our welfare system is broken. No wonder the American people are saying that we must have relief from a system that would pay more to people who do not work than a teacher, a computer programmer, or a person making $12 an hour that is getting up every morning, putting their lunch together, and walking out the door to make a living for his or her family.

Mr. President, what we are doing here tonight is saying that those people have a value in our society. And people who can work, but won't, will not be any better off than the person who gets up, puts his or her lunch in a box, goes to work, and is a productive citizen of this country.

This is indeed landmark reform. It is fair. It will stop a system that has become a cancer on our society. It will give self-worth to the people who will now have to work for any benefits they receive. And it will say to hard-working Americans that are struggling to make ends meet, ''You have a value and we appreciate you in this country, and you will not have to work to support someone who can work, but chooses not to.''

Thank you, Mr. President. I yield the remainder of my time.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, will the Senator from Nebraska yield me up to 15 minutes?

Mr. EXON. Yes, I yield the Senator 15 minutes.

Mr. DODD. Mr. President, let me begin by saying that I respect those who support this legislation, and I respect the President for making the decision he did. But may I also begin by saying that I respectfully disagree with their decisions.

Mr. President, I have served now in this body for almost 18 years. I served in the Congress for 22 years. I have dedicated a good part of my service in the U.S. Senate, as many of my colleagues know, to issues affecting children. In fact, one of the first things I ever did as a part of the Senate was form the first children's caucus, along with Senator SPECTER from Pennsylvania. DAN COATS of Indiana and I were the authors of the family and medical leave legislation. It took 7 years to adopt that. It went through two vetoes before being signed into law by President Clinton in the early days of his administration in 1993. Senator ORRIN HATCH and I were the authors of the child care block grant, which is a subject of much discussion here today.

I note, with some irony, that when I offered amendments a year ago to increase the child care funding in the early welfare reform proposals, only two Members of the majority party supported the increase for child care funding. Nonetheless, I am delighted to hear such strong, ringing endorsements for the child care block grant, considering it took us so many years to bring it the support it has now. There are numerous other pieces of legislation over the years that I am proud to have been associated with that affect children.

While there are certainly significant deficiencies, in my view, in this legislation, affecting legal immigrants, affecting working adults, I want to focus my remarks, if I can, Mr. President, on children. I say that because the overwhelming majority of the people who will be affected by this legislation are children. We are a Nation of some 275 million people in the United States—a very diverse and rich people. Of the total population of this country, it is worthwhile, I think, to note that we are talking about 13 million Americans out of 270 million Americans who receive some form of aid to families with dependent children from the U.S. Government. There are local welfare programs. And there are State programs. But the Federal Government's commitment to welfare affects 13 million Americans. Of the 13 million Americans, almost 9 million are children under the age of 18, and 4 million are adults. Of the 9 million who are children, 80 percent of the 9 million are under the age of 12, and 50 percent of the 9 million are under the age of 6.

So we are talking about 4 million adults and 4 to 5 million infants and young children, in effect, who will be affected by this legislation. We also know that roughly 2 million of the 4 million adults are unemployable under any situation. They are either seriously ill, or disabled, and will not be affected by this legislation because they cannot work.

So our goal is to put 1 to 2 million of the 4 million adults on AFDC, who are able-bodied and can work, to work. This is 1 to 2 million people out of a nation of 270 million people. My concern is that, in our efforts to do that, we are placing in jeopardy, and at significant risk, for the first time in a half-century, the 9 million children in this country who are also the recipients of public assistance.

So it is with a great deal of sadness, Mr. President, that I rise today, knowing that in less than 2 or 3 hours from now, America's national legislature will vote overwhelmingly to sever completely its more than one-half century of support for the most vulnerable of our people—our children.

For over 60 years, Mr. President, through 10 Presidents, hundreds of U.S. Congressmen and Congresswomen, Senators, Democrats, Republicans, liberals, moderates, and conservatives, we have tried to improve the opportunities for all Americans. Certain issues were always in conflict, and I suspect they always will be. But with regard to one constituency, one group of Americans, there was never any serious division. We in America take care of our children.

There is a national interest, I argue, and there has been for decades, to protect the most innocent and defenseless in our society. Whether you were a child from Eastport, ME, or San Diego, CA, if all else failed, your National Government, your country, would not let you go hungry, would not let you be denied medical care, and would not deny you basic shelter. No matter how irresponsible your parents may have been, no matter how neglectful your community or State, your country, America, would absolutely guarantee, as a last resort, a safety net of basic care.

In less than a few hours, Mr. President, we will end, after half a century, that basic fundamental guarantee to these children.

Am I opposed to reforming welfare? Absolutely not. But let us put this issue in perspective. We are talking about 9 million children—many of whom have no other protection at all because of the circumstances in which they are raised—who count on their Government as a last resort to be of help.

Let me be starkly clear about what this legislation does. Under this bill, States can cut off benefits. They cannot provide work opportunities. There is no requirement for them to do so. They can set shorter and shorter time limits, if they so desire. They can cut off families completely without making any accommodation for their children. And no matter how draconian these measures may be, this National Government will stand by and do nothing.

It is worth noting that virtually all religious groups in this country and their leaders oppose this piece of legislation. Let me share with you the views of Bishop Anthony Pilla on behalf of the Catholic Bishops:

> The test of welfare reform is whether it will enhance the lives and dignity of poor children and their families. The moral measure of our society is how we treat the least amongst us. This legislation fails these tests and fails our Nation.

What is more, we are considering this legislation with the benefit of data showing that the bill will push at least 1.1 million children into poverty in this country and worsen the situation of children already in poverty by 20 percent.

Let us consider, if you will, for just one moment that instead of dealing with welfare reform here, we were dealing with a piece of legislation affecting American businesses. And assume for 1 minute, if you will, that we were provided data by credible sources that said as a result of this bill, if it were to become law, 1 million business people would fail as a result of your actions.

I would just inquire: How long would that legislation last on the floor of the U.S. Senate? We would not be told that it is a ''minor inconvenience'' and somehow ''we may fix that later.'' We would not spend 1 minute considering a piece of legislation that would cause 1 million business people to fail. And, yet, when 1 million children may fail and already poor children will be pushed into even more difficult circumstances, we are told over and over again that somehow we will fix that down the road.

I cannot support a piece of legislation that would take 1 million innocent children and push them into poverty with a vague hope that some day we may do something to correct that situation.

These numbers should make all of us take pause and seriously consider the dire implications of our actions. I know many people argue that the current welfare system does not serve our children well. I do not disagree. But replacing a system in need of reform with a worse system is no solution at all. In fact, it is irresponsible. There is no justification, in my view, to try something different at any cost; namely, abandoning a national commitment to children for the sake of change.

Again, I applaud the improvements that were made in this bill, and they have been recited by others. It, certainly, is better than what was considered a year ago in a number of aspects. But despite those improvements, there are still elements in this legislation which make it fundamentally flawed.

The Congressional Budget Office estimates that between 2.5 and 3.5 million children would be affected by the 5-year cutoff of benefits in this bill. I have no objection to setting time limits on adults. In my State, it is 2 years. Experiments like that make sense, to see if they work. What I do not understand is that no matter how difficult you want to be on the parent, how do you look into the face of a 6-year-old child who, through no fault of their own, are born into difficult circumstances and say that regardless of the flaws of their parents, the irresponsibility of their parents, they must pay the price? I do not understand that logic or that thinking.

It seems to me that if we know this welfare bill will increase the number of poor children, we should, at the very least, make some provisions for children whose parents have reached the time limit and are cut off from assistance. But this bill prohibits—and I emphasize this—this bill prohibits even providing vouchers to children whose parents have hit the 5-year time limit. In fact, it does not even grant the State the option to provide noncash aid to infants and toddlers.

This is not only a step backward, but, in my view, it is an unconscionable retreat from a 60-year-old commitment that Republicans and Democrats, 10 American Presidents, and Congresses have made on behalf of America's children.

Some will argue that the conference agreement says that States can use the title XX social services block grant to provide vouchers for these families and children. But I ask my colleagues to look at the provisions of the bill that cut this block grant by 15 percent. We are reducing the very block grants we are now telling States they can use to provide for these benefits.

I truly believe that if we were serious about ensuring the safety net for children in this bill, we would do it outright and not come up with fancy accounting methods that provide no guarantees for children whatsoever.

This legislation does not provide enough funds, quite frankly, to meet the work requirements of the bill. This bill has the goal of putting welfare recipients to work. I applaud that. Yet, it fails to provide adequate funds to reach that very growth.

We are setting ourselves up for a failure. The Congressional Budget Office estimates that this bill is $12 billion short of funds needed to meet the work requirements—$2 billion more than the shortfall of the Senate bill which was passed last year. The same Congressional Budget Office says that most States will not succeed in meeting the work requirements. They will just accept the penalty of reduction in funds.

Do our friends here who support this legislation think that millions of jobs for welfare recipients will simply appear out of the air? Will millions of welfare recipients, most of whom want to work, I would argue, magically find jobs? Not unless they receive the assistance, the training, and the educational help which leads to job creation. In this bill, they will receive no such help at all.

While we see movement on child care—again, I applaud that—this conference agreement retreats on a critically important child care provision.

Let me emphasize this point. Both the House and Senate bills contain provisions that prohibit a State from sanctioning a family if the mother could not work because she could not obtain nor afford child care for children age 10 and under. The conference agreement, which we are about to vote on, moves that age threshold from 10 years of age to 5 years of age, at the request, I am told, of some Governors.

Currently, approximately 2.4 million children on AFDC are between the ages of 6 and 10. The families of these children could lose all of their benefits as a result of a work sanction because the parent could not find adequate child care for a 7-year-old, an 8-year-old, or a 9-year-old. This bill encourages parents to go to work and leave a child at home, without supervision, at a time when we are talking about family values and parents caring for their children. We put these parents in the catch-22 situation, either they lose benefits or leave their child—a 6- 7- or 8-year old at home alone. I do not understand, again, the logic of that kind of thinking.

I know that the Governors have argued that the protection for children 10 and under would make it hard for them to meet the work requirements in the legislation. But that sort of argument points out flawed thinking in this bill. I think all of us understand the need for child care. Latchkey children are a serious problem in our society. I fail to understand how Governors who argue that a provision which protects kids who are 6- 7- and 8-years old would impede their ability to meet work requirements. Governors, at the very least, should be able to guarantee to children age 10 and under that they will not be left at home without care.

Additionally, the food stamp cuts in the conference agreement are deeper than last year's vetoed welfare bill and deeper than last year's Senate-passed bill. The conference agreement would cut food stamps by about 20 percent. Families with children—not single adults—families with children will bear the greatest burden. Two-thirds of the cuts in food stamps will hit families with children.

Additionally, the bill limits food stamps to unemployed adults not raising children to just 3 months in a 3-year period with no hardship exemption whatsoever. If we were in a period of high unemployment in this country, with people being laid off from jobs through no fault of their own, how do you explain to someone who has worked for many, many years and finds himself without a job, that he will be cut off from some basic necessities to allow him to exist? And there's no exemption whatsoever to account for economic difficulties.

The Congressional Budget Office estimates that in an average month, under this provision, 1 million poor, unemployed individuals who are willing to work and have worked in many cases and would take a workfare slot, if one were available, would be denied food stamps because they cannot find work.

Finally, Mr. President, I want to mention the treatment of legal immigrants in this legislation, which I know is of great concern to our colleagues from California and Florida and New York and others.

This bill, in my view, is a repudiation of the legacy of immigration that has defined our country for more than 200 years. We are talking about legal immigrants now.

It is this influx of immigrants from diverse cultures and distant lands that has made this country a shining example to the entire world. That is why millions of people across the globe have come to our Nation.

To say to legal immigrants who pay taxes, who get drafted and serve in our military that we are going to deny them basic protections after we have invited them to come here in a legal status because they do not vote and they are an easy target I think is a mistake.

It was the promise of the American dream that brought my family to this country from Ireland. And it was the desire for a better life that brought millions of other immigrants to America, whether they came over on the *Mayflower* or if they came to our land in just the past few days.

The fact is, nearly every Senator in this body is a descendant of immigrants.

The attack, in this legislation, on legal immigrants is mean-spirited and punitive.

This bill is more interested in reducing the deficit than maintaining our commitment to legal immigration.

This bill bans legal immigrants—children and the disabled—from food stamps and SSI. When people lose SSI, they lose their health coverage under Medicaid.

I fear that we'll see people who have paid taxes wheeled out of nursing homes as a result of this bill.

The legal immigrant provisions of this bill will shift substantial costs on to local governments.

In the words of Mayor Guiliani of New York:

> By restricting legal immigrants' access to most Federal programs, immigration, in effect, becomes a local responsibility. Welfare reform should not diminish Federal responsibility for immigration policy or shift cost to local governments.

But that's exactly what this bill does.

CONCLUSION

In closing, let me say, Mr. President, that welfare reform is by no means easy. If we are to change the cycle of dependency and encourage work among welfare recipients, we must make tough decisions.

But, in the end, those decisions must always be weighed against their effect on poor children. Our success will not be judged by how much we reduce the welfare rolls, but how we help those who are left behind.

This bill fails that test—on both accounts.

President Franklin Roosevelt once said that: ''The test of our progress is not whether we add more to the abundance of those who have too much; it is whether we provide enough for those who have too little.''

For those in our Nation who have too little, we are providing only crumbs.

If welfare recipients are to revel in the hopes and aspirations of the American dream then they must be provided with the tools and opportunities to make those dreams a reality.

This bill fails those Americans and it fails our commitment to the most vulnerable and poorest citizens in our Nation.

I know this is a futile effort, but I urge my colleagues in the remaining few hours to consider that we are about to sever the lifeline to 9 million children in this country for the sake of putting 1 to 2 million adults to work. This incredibly misguided policy is not in balance and ought to be defeated.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise in strong support of the conference report to the Personal Responsibility and Work Opportunity Act of 1996. The American people I believe have demanded welfare reform, and I am pleased that the Congress has not yielded in its commitment to pass much needed and long overdue comprehensive welfare reform. Our current welfare system is a death sentence. It is a death sentence to the human spirit, the family, and the hopes and dreams of millions of children in America. The welfare system today encourages dependency, facilitates the breakdown of the family, demoralizes the human spirit, and undermines the work ethic that built our Nation. For a third time this Congress has delivered legislation to address the failures of the welfare state and provide reforms that I believe will free the poor from being trapped in a cycle of dependency. This bill is the boldest statement we can make in the current political environment, and I am pleased that the President has finally pledged to keep his promise to end welfare as we know it.

Mr. President, the imperative for welfare reform is manifest. The American taxpayers have spent more than $5.4 trillion since President Johnson declared a war on poverty. But after spending this massive sum, we are no closer to having a Great Society than if we had done nothing. In fact, the poverty rate in America has actually increased over the past 28 years. The reason for this is simple: Welfare has become a way of life. The modern welfare State is rife with financial incentives for mothers to remain unmarried. Eighty percent of children in many low-income communities in America are born in homes without a father. It is virtually impossible for a young unwed mother with no work skills to escape the welfare trap as we know it today. This has done nothing to stop the ravaging of our cities and the skyrocketing of violent crime.

People have become dependent on welfare because it completely destroys the need to work and the natural incentive to become self-sufficient. For more than 30 years the message of the welfare state is that the Government will take care of you. It is a punitive form of assistance. It punishes those who want to work and want to succeed. It punishes those mothers who want to get married and have a husband to help raise the children.

Where is the compassion in this present welfare program? It is not there. Only the beltway establishment would dare suggest that providing monthly benefits is more compassionate than fostering the natural inclination in every human being to reach your full potential. However, with the enactment of this bill, Congress will require welfare recipients to work in exchange for benefits for the first time. By imposing a 5-year lifetime limit on welfare benefits, the message of the reformed welfare state is that we will provide temporary assistance to help during hardship as you return to self-sufficiency.

The bill we vote on today begins to repair a very badly broken welfare state in other ways. It puts healthy incentives in our welfare system. The generous package of welfare benefits available in America is a magnet for literally hundreds of thousands of legal and illegal immigrants. I do not believe this is just, and this bill properly denies welfare to noncitizens.

Also, the Government will no longer tell young women, ''If you have children you are not able to support and you are willing to raise them without a father the Government will reward you and pick up the tab.'' That is the wrong message. This legislation allows States to end additional cash payments to unwed mothers who have additional children while collecting welfare. The bill also permits States to deny cash to unwed teenage mothers and instead provide them with other forms of assistance. It is good for children to see both their parents in the morning, and this bill provides the mechanisms that will make this the norm, not the exception.

This legislation represents real welfare reform. The monster that was created over the last 30 years will not change overnight, but we take a significant step today. This bill ensures that welfare finally will benefit, not harm, its beneficiaries. I urge all my colleagues to adopt this landmark legislation.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Thank you, Mr. President. I ask to be recognized for 13 minutes.

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

Mrs. FEINSTEIN. Mr. President, I would like to read you an excerpt from an editorial in yesterday's Sacramento Bee which, I believe, sums up the bill we are about to vote on

> There is a widespread consensus that welfare must be reformed to reduce long-term dependency and encourage work and personal responsibility. But the current bill, underfunded and overly punitive, ignores everything we have learned over the last decade about moving welfare recipients into the job market.
>
> More than half of the welfare recipients lack a high school education at a time when labor markets put a premium on education and skills. Two-thirds live in central cities, places from which employers have fled. At their most successful, past efforts to move welfare recipients into jobs, such as the GAIN program in Riverside have reduced welfare roles by only 10 percent and incomes of welfare recipients by a few hundred dollars a month.
>
> Yet the welfare bill requires states to move half of all recipients into jobs, even though, according to Congress' own experts, the bill falls $12 billion shy of funding for the work program. Even if one heroically assumes that two-thirds of welfare families would find permanent employment, the bill's five-year lifetime limit on benefits would leave 1 million families—adults and children alike—without any source of income.

Mr. President, I am very disappointed that I must oppose the welfare reform bill as presented to this body by the House-Senate conference committee. I had hoped that the bill that emerged from the conference committee would be one that California could live with, because, I think it is clear that, with 32 million people, no State in the Union has as much to gain or as much to lose from welfare reform.

Unfortunately, this bill remains one in which California loses, and loses big.

California is being asked to foot the bill for changing welfare as we know it—and that is wrong. One-third of the estimated $55 billion savings in this bill comes from one State: California. California faces a loss of more than $16 billion over the next 6 years as a result of this bill, more when you add reductions in State funds under the new rules and potentially much more if our welfare caseload continues to increase at the current pace.

The losses to California are staggering: Up to $9 billion in cuts to Federal aid for legal immigrants, $4.2 billion in cuts in food stamps, and as much as $3 billion in AFDC funds over the next 6 years.

Not only is this bill unfair to California on its face, it is seriously flawed in a number of critically important areas.

The contingency funds provided in this bill—$2 billion—are too little. California alone, I predict, can and will need the entire amount.

Work requirements are an impossible goal. The heart of this bill, moving people from welfare to work, rests on the unknown and probably the impossible. No state, to my knowledge, in 6 years has been able to move 50 percent of its welfare caseload into jobs, as this bill requires. California will have an impossible hurdle to move the required 20 percent of its welfare caseload into jobs in 1 year, let alone 50 percent in 6 years. In order to meet the 20 percent work requirement in this bill, California would have to find jobs next year for more than 166,000 current adult welfare recipients. But, in the last 2 years, the State added an average of only 300,000 people total to payrolls in nonfarm jobs. How do we possibly create enough jobs to increase employment by another 50 percent—especially for a work force that is largely unskilled and under educated? California is a State that has all but lost its production base and is now producing either high-skilled jobs or hamburger flippers at minimum wage.

In order to move people into work, there must be affordable child care for parents. This bill does not provide anywhere near enough funds. The child care block grant in this bill is awarded to States based on their current utilization of Federal child care funds. In California, there are approximately 1.8 million children on AFDC. California currently provides child care subsidies and/or slots to approximately 200,000 children. The Child Care Law Center estimates that under the welfare reform bill, as more parents are required to work, as many as 418,000 additional preschool children and 650,000 children aged 5 to 13 may need child care. This would be a 600 percent increase in need for child care slots.

This bill does not come near the amount of child care dollars that would be needed in California to do this job.

The conference bill is actually worse than the Senate bill in handling America's ultimate safety net: Food Stamps. The conference bill cuts food stamps by 20 percent. California loses $4.2 billion.

Last year, an average of 1.2 million households—more than 3.2 million people—in California relied on food stamps each month. California's unemployment rate is still high at 7.2 percent—2 percentage points above the national rate of 5.3 percent. 1,117,000 people are out of work today—more than the entire populations of nine States. This bill would limit food stamps for an able-bodied adult with no children to a total of 3 months over a period of 3 years. If that person becomes unemployed, they would only be able to receive an additional 3 months of food stamps in that same 3-year period. This bill would also bar all legal immigrants from receiving food stamps—there is no exemption for elderly, disabled, or children.

The shelter deduction in this bill is a case in point which demonstrates that, however well intentioned this bill might be, it lacks a fundamental foothold in reality when it comes to California.

The shelter deduction allows families with children to deduct a maximum of $247, with an increase to $300 in the year 2001, from their income level when applying for aid—ostensibly to compensate for the cost of housing.

In the vast majority of the population centers in California, particularly in urban areas, you can not find a place to rent for that amount of money. In San Francisco, the average rent is between $750 and $1,000 per month.

So this deduction is so low that it is virtually useless in California.

California is not the only loser in this welfare bill. America's children lose as well. In a rush to deliver a welfare reform bill—any welfare bill—before the November elections, this bill is the moral equivalent of a dear John letter to our Nation's needy children.

Under this bill, 3.3 million children nationwide and 1.8 million children in California could lose AFDC after the 5-year limit. Children of undocumented immigrants would not even be allowed to buy federally subsidized school lunches. Recent studies by Children Now and the Urban Institute estimated that this welfare plan would thrust an additional 1.1 million children into poverty conditions in the United States. The Senate rejected moderate amendments sought by the White House as well as members of both parties to provide noncash assistance to children whose parents lose their benefits in the form of vouchers for food, clothing and other basic necessities.

The voucher language included in the conference report is an empty-handed gesture allowing states to rob Peter to pay Paul because it adds no new funds to provide basic necessities to children whose parents lose benefits.

The major cost shift to California comes from the elimination of Federal assistance for legal immigrants, most of whom are elderly, blind, and disabled—all of them poor—who came to this country under terms agreed to by the Federal Government. And yet, the Federal Government will not bear the cost of changing the terms of that deal—the cost of this policy shift will be forced onto States and counties.

Let me be clear: I am all for changing U.S. immigration policies to hold sponsors of legal immigrants legally bound to provide financial support to their sponsees. But to change this policy on those already in this country—retroactively—and thus summarily dropping hundreds of thousands of elderly and disabled immigrants from Federal support programs like SSI, food stamps, and AFDC onto already overburdened county assistance programs, is not only an abdication of Federal responsibility—to me it is unconscionable.

The impact of this cost shift to California counties could be catastrophic.

An estimated 722,939 legal immigrants in California—many of whom are aged, blind, and elderly—would lose SSI, AFDC, and food stamps under this bill.

Los Angeles County—the most impacted area nationwide—estimates that 93,000 noncitizen legal immigrants will lose SSI under this bill, at a potential cost of more than $236 million each year in county general assistance funds.

Los Angeles also estimates that the restriction on future immigrants receiving nonemergency Medicaid services would result in $100 million in additional costs—much higher unless the State comes up with the funds to provide coverage to noncitizens.

San Francisco County estimates that the cost of county funded general assistance could increase $74 million under the legal immigrant provisions in this bill—an increase of more than 250 percent.

Other counties in California are studying the impact of this legislation and coming up with similar financial horror stories. Twelve of the top twenty metropolitan areas in the country that are impacted most severely by this bill are in California.

The State of California indicated by its budget that it has no ability or intention of stepping in to fill the funding gap this bill creates. Governor Wilson's State budget for fiscal year 1996–1997 assumes the immigrant provisions in this legislation will pass and legal immigrants will no longer be eligible for assistance.

California's legislative analyst's report indicates that Governor Wilson's budget:

> . . . assumes enactment of federal legislation barring most legal immigrants from receiving SSI/SSP benefits starting January 1, 1997. The budget assume savings of $91 million from this proposal.

That is from the ''Legislative Analyst's Report, 1996–97 Budget.''

While we in Washington sit in our ivory tower and pat ourselves on the back for changing welfare as we know it, the real impact of this bill will land on real people who are too old or too sick to care for themselves, and whose families—if they have one—have no ability to help them.

Let me put some faces and names on this welfare bill for you:

A 73-year-old woman who asked not to be named came to the United States as a refugee from Vietnam in 1981. She sold everything she owned to pay for her passage on a boat for her and her mother. Her mother died on the trip over. She moved to San Francisco in 1985 and fell ill with kidney disease. She currently depends on SSI and Medicaid to pay for dialysis and other medical care. Her only relative in the United States is a goddaughter who cannot afford to care for her. She has applied for citizenship, but may not pass the English proficiency exam.

Maria, who lives in Los Angeles, came to the United States in 1973 when she was 62 years old to live with her daughter. In 1984, her daughter had a stroke at work which rsulted in two cerebral aneurysms. Following the stroke, her daughter was unable to work and therefore unable to support Maria as she had done for the previous 11 years. Maria received both SSI and Medicaid. Neither Maria nor her daughter would be able to survive on her daughter's disability income alone.

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

The PRESIDING OFFICER. Who yields time? The Senator from Virginia.

Mr. WARNER. Mr. President, I yield 7 minutes to myself.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 7 minutes.

Mr. WARNER. Mr. President, like so many of my colleagues, I have had the opportunity to actually visit—this time Norfolk, VA a few days ago—a center which is providing job training for welfare recipients. The first thing I was impressed with was a collection of about 12 rooms. It was absolutely spotless. The staff of this nonprofit organization had many volunteers who came in to work with their welfare clients. In this instance I only saw welfare mothers, or some perhaps who did not have children, and largely minorities. All was neat and clean, and they showed up meticulously on time at this center with a spirit of ''can do—we will overcome our handicaps if only you will reach out and give us a helping hand.''

That is what this bill does. It should be called the helping hand bill. Each of us in our lifetime has experienced periods when you had to reach out a helping hand. Most have the opportunity to do it regularly. I can remember at one point serving in the U.S. military with men, in this instance, who could not read and write, but they received a helping hand and quickly learned those military skills, that they could at that learning level, and became key members of fighting teams, in this instance, in the Navy. I will never forget that. All they asked for was a helping hand, and that is what this bill is designed to do and will do if we will just give it a fair chance.

I regret to hear, largely from the other side of the aisle, these cries that we have done a wrong. We have not done a wrong. We have listened to the American people. Sixty-five percent of the American people, or higher, agree that the system in Washington has not worked. It was given a fair chance. It was given an enormous sum of money. One piece of paper says we have spent, as a nation, more money on welfare than the cost of all military actions in this century. This is a substantial amount of money.

Yet, the casualties in terms of the families, particularly the children, have been very high. Why not give the States and the local communities the opportunity now to make this system work? We all know that there are persons less fortunate than ourselves, and all they want is a helping hand. Reach out, that is what we should do.

As this bill goes forth—the President has now indicated, for reasons of his own, after two vetoes he will sign this one—let's send it forth in a spirit of can do, like the people I met in the welfare center in Norfolk. We do not want it to arrive on the doorstep in the several States, down in the small towns and villages of my State and your States with a message, ''It isn't going to work.'' But it is there, so let's send it in the spirit of give it the best shot.

I ask, are not the people in the communities, large and small, all across this Nation as well qualified as the innumerable army of bureaucrats here in the Nation's Capital who, for half a century, have worked with this? Are they not as well qualified? I say absolutely yes, and let's give them a chance to make it work.

I am not satisfied with every provision in this bill. I sided with the Senator from Louisiana, JOHN BREAUX, to give more funds and support to the children. I was concerned. I voted against a majority on my side of the aisle. There is not a person in this Chamber who is not concerned as to exactly what will happen to children. But let me tell you, in the communities in my State, and I say in the communities in your States, they are not going to let the children be injured, irrespective of however the law is written. They will find a way to make it work and protect those children far better than we can as bureaucrats in Washington. They will make it work.

If there are legislative changes needed, I assure you, the citizens of my great State will come to my doorstep very promptly and say, ''Senator, we're trying to make this bill work, but we need a change here,'' or a change there. And I am confident I will step forward, as will others on both sides of the aisle, and make those changes to make this piece of legislation work.

Families living side by side, one receiving welfare, one getting up and going to work—the friction between them, the discontent right in the same street in the same neighborhood—is intolerable. We have to stop that. We are providing a disincentive for those who are getting out of bed and trying to go to work. Within the welfare ranks, we may be taking a gamble, but I will bet that there are a substantial number on welfare who want to come forward and, with a helping hand, make this piece of legislation work.

It is incumbent on those welfare people to have a willingness to break out of the system. They may be shy, they may be reticent, and we will be patient, but they have to go to work. There are able-bodied people in all these communities—and I have seen them and you have seen them—who will step forward and gently but firmly and decisively extend that hand to make it work and to quickly come back if children or other aspects of this program are not working and inform the Members of Congress so we can fix it.

Mr. President, this is a great day for our country. We have come to the realization that one of the major entitlement programs has not lived up to its expectations. It has created scenes in every town in America which are totally unacceptable in this day and time. Let's make this piece of legislation work. Let's send it out of here and praise the efforts that we have made in response to the direct plea of the American people to fix this system by sending it from Washington back to where it belongs—hometown USA.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Illinois.

Mr. SIMON. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SIMON. Mr. President, let's face it, our choice is: hurting poor people and gaining some votes in the process, or appearing to stand for something that we all know needs change and losing votes but not hurting poor people.

My friend from Virginia, for whom I have great respect, says this is a helping-hand bill. The Urban Institute says we are going to put 2.6 million more Americans into poverty, 1.1 million more children. That is not the kind of helping hand we need. We already have 24 percent of our children living in poverty. No other Western industrialized nation is anywhere close to that, and we are compounding the evil.

I am supporting Bill Clinton for reelection. In many ways, he leaves a good legacy. But let no one make any mistake about it, he is marring his legacy by signing this bill. He may gain a few more votes on November 5, but he is hurting history's judgment of what he is doing as President.

This is not welfare reform. This is political public relations.

I heard one of my colleagues, for whom I have great respect, say we have to change the system of children having children. Of course we have to change the system of children having children. But this bill does not do one thing in that direction. And it should be added that the birthrate among people who have welfare is going down, and going down significantly.

Second, I say to you, Mr. President, we have about a million teenage pregnancies each year, about 400,000 of which end up in abortions, incidentally. What we know is those who are high school dropouts are much more likely to be involved in teenage pregnancies. You want to do something about that? Let us put some money into education, not this phony bill that is going to cause great harm.

Will Durant and his wife have written great histories: ''Reformation,'' ''The Age of Napoleon,'' and so forth. But Will Durant wrote a small book called ''The Meaning of History.'' In that small book, in ''The Meaning of History,'' he said: ''This is the history of nations, that those who are more fortunate economically continue to pile up benefits, and they press down those who are less fortunate until those who are less fortunate eventually revolt.''

What are we doing here in this session of Congress? We are giving the Pentagon, this fiscal year, $11 billion more than they requested. We are going to have some kind of tax cuts that particularly benefit those of us in this Chamber who are more fortunate economically. And with this bill, for the next 6 years, we will be cutting back $9.2 billion a year from poor people.

I am for genuine welfare reform, but genuine welfare reform requires providing jobs for people of limited ability and providing day care. I have a bill in that says you cannot be on welfare more than 5 weeks—in some ways, tougher than this—but then the Federal Government has a WPA type of job available. We screen people as they come in, and if they cannot read and write, we get them into a program. If you have no marketable skill, you get them to a technical school or a community college. That would be genuine welfare reform.

But as Gov. Tommy Thompson has pointed out—a Republican, incidentally—if you are going to have welfare reform, you are going to have to put in more money upfront, not less money.

I like Senator FEINSTEIN's remark that this is the moral equivalent of a ''Dear John'' letter to the poor people of the Nation. She is, unfortunately, right.

In October—the Presiding Officer is someone who has a sense of history—in October, we have Roosevelt History Month because we thought at that point we would dedicate the Roosevelt memorial. It looks like now it will not be ready then. But we will celebrate, that month, when we had a great national leader who lifted the poor people of this Nation. Two months prior to that, we are going to celebrate by pushing down the poor people of this Nation.

Let us be very practical. A woman who lives in Robert Taylor homes in the south side of Chicago, desperately poor, lives in a public housing project, has three children, and with this bill—and she has very limited skills because she went to poor schools, probably can barely read and write—with this bill we are saying to her, you can at the most stay on welfare 5 years, maybe only 2, but we are not going to provide any job for you, we are not going to have any day care for your children.

What does that woman do if she wants to feed her children? Does she take to the streets in crime? Does she become a prostitute? I do not know, nor does anyone else in this Chamber.

Let me pay tribute to two people here, one who just spoke against this before, Senator CHRIS DODD, who is the Democratic national chairman and who is interested in votes. But despite being Democratic national chairman, despite the stand taken by President Clinton, CHRIS DODD stood here and said this is bad for the children of America. And PAUL WELLSTONE, up for reelection, showing great, great courage.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SIMON. I yield myself 30 additional seconds.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SIMON. When my friend from Virginia, Senator WARNER, said the States will protect people, I think of the bill we finally passed when I was over in the House to protect children who wanted to go to school who had disabilities. The States said, ''If you're in a wheelchair, if you're blind, if you're deaf, sorry, we're not going to force education for them.'' The majority of the mentally retarded were not being given any help by our public schools. The Federal Government came along and said, ''You are entitled to this.'' The Federal Government protected people with disabilities, and the Federal Government should protect poor people in this Nation. We are not doing it with this legislation.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I yield to the Senator from Ohio 8 minutes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Thank you, Mr. President.

This legislation that we will pass in the next 2 hours is truly historic. It recognizes, literally for the first time in 60 years, that when it comes to lifting people out of poverty, Washington does not have all the answers. In fact, I think most of us know Washington has really few answers in this area, because the true innovation, the true changes that we have seen in the last decade in regard to welfare reform has come from the States. That is what this bill will foster. That is what this bill will allow.

Mr. President, there has been a great deal of controversy about many parts of this bill, but I believe what unites just about everyone in this debate is a realization that the current system simply is not working, that the status quo is unacceptable. We disagree about what should replace that system.

That is why one chief merit of this bill is that it gives the States the flexibility to reinvent welfare, to find out what works, what does not work, and once we find out what works, to build on that. That experimentation has already started in the States. The only thing that is holding it back, frankly, is the Federal Government. And this bill allows for more experimentation, it allows for new ideas.

Mr. President, compared to the current system, a failed, top-down system that fosters the cycle of dependency that blights so many parts of America, this is a huge improvement. And there are other improvements, Mr. President, in this bill as well.

This bill reestablishes the connection between work and income, the time-honored idea that people should work to get income. The current welfare system cut the nexus between working and making money. This was one of the great mistakes of our social welfare policy. People do need a hand up. They need help. And this welfare bill gives them a hand up.

I am also very pleased, Mr. President, the bill includes a ''rainy day'' contingency fund for the States. As a former Lieutenant Governor, I know how vulnerable a State's budget is to an economic downturn. Many States, such as my home State of Ohio, are required by law to balance their budget every single year, no matter how hard the economic times are. We need to make sure that the poorest Americans are taken care of when that contingency arises, thus the contingency fund in this bill.

That is why, Mr. President, I offered the amendment for the contingency fund last year. I applaud the conferees and the leadership for the decision to include that contingency fund in this package as well.

I also think this bill's crackdown on unpaid child support is a terrific idea and long overdue. As a former county prosecutor, I dealt with these child support cases all the time, and I can tell you that when child support goes up, the welfare rolls go down. It is as simple as that.

One provision in this bill that I am particularly proud of is one I proposed as an amendment to last year's welfare reform bill. It has been included in this bill as well. It would give States added tools in their efforts to track down the bank accounts of deadbeat parents.

Mr. President, in this bill, we are strengthening the States as they attempt to go after the delinquent and deadbeat parents. It is absolutely essential that we strengthen the ethic of personal responsibility in this way. We need to make it absolutely clear—America demands that parents be responsible for their children. Deadbeat parents cannot be allowed to walk away from their responsibilities. In this bill, we deal with that.

We also provide a strong safety net at the same time, a strong safety net for people who need help. The bill passed the House by a broad bipartisan vote, 328 to 101. I expect it will pass the Senate overwhelmingly later this evening. I applaud the President for his decision to sign this bill. My only regret is that we lost time. We lost a year. Last year, the President had welfare reform before him. He decided to veto the bill. This bill is no different, not significantly different in any way. I am pleased to see that the President has changed his mind and that he now intends to sign the bill.

Today, the American people can be proud of this legislative process. We are about to pass a bill in a couple of hours that offers the best hope in our lifetime for breaking the cycle of poverty. It is a bill that provides hope, hope for the people on welfare, and hope for the idea that we can change welfare, change the system that clearly has not worked. It has been a system that has kept people down, a system that has promoted illegitimacy, a system that has not given people hope. Today we take a major step to change that.

Mr. President, let me conclude by stating that we have heard a lot of comments today on this floor about children. I think we should not fail to realize that the chief victim of the current welfare system, the chief victims, are the children. If anyone doubts that, talk to families who are on welfare. Talk to the children. I believe the chief benefit of this bill, quite frankly, is the hope it holds for these children.

I thank the Chair and I yield the floor.

Mr. ABRAHAM. In the absence of a speaker on the Democratic side, I yield myself up to 10 minutes to speak at this time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, as we come to the conclusion of this debate, I think we should be proud of the efforts of the Senate and of the Congress. For the better part of 2 years we have now been working toward, I think, a very positive conclusion to the debate on how we assist those in our society who are the most needy.

It is clear from an examination of the past 25 to 30 years that the so-called war on poverty has been, at least up until now, won by poverty. Although trillions of dollars, over $5 trillion, has been spent during this past 25 to 30 years to try to fight that war, we find today virtually the same percentage, if not a greater percentage, of Americans below the poverty line than was the case when the war began. We have spent, as I say, a lot of time debating in this Congress and in previous Congresses why that is the case.

It is quite clear, and I think acknowledged now by virtually everybody who has been involved in this debate, that the process, the welfare system in this country, is a principal reason why the war has not been won. Some would say, yes, there is a problem, but we have yet to come to the proper solution to that problem. However, I disagree.

Indeed, we have worked very hard for, as I say, almost 2 years in this Congress, building on work done in previous Congresses, to find the solution. I believe this legislation, although maybe not ideal from the perspective of any single Member, including the one from Michigan, is, nevertheless, a major step in the right direction.

I believe this approach will work, Mr. President. It will work for a variety of reasons. First, it will work because it vests far more flexibility and far more decisionmaking and far more authority in the 50 States. There may have been a time in this country when some States and communities did not step up to their obligations to assist those in need. That is certainly not the case today. I do not know of one person in this Senate who has stood up here and said: ''My State will fail; my State will not take care of people; my State cannot meet the challenge; my State is less compassionate than the National Government.'' I have not heard one Member say that. That is because not one Member could say that, Mr. President.

The States are as compassionate and as capable and more knowledgeable about the problems confronted by their citizens than bureaucrats in Washington. This legislation gives those States the chance to translate their compassion and their insight and their expertise into the action it will take to assist people in need to move out of poverty and on to the economic ladder.

This legislation works, also, Mr. President, because it changes the incentives. Yes, we place some tough standards in this legislation, incentives to people to get out of the welfare dependency role and on to and into the work force. We put time limits. We put the kind of tough standards that will cause people to understand that poverty is not the way of life, that welfare is not the way of life, and to seek the assistance of government at all levels to obtain the training and the assistance and the help it will take to move into productive work. It changes the incentives in the right direction.

The legislation is important, also, Mr. President, because for the first time it allows us to begin addressing one of the most important problems we confront in this country, the problem of the rising rate of illegitimacy, of out-of-wedlock births in America. We provide in the legislation incentives for States to find ways to solve the growing number of out-of-wedlock birth situations, incentives in the form of more dollars for the various problems if States can address effectively these issues and these problems, and do so without increasing the abortion rate at the same time.

Finally, this legislation makes sense, Mr. President, because it means less bureaucracy. In my State of Michigan, we think we have a pretty darn good formula for addressing the problems that confront our most needy citizens. Too often, however, Washington bureaucracy and red tape make it impossible to accomplish our objectives.

Just to put it in perspective, when we talk to people in our Family Independence Agency—it used to be called the Department of Social Services; we tried to change the title to change the philosophy as to our objectives in that agency—the front-line case workers, the people who are supposed to be out there at the front line assisting folks to get out of poverty and on to the economic ladder, two-thirds of their time is not spent helping people get off welfare. Two-thirds of their time is spent filling out paperwork, almost all of it coming from Washington. We believe in our State, for example, that we can take what is now a 30-page form that must be filled out by folks who are going to go on to assistance programs and reduce it to about 5 pages, one-sixth the size of the form that currently is used. The time the case worker would have spent filling out the other 24 pages can now be spent helping the recipient figure out what training programs and what strategies will work to give them an opportunity to be productive and to get on the economic ladder. We think we should have the flexibility to get rid of the bureaucracy and to get rid of all that paperwork and concentrate on the true challenge that we have.

For these reasons, I think the program that we are about to pass tonight is a sensible approach. I think it will do two things. I think it will help the people who need help and give confidence to people who have lost it in our system, the people who pay the bills, the taxpayers, who are frustrated by what they see as a losing war on poverty, confidence we are moving in the right direction. I think that will translate, Mr. President, into more support for social agencies across our States and in our communities, for charitable organizations, for other types of approaches that will assist government in getting the job done.

Finally, let me conclude with a comment about one particular topic that has been discussed at great length during this debate. That is the issue of children. We all have different perspectives on this, of course. As I look back at the last 30 years, as I hear story after story from the people in our social service agencies about families in a cycle of dependency, about kids without hope, of rising crime rates among young people, of increased drug usage rates, of kids having kids, I can't help but think that what we have today has to be changed if we really care about helping kids. If we really want to help the children, we certainly should not, in any sense, continue this legacy, continue the system that has created so much unhappiness and so much hopelessness.

Let us replace the hopelessness with hope, Mr. President. Let us finally put all the words and all the rhetoric of many years of campaigns and Congresses into action. Let us do it tonight. Let us finish the job and move in a new direction. Let us solve the problem. Let us help our most needy citizens in the best way possible.

I yield the floor.

Mr. EXON. Mr. President, I yield 7 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I thank the Chair. Last year, I voted for the bill that the Senate passed 87–12 that went to conference committee. The conference committee moved significantly back, so much so that the President saw fit to veto it. I voted for the bill that came back. I voted for the bill that went to the conference committee this year. I listened very carefully to the comments today of my colleagues about this bill that comes back from the conference committee.

This bill that returns to the floor contains a number of important improvements from the bill that was vetoed last year. The agreement before us assures that almost all categories of citizens who are willing to work who are now eligible for Medicaid will continue to be eligible for health care in the future. The bill increases child care funding levels by $4 billion over that which was vetoed. It doesn't include the optional food stamp block grant, so our Nation will continue to have a national nutritional safety net that is below that which I think is necessary. The new bill also maintains the child care health and safety protections contained in the current law and reinstates a quality set-aside.

Additionally, whereas the vetoed bill block granted administration and child-placement services funding, this bill before us retains the current law on child protection entitlement programs and services. And, finally, compared to the vetoed bill, this new bill increases the contingency fund from $1 billion to $2 billion to provide States with more protection during an economic downturn.

Perhaps most important in the new bill is the child-support enforcement measures. These enormously significant changes will result in the most sweeping crackdown on deadbeat parents in history. As the President said yesterday, with this bill, we say to parents that if you don't pay the child support you owe, you are going to have your wages garnisheed, your driver's license taken away, and people will be chased across State lines and tracked, and, if necessary, people will have to work off what they owe. That is a monumental shift in attitude and culture; although, ultimately, I believe without equivocation, that we will have to go further toward a national system, because one-third of all child-support cases are interstate cases. The measures contained in this bill will dramatically improve the child-support system so children can get the support they need and deserve.

Notwithstanding these good advances, Mr. President, I have also listened carefully to my colleagues on the floor, those who oppose it. There is not one of them who has not expressed legitimate concerns, legitimate fears. I respect those concerns and those fears, and I do not believe that there is one of them who does not want welfare change in this Nation. But I do believe we are voting today on a fundamental decision about change and what we are going to try to do. The fact is that we are really codifying what 40 States are already involved in, because there are waivers all across this land. And we are codifying something for a period of 5 years, a 5-year experiment, during which time, the 5 years, the full amount of time that people have before they would be cut off, will not have yet expired. We will be reconsidering it before that date comes.

I believe that my colleagues who have cited problems that still remain with this bill are correct. But there is no way to a certainty, Mr. President, to say what the interaction will be with those who will go to work, those who will benefit from the increased minimum wage, those families that will benefit by increased purchasing power from the combination of work and minimum wage, and therefore less need for food stamps. There is no way to say to an absolute certainty what the impact of a new culture will be on children or the relationship of family.

What we do know is that it will be new, and what we do know is that it carries risks. Mr. President, we also know some things to a certainty. I agree with the President and colleagues who come to the floor that, although we made great strides to maintain the fundamental nutritional safety net, we do cut deeper than necessary in this bill. And I am disappointed in the bill's provisions on legal immigrants. Legal immigrants are people who pay taxes, they can be drafted, and they are in this country completely legally. The harmful provisions that are in this bill have nothing to do with welfare reform. They are fundamentally a savings mechanism. I will do everything in my power, Mr. President, to see that we change those measures as rapidly as possible to adjust.

But as the President said yesterday, immigrant families with children who fall on hard times through no fault of their own should be eligible for medical and other help when they need it. If you are mugged on a street corner or are in an accident or you get cancer or the same thing happens to your children, we are a society that should provide some assistance. I will do everything in my power to fight for that.

Finally, I was also disappointed that we weren't able to have the vouchers for children as a matter of automatic. But, Mr. President, as I balance the equities of this bill, the need for change, against those things that we can remedy and against the experiment that is already taking place in this country, it is my belief that the bill before us will ultimately provide a leverage for change that will also change the dynamic of the debate in this country, and that is why, ultimately, I choose to vote for the change and choose to vote for this bill.

For years now, the poverty rate for children has already been going up in America. We have the highest poverty rate of any industrial nation in the world. But when we come to the floor of the U.S. Senate to try to do something for children, we are told, well, now, wait a minute, their parents don't want to work, or it is the welfare system that created the problem. In fact, the welfare debate that has been so adequately distorted in so many regards obscures the real debate about children and about how you put people to work.

Mr. President, I am convinced that by taking that off the table, we are, in fact, going to begin the real debate in this Nation today about how we adequately take care of those kids.

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

Mr. KERRY. I ask for 1 additional minute.

Mr. EXON. I have exactly 1 minute left. I yield that 1 minute only to the Senator from Massachusetts.

Mr. KERRY. Thank you. Mr. President, I believe that, by taking this away, providing we are vigilant and providing we all mean what we say, providing we are prepared to do what we ought to do in conscience, we will now begin to focus on the children of this country and we will begin to focus on the real work of how you put people to work. I believe that is the most important debate that the country can have and take away from it any demagoguery or artificiality that is placed in front of us about welfare or stereotypes with respect to it. I believe it is an important change.

Yes, people ought to work. Hardworking American citizens should not be required to carry people. But we also have to be honest about the difficulties of some of our population trying to actually find that work. We should not hurt children.

I want to spend every ounce of energy I have, Mr. President, on the floor of the Senate to stop the business of the Senate, if necessary, to guarantee that we fulfill that commitment as we judge how this works over the next months and years.

I thank the Chair.

Mr. EXON. Mr. President, I yield 5 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Thank you, Mr. President. I thank the distinguished floor manager from Nebraska.

Mr. President, let me say, first, that nobody knows better than I that our welfare system does not work very well. Everyone who is going to vote against this bill today said they do not like the system, that it is broke. There is a lot of truth in that.

There are a number of reasons I am going to vote against this bill. First, the bill is not going to address those deficiencies we all know exist in the system. Second, I am going to vote against it because it discriminates against my home State of Arkansas in a massive way. Children in my State will get $390 a year. Children in Massachusetts will get $4,200 a year; in Washington, DC, $2,200 a year. You tell me why a child in Arkansas is worth $390 a year and $4,200 in Massachusetts. You expect me to vote for a formula like that, one that does not even take into consideration how many poor children are in your State?

Everybody hates welfare. I am not too crazy about it myself. But I will tell you one thing. I have seen it firsthand. I have been in the ghettos of my

State in the Delta. I can tell you it is not a pretty picture. Mr. President, I find it rather perverse that 535 men and women who make $133,000 a year will be voting on whether children are going to eat or not, whether their mothers are going to eat or not.

Never has such an important piece of legislation been crafted in such a highly charged political environment. Everybody understands precisely what the politics of this whole thing are. The election is coming up. So we have to do it. I said the other day that there ought to be a rule in the Congress against considering bills like this during an election year. The American people detest welfare. I understand that. But there ought to be a rule against considering these kinds of bills that affect the very fiber of this Nation in an election year.

This is the first time in my lifetime we have deliberately and knowingly and with some elation turned our back on the children of this Nation. I still believe those Methodist Sunday school stories I heard about ''blessed are the poor.'' I used to be one of them.

We are going to kick people off welfare and tell them to get a job. I would like to invite all of my colleagues to go to the Arkansas Delta. I will pick out a dozen communities for you to visit, and then you tell me after you have kicked these mothers off welfare where they are going to get a job; 50 percent of these mothers will be kicked off the welfare rolls after the first 2 years. There are no jobs.

We could not even find it in our hearts to provide vouchers for mothers so they could provide diapers, medicines, and other necessities for children. We wouldn't even give them a voucher to buy nonfood products for their children. I can't vote for this.

We have one out of every five children in this country in poverty. You think of it. One out of every five children in this country, 20 percent, now live in poverty. Every single study of this bill says there will be a minimum of 1 million to 2.5 million children added to those rolls within 5 years.

Oh, Mr. President, I could go on and on about why I am not going to vote for this bill. Simply, I just can't find it in my heart to vote for a bill that I consider to be punitive. Punitive toward whom? Not just some lethargic person on welfare, but innocent children. If you are a legal alien and the school district wants to take your child, that is their business. We are not going to pay for it. So if you are a legal alien, you have a right to be here, you work here, you pay taxes here, and you send your child down to the school. They may take your child, but they will not let him go to the lunchroom because the Federal Government pays that bill, and ''We ain't paying.'' We are not going to pay it. I have heard it said that 47 members of our Olympic team are legal aliens, or children of legal aliens. Tonight, instead of honoring them during the Olympics, we are turning are backs on them.

So, Mr. President, I admit I am softhearted. I am very compassionate toward children and women. So I just simply cannot vote for this bill. I wish everybody well, and I hope it works. I do not believe it will.

I yield the floor.

Mr. SANTORUM. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Thank you, Mr. President.

Mr. President, I speak as someone who has worked on this issue for now 4 years. This is a very meaningful thing for me personally. But I think, as I look at this legislation and as I look at the process it has been through, I can't help but think what we are doing here is probably the most significant piece of social welfare legislation that we passed maybe since the mid-1960's, and I would even suggest possibly since the 1930's. So it is a very significant day. We are making monumental decisions here that are going to affect millions of people.

I understand that the passions run very high on both sides of the aisle on how desperately we need these changes, as some suggest, and how erroneous these decisions are by others who oppose the bill.

If I can for a moment, because I know there has been a lot of debate about why we need to make these changes and what the bill does or does not do, or should or should not do, let me talk for a minute as to how this bill got here.

I think, if you look back at the genesis of this proposal, you have to go back to the House of Representatives. A task force was put together by NEWT GINGRICH, a task force on welfare reform when we were in the minority over in the House back in 1993. He asked me, as the ranking member on the Ways and Means Subcommittee of Human Resources, to chair a task force of members of the subcommittee and other people, including the former Governor of Delaware, MICHAEL CASTLE, the Governor from Missouri, and a few others, to sit down and try to put together a bill that would follow through on ending welfare as we know it.

We got all sorts of testimony from people. We talked to literally hundreds of people all over the country about the problems in the welfare system and listened to all of the experts and pseudoexperts on the issue of welfare—frankly, not just from conservatives but from across the spectrum—as to the pitfalls that we might encounter.

Let me first state that this was an extraordinary thing to do. We actually took this very seriously. When you are in the minority, when you work on a major issue like this, most people do not pay much attention to what you do. ''You are not going to pass this bill. It is not going to become law.'' So there is sometimes a feeling, ''Well, let's just sort of put together what we can, sort of patch together some popular ideas, throw it out, and it will get a story for 1 day and no one will pay much attention to it after that.''

I can tell you that myself, NANCY JOHNSON, CLAY SHAW, MICHAEL CASTLE, and a whole lot of other folks who were in the House last term took this as a real serious responsibility. We met literally for, I think, 6 or 7 months, every week, hours upon hours each week, just over every single item in the legislation.

It was a wonderful experience for me. But I think it was a great experience for all of us to see the real complexities of what we are dealing with. I think we got a real understanding of some of the concerns that Members have expressed here.

We came out with a bill in November of 1993. It addressed for the first time issues like the paternal establishments which are in this bill. The provisions we wrote in this bill almost 3 years ago are almost identical. In fact, I suggest they maybe are identical to the provisions that are in the bill today that we addressed—the issue, for the first time ever, of immigration and benefits to legal aliens. It was the first time the bill had come up and addressed that issue. And those provisions are in this bill today.

We addressed the issue of illegitimacy. Again, that was a word that, frankly, we were not supposed to use anymore. It was a politically incorrect word. You were supposed to use the word ''out-of-wedlock birth.'' We addressed that issue for the first time and really brought the attention of the welfare debate on this scourge in our Nation.

I know it has been cited here before, but in 1965, the illegitimacy rate in this country was about 5 or 6 percent. Today a third of the children in this country are born out of wedlock. I am not saying that welfare is the sole cause of that. It certainly is not. But it certainly is a contributing factor, in my mind and, I think, in other people's minds. We were trying to come up with ideas, some of which were included, and, frankly, a lot were not. But we pushed the envelope for the first time. We put this in the forefront and made it an issue of debate. Yes; we had time limits on welfare. Yes; we had work requirements—real work requirements. And those time limits of 2 years without having to work and 5 years total on welfare are in this bill today.

If you go back and look at that original draft, I think you are going to see a lot of similarities in child support enforcement and a whole host of other areas that are in the bill today. And I think it is a remarkable compliment to the men and women who worked in that group that their hard work, seemingly fruitless at the time because we were a minority, had absolutely no hope that we would ever be in the majority but cared enough—I think that is the point I am trying to make—we cared enough about this system and the destruction that the system was causing, we cared enough to spend hours and hours of time to put together a bill that we felt truly would change welfare and end the despair and the dependency that this system has created.

So I congratulate my friends in the House who made a tremendous contribution to the original bill, and I congratulate others for the successor bills, the bills that were introduced in the Senate by Senator Packwood and in the House subsequently by CLAY SHAW, who was a member of that original working group. They took the next logical step and moved the ball forward on a few issues, fell back a little bit on others, but that is how the legislative process works. We tried to meet the concerns of, frankly, both sides of the aisle. And I know when Senator Packwood, and then subsequently when Senator ROTH took over the Finance Committee, we actually crafted a bill here on the Senate floor last year that got 87 votes and then recrafted another bill, very similar to the bill that passed last year, and got 74 votes, and I suspect we will get maybe even a few more than that this time around. They did the same thing in the House and continued to get more bipartisan support as we worked through some of the difficult issues of welfare reform.

The core of those bills remains the same, and that is that we are going to do something about illegitimacy. There is an incentive now sponsored by Senator ABRAHAM, one of the improvements to the bill, for States to reduce their illegitimacy rates, and there is a cash bonus for States that are able to reduce that statistic, that cruel statistic to children. And I say cruel because go through all of the evaluation criteria: Children who are born to single-parent households are more likely to be poor, are more likely to be on welfare, more likely to do poorer in school, more likely to be victims of crime. You can go on down the list. We are doing no favors to children when fathers are told that they are expendable.

In the welfare system that we are creating here today, fathers are no longer expendable. Fathers are going to be required to be responsible for the children. Mothers are going to be required to cooperate with the Government in establishing paternity—two things that were in the original bill that we drafted 3 years ago that have stood the test of time and scrutiny in both Houses of Congress, because it is the right thing to do. We have stood up and said families are important under this bill. We have stood up and said communities are important.

Senator ASHCROFT, in another good addition to this bill, said that religious, civic, and nonprofit organizations in the local communities are going to be much more able to be part of the system of welfare, of support of the poor than they are today, are going to be eligible for more funds and more opportunities to help the poor, which they do much better, much more efficiently, but, frankly, even if they did not do it more efficiently, they do it more compassionately. They do it with love for their neighbors and the people in their communities, not out of some sense of duty because it is their job.

We have changed welfare in this bill, and we have done it over a long process. Those who would suggest this is just something that was thrown together at the last minute before an election do not know the work, or either choose not to recognize the work that has been put into this bill, the time and the debate, the hours of the debate here on the floor and over in the House, in the conference committees, to try to come up with a carefully crafted bill that is truly compassionate and not compassionate in the sense that the Federal Government is going to go out and take care of every person's need who is poor.

I think we have shown that that system is truly not compassionate because when the Federal Government comes in and takes care of every aspect or every need that even a child has, then the Federal Government, in fact, becomes the replacement for the others whose responsibility it truly should be to take care of that child. We have said to the father, again, you are not necessary. We have said to mothers, you do not have to work; we will provide—some distant bureaucrat will send a check to provide for you.

That is not compassion. Compassion is having a system that builds families so there is an environment there for children to flourish. Compassion is a system that supports neighborhoods and civic organizations, mediating institutions that DAN COATS talks about so often that provide the values and community support for families that they need to help take care of children, to create the neighborhoods where children are no longer afraid to go out and play on the playground because they could step on some drug-infected needle.

No, this bill is all about creating a community, creating a support network and environment at the level most important to that child as opposed to that bureaucrat sitting behind the bulletproof window passing out the check every month, saying to that person on the other end receiving that check that you, because of your poverty, are unable to provide for yourself and your children and you need to be dependent upon us for your life.

The Senator from Arkansas said it is a tragedy that one in five children in this country are in poverty, and I agree it is a tragedy. And he said it is going to get worse. I suggest he is wrong. I suggest the tragedy is as bad as it is going to get, and there are plenty of organizations as a result of this bill that are going to get the opportunity to step forward, including the family.

I feel very good about what we are doing here, and I would say, as my friend and colleague in the House, CLAY SHAW, said many times, I am not suggesting this bill is perfect. I grant you this bill is not perfect. No bill is perfect. But I can guarantee you that this is a dramatic step forward that this country has asked for and is getting from a Congress that is listening.

Yes, we will make mistakes. Unlike those who crafted the current system in the thirties and in the 1960's, we are going to be willing to come back here and look at those mistakes. We are going to be willing to come back and face those problems, because we understand, unlike those who crafted the last system, that we do not have all the answers here, that we do not have the omnipotence here to decide what is best for everyone.

This is a grand experiment, one that we must take if we are going to save children in this country and, more importantly, to save the fabric of America for the next and future generations.

Mr. President, I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I advise Senators on both sides of the aisle that we have 11 minutes remaining. I am about to yield 7 minutes to the Senator from Florida. There will be 2 minutes to Senator HEFLIN and 2 minutes to Senator FORD.

I yield 7 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, when we voted on this matter a few days ago, I voted ''no.'' Today, I am going to vote for the conference report, and I wish to explain why I am taking that position.

As I assessed the conference report, it seemed to me that we had basically two options. One option was to wait until there was a better point at which to commence and continue our effort at welfare reform and be prepared to accept the status quo until that second opportunity presented itself. I felt that was likely to be a long time from tonight.

The second option is to accept a clearly less than perfect bill, I would say, accept a flawed bill, but one which represents a step in a multistep process leading toward a fundamental transition from a welfare system that has focused on providing for the needs of a dependent population to a welfare system that provides the ladder by which people can move from dependence to independence. I believe it is more appropriate to take that second road. I believe this is the time to take that leap of faith.

To use some statistics from my State of Florida, 3 years ago, in 1993, we had an unemployment rate of 7 percent. We had 254,000 persons who were on the AFDC caseload. That is 254,000 families that were on AFDC. Today, in 1996, we have a 200,000 AFDC caseload, a reduction of 54,000 in 3 years. That says that we are in a period of a strong economy, creating jobs, providing people with the opportunity within the current system to get off welfare and to get a job.

I think that is the ideal environment in which, now, to have this new system which will be giving to the 200,000 who are still on welfare the means by which they can get a job and end dependence. If we cannot make this transition work under the economic conditions that exist in my State and most of the States of America in the summer of 1996, then I doubt we will see a time in the foreseeable future when we could make this system work.

It is for that reason that our Governor has announced his support for this program. It is for that reason our legislature has passed its own version of welfare reform, building on important demonstration projects in our State which have tested out what is going to be required in order to make this new system achieve its objective.

I stated candidly that this is a bill which is far from perfect, and which has some flaws. That presents, as I believe the Senator from Pennsylvania just stated, the agenda for our action in the future. I suggest two areas in which I think that attention should be focused. One of those is on the basic financial arrangement between the Federal Government and the States. We start this in a period of prosperity. We know the business cycle has not yet been repealed. There will be times when we will return to the circumstances of the early 1990's, when we had unemployment rates ranging from 7.4 to 8.3 percent. We need to relook at our financial relationships to assure that we have the flexibility, the elasticity in order to protect States during those downturns.

We need to also look at the issue of fairness of allocation. I continue to be distressed at the fact that we are using the old method of allocating Federal funds, the formula that we developed for the system we are now rejecting as we move into the new system. I suggest that is inappropriate, an inappropriate bit of baggage we are carrying with us and it is going to be a heavy piece of baggage, in terms of achieving the objectives of moving people from welfare to work, particularly in States such as Arkansas, which start this process as very low beneficiary States and are therefore restricted in the amount of funds they will have available.

The second area in which I believe we need to focus our attention is on the issue of legal aliens. It confounds me as to why legal aliens were brought into this bill, which has, as its title, welfare reform. That has very little relationship with the severe cutbacks in benefits for legal aliens. These are our parents and grandparents of just a generation or two ago, who came to this country seeking the freedom of America. Now, those who have followed them in that 200-year quest for those values of America, we are now putting into a second-class status. There is no relationship to the goals we are trying to achieve in welfare reform. It has a lot to do with the fact this is a voiceless, vulnerable population, from which we can seek some additional resources in order to meet our budgetary goals.

Let us be clear, this is a budget issue, not a welfare reform issue as we speak of legal aliens. And it is going to be a major budget issue for those communities which have sizable numbers of legal aliens who will now become an unpaid charge to the local public hospital. So that area will also require our attention.

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

Mr. GRAHAM. Mr. President, I conclude by saying it is with a leap of faith that we undertake this initiative. I think we are doing it at a time which gives us the greatest hope and expectation that faith will be justified.

Mr. DOMENICI. Mr. President, Senator SIMPSON is next. I believe he has asked us for 10 minutes? Up to 10 minutes.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank Senator DOMENICI, always, for his courtesy, his kindness and his generosity in what he does for all of us; and to recognize once again how hard he works. And, also, Senator EXON, who came here to this body when I did. I do not think anyone realizes the task of the chairman and ranking member of the Budget Committee and what they do. Through the years I have watched with awe, as they deal with every single issue that confronts us and do it with a steadiness and skill that is enviable. I do mean that.

I think we have a good measure here. It has certainly been through the grinder. We have all looked at it carefully. There is nothing new in it. I support it. I served on the Finance Committee. I listened to the hearings. I tried to add my own dimension of activity and support to it in its passage. So I commend those who have worked so hard on this issue. I commend the President who has indicated he will sign the bill.

There are some troubling things in there for me. One especially, because I did not have any real active participation in it, and that is with regard to the benefits to legal immigrants of the United States. There is a great difference between an illegal immigrant and a permanent resident alien. We should not be making distinctions on permanent resident aliens, in my mind, to the degree here. I did not participate in any aspect of that because I felt it would detract from what I was trying to do with legal and illegal immigration—which we have dealt with, and legal immigration, which we did not deal with.

Next year, when legal immigration goes up from 900,000 to 1 million people, the people of America will wonder what we did in this Congress. But I think we will deal with the issue of illegal immigration. We are not far from resolving that.

MENTAL HEALTH PARITY

Mr. SIMPSON. Mr. President, let me just say I am deeply troubled the conferees for the health insurance bill have apparently decided to not include any form of mental health parity on the final bill. In April, 68 Senators voted aye on an amendment by Senators DOMENICI and WELLSTONE that would prohibit health plans from discriminating against people who have mental illness. This amendment was not a sense-of-the-Senate proposal or some meaningless resolution. We do plenty of those in this place. They always come back to haunt us, but we do them all the time—sense-of-the-Senate this, sense-of-the-Senate that. That is not what this was. It was a real piece of legislation.

It was real legislation that expressly prohibited health plans from imposing treatment limits and financial requirements on services for mental illness that are not also imposed with respect to physical ailments. It was deeply gratifying to me personally to see so many Senators cast a rollcall vote, clearly ''on the record,'' in bipartisan support of ending this terribly unfair discrimination.

It is discrimination, that is what it is. We talk about that all day in here. If there is ever a more blatant form of discrimination, I do not know what it is. To think we still carry such a stigma in society of mental illness is dark ages stuff.

So 3 months later, I am absolutely stunned that we are unable to gain support for the Domenici-Wellstone compromise which represents a very mere ''slice,''—a minuscule slice—of the original amendment that received 68 votes.

All this compromise would require is that mental health ''parity'' be achieved with respect to annual payment limit caps and lifetime caps.

I think it is rather curious that the conferees rejected this compromise, held tough for so long and, at the same time they accepted another compromise on medical savings accounts which received only 46 votes on the Senate floor, and I am one of the 46 who voted for medical savings accounts.

I am pleased we were able to work out an agreement on that aspect of the bill, but I certainly must question why the same spirit of cooperation was nowhere to be found when the issue of mental health was considered.

I am especially troubled that some of the special interest groups—boy, have they been sharpening their fangs in this session of the legislature; I have felt a little of it—have been so aggressive in lobbying against this compromise. To say that this small measure of parity is too costly is absolutely utterly absurd. As Senator DOMENICI pointed out, this entire bill is a mandate. To single out this one lone lonely mental health provision and label it as a costly mandate when the whole thing is a mandate is a classic example of absurdity and discrimination. Yes I will use the term one more time.

Sadly, that is what this debate is now all about. Discrimination is surely not something new to those who suffer from mental illness, I say to my colleagues. They have had it for a lifetime, and the stigma hangs and it is demeaning and it is wrong. It is not something we should accept without a good fight.

I have deepest admiration and respect for my friend Senator KASSEBAUM. She too came here when I did. I would certainly hate to see her work product injured or disrupted, but I respectfully urge my colleagues to consider what we are doing, and I hope Senators DOMENICI and WELLSTONE will work toward some other result, and I will work with them in that objective.

It is time to rid ourselves of this tragedy of stigma and discrimination. To see the business community do what they have done with regard to this issue deserves closer attention from all of us on this and other issues of the day where they apparently feel a great strength surging through their muscles and they do things they never did before. We will address that at some future time, too.

I certainly respect those who have worked so hard to bring this about and will certainly give my full energies to seeing if we cannot get a better result. I thank the Chair.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank Senator SIMPSON. I think he will join me in saying, as both of us talk to the business community about what they have done here, we want to acknowledge that some very good businesses in America already have decided to cover mental illness, and none of our remarks are directed at them. There are many self-insured and otherwise who are doing a good job of considering this discrimination.

I thank him for his remarks.

PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. EXON. Mr. President, I yield 2 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, 1 week ago, I voted for the welfare reform legislation that passed the Senate. Previously, I had supported two alternatives—one a Democratic version and the other a bipartisan alternative. Although both these attempts failed, some of their provisions were adopted into the bill that passed, making if far better by providing a wider safety net for children and the poor.

The conference report before us now is not as good as I would like. It probably is not anyone's ideal plan for welfare reform. Frankly, I think the Senate's version was preferable to this conference report. But, while some provisions within the legislation are still troubling and need to be reworked down the road, at least we are off to a good start in reforming a system that we all agree to a good start in reforming a system that we all agree is broken and needs to be overhauled. One thing is certain: regardless of its shortcomings, this bill is a product of sincere efforts to end the harmful dependency and other severe short-comings which currently exist in our welfare system. Throughout this debate and these difficult negotiations, I have been impressed with the diligence, tenacity, and honesty which Members have displayed in trying to come up with an acceptable plan to end welfare as we know it.

The measure we are considering today does, in fact, represent a change in philosophy in how we think about children and families. This is the most significant and sweeping change in the social compact of our Nation since the New Deal. Its strength is that it overhauls our welfare system without the harshness of previous bills that have been vetoed. The two vetoes, along with the threat of a third, served the purpose of eliminating the extreme measures that made the previous bills unacceptable—even harmful.

For example, we have now rightly recognized that a mother with young children who wants to work will have access to adequate child-care. Also among its vast improvements is the fact that child nutrition programs, such as the school lunch program, are not block granted. The same is true of the Food Stamp Program. I had grave fears that block-granting these kinds of nutrition programs would impose tremendous burdens on States like Alabama, which over the years has suffered from several periods of budget proration and economic recession. Programs like these aimed at helping children and the poor would have faced drastic cuts if they had been block-granted.

This measure raises the cap on the contingency fund from $1 billion to $2 billion to provide States with more protection during economic downturns. It also adds a new trigger mechanism based on the food stamp caseload. It includes some provisions for States to establish objective criteria for delivery of benefits and to ensure equitable and fair treatment.

This welfare reform legislation, while not as sound as the Senate-passed plan, is still a vast improvement over the Republican bills which were vetoed. As I stated earlier, I still have some reservations surrounding certain provisions contained in the measure. But I believe, overall, that the positive outweighs the negative. I think the compromise we have struck is a major step in the right direction, and an overall positive effort at making welfare more of a helping hand in getting people on their feet economically.

Our debate over the last few months has been both constructive and productive. We now have a bill before us which is a testament to the Congress and its leadership—majority and minority. In essence, it is a product of the Congress' legislative process working as it was designed to work.

We have seen some hard-fought battles and witnessed significant changes from the original bill after some intense debate and good-faith negotiations between the two sides of the aisle. Each side has made concessions, while holding firm to certain core principles. We have arrived at agreements on several major issues. As a result, we now have a bill that contains stronger work provisions and that is not as harsh on children. While there are undoubtedly problems still remaining in the legislation that will have to be addressed down the road, this compromise is an overall positive step for reforming welfare, reducing dependency, and offering a brighter future for millions of American families.

Mr. President, except for the balanced budget constitutional amendment, this welfare reform bill is arguably the most important legislation we will tackle in this or any other Congress. There is no doubt that our current system is failing welfare recipients and taxpayers alike. I am pleased to join my colleagues and the President in taking advantage of this historic opportunity and enacting reforms which will empower recipients to break cycles of dependency, to focus on work and responsibility, and to become successful and productive citizens.

Mr. BURNS. Mr. President, I rise today to talk about this important issue before us—perhaps the most important initiative undertaken by the 104th Congress—welfare reform. For the last nineteen months, Congress has been embroiled in an enormous debate over how best to reform our welfare system. There has been a lot of talk about ending welfare ''as we know it'', but for the most part, it has been just talk and no action. Today, however, the Senate stands close to passing legislation that I believe will make the much-needed changes in the way our welfare system operates.

I think many of my colleagues on both sides of the aisle, as well as a majority of my fellow Montanans, would agree that our welfare system needs improving. I am glad we agree that changes need to be made in our welfare system so that our assistance programs are more effective and less costly. Let's face it, however, we don't need this legislation to know that the welfare system has failed miserably. The truth is, the system is not working as it was intended—as a temporary assistance to help people until they can get back to work. Over the last thirty years, the system has become a way of life, not because those receiving assistance don't want to work, but because the system makes it tough, even discourages people, to get off welfare.

Although we all know that this bill before us today will not solve all the problems with the current welfare system, it does take a giant step toward reversing years of failed social welfare policy. This bill will end welfare as a way of life for many Americans. By requiring most able-bodied adults to go to work within two years and by putting a five-year limit on welfare assistance, we are making great strides forward in putting people back to work. I have to believe that most people would rather work than be on welfare. And it pleases me to no end that the tough and real work requirements contained in this bill will get folks off the welfare roles and into a productive job, job training program or community service. There is no doubt there will be exceptions, but the goal of welfare reform is independence, not government reliance.

This bill also contains provisions to strengthen families and personal responsibility, something I think is essential to getting at the root of our welfare problems. In a scant few decades, we have seen the demise of families and family values in our country. And illegitimacy rates are rising to almost dangerous levels. These are the things that are contributing most to the decline in our society. More and more children are growing up without a father, without a solid family to support them, and crime statistics show that kids who are raised without a father commit more crimes. I think our welfare system, though designed to assist folks and born of good-hearted intentions, has served to fuel some of the social problems we face today. It is clear that our present welfare system encourages young mothers to have children, and many of those children are not being cared for. Though it is impossible to legislate, this bill takes a giant step forward in addressing these problems by encouraging families to stay together, providing more resources for child care and enhancing child support enforcement and domestic violence measures.

Perhaps the fact that is most important to me personally, by passing this bill we will give the states flexibility to design programs that will work best for their residents. Currently, the Federal Government has so many rules and regulations that when States want to try something innovative to reform the welfare system, like my home State of Montana, the barriers are often times too great. Over the last 7 years, I have spoken with the folks who administer the welfare programs in my State and time and time again they ask for the opportunity and flexibility to run the welfare system as they see fit. And by block granting funds to the States and letting States set many of their own program rules, this bill will allow the decisionmaking to be done at the state and local level, not by Washington bureaucrats. There is no doubt in my mind this will serve both our Nation and, specifically, the people of my State well. After all, Montanans do know what is best for Montana.

The bill does all this and will still succeed in reducing welfare spending by roughly $55 billion over 6 years. Given our Nation's budget problems, that's an important fact.

I realize that there are many Americans, including a number of folks in Montana, who have serious concerns with this legislation. Folks seem to be particularly troubled by the possibility that this bill will actually increase poverty and fails to provide a nutritional ''safety net'' for our Nation's needy families. I appreciate and understand these concerns—no one wants to push more children and families into misery. In fact, I have been an ardent supporter of nutrition programs in the past, especially those for children, and I have made every effort to protect them throughout the current welfare reform process.

The reality is, however, that the American taxpayer is not getting his money's worth when it comes to many of the current assistance programs and the tragic state of the welfare system makes reforming the system all the more urgent. What's more, there have been those who have suggested that this bill is heartless and out to punish children and immigrants. In response to those who would make such accusations, I would join with many of my colleagues in asking if the current welfare system is not already punishing—even degrading—children and other folks it is supposed to help? Why do we insist on protecting, or at least not reforming, a system that promotes a culture of dependency and poverty? As for the immigration provisions contained in the bill, perhaps Senator SANTORUM summed it up best when he noted that as we become the retirement home for the rest of the world, the taxpayers of this country are picking up the tab. To that end, the goal of this welfare reform bill is not to punish, favor or discriminate against anyone or any group. Its intent is not to promote and strengthen the system. It is constructed to end the cycle of generational dependency and irresponsibility promoted by the current welfare system.

Mr. President, we have a historic opportunity today to change a system that has consistently failed poor Americans. I want to thank the Governors and all of those who have worked so hard, in both parties, to bring this legislation to this point. I particularly want to commend the Republican leadership for leading the way on this issue. Though Bob Dole may not be with us on the Senate floor today, I also want to thank him for his efforts and dedication in ending welfare as we know it. I also want to congratulate President Clinton on his announcement yesterday. Though the President has resisted real welfare reform by casting two vetoes on similar bills in the past, he has realized that the American people want this bill and that bipartisan cooperation is needed to reform this broken system. And with the overwhelming bipartisan support in the House yesterday, it looks as though we are seeing our way clear to bring about the much needed reforms with what I believe will be the right kinds of results.

In closing, Mr. President, it was almost exactly 1 year ago—in fact, it was August 9, 1995—that I stood on the floor of this esteemed chamber and spoke about how much I was looking forward to the upcoming welfare reform debate. I spoke about how excited I was to see some real changes in how Americans perceive welfare, how welfare is paid out, and the direction our country was headed. There were a number of goals then that I was looking for in welfare reform legislation. Would it promote and strengthen the family? Would it give more flexibility to the States, allowing each State to design a system that best suits their needs? Would it include strong work requirements to get folks back into the workplace? Would it address our growing problem with illegitimacy and teenage pregnancy? Mr. President, I think we have addressed these issues with this legislation.

It is now a year later. During this time, a number of differing opinions have been offered—suggestions put forth—on how best to achieve these goals. It has been a very slow process indeed—but I think that most of us would agree that welfare reform is still very necessary and this bill does that. Business as usual was not working in August 1995 or even in November 1992, and it is not working now. All Americans deserve the chance to succeed, whether they are poor or not. I think this bill gives all of us the chance to do just that. Let's not squander this opportunity.

I yield the floor.

Ms. MIKULSKI. Mr. President, I will vote for this bill because maintaining the status quo is unacceptable. The other alternative is to do nothing. I vote for this bill, having reservations, but believing it is the right thing to do.

We Democrats have made 36 important improvements in this bill that protect the most vulnerable, the children. But there are still yellow flashing lights, warnings regarding the bill's safety net for children. We will need to monitor them closely.

On balance, though, I believe the poor and the taxpayers will be better off because we are voting for this bill.

We all acknowledge that our current welfare system does not work. It has failed to move people from welfare to work, and has created a culture of poverty that has ensnared generations of our most vulnerable citizens in poverty and dependency. I believe in the capacity of people to better their lives and build a better future for themselves and their families. The current welfare system does not provide people with the tools they need to do that. Welfare should be a way to a better life not a way of life.

The current welfare system is dysfunctional and destructive to the poor. I have worked to change that. I have fought for a plan, which I helped to write, that was firm on work and demanded responsibility from those who find themselves on public assistance, but that protected children.

I will vote for this bill because it is greatly improved over the original Republican bill which the Senate debated last year. There are some 36 improvements in the bill, improvements which I fought for and which are drawn largely from the Democratic alternative bill which I co-authored with Democratic leader Senator DASCHLE and Senator BREAUX.

Our Democratic alternative provided people with the tools to move from welfare to work. It demanded work of all able-bodied adults. It removed the key barriers to work—such as lack of adequate child care and inadequate job skills. Our bill ensured that no child would go without health care or adequate nutritional assistance because of the failings of their parents. It ensured that when we aimed at the parent we did not hit the child.

I am proud of my work on the Democratic alternative bill. I am proud that we gained the support of every Democratic Member of this body. I regret that it was rejected by the other party. But thanks to the persistent advocacy of our Democratic leadership, of which I am a member, many of the provisions of the Democratic alternative were adopted in the bill that the Senate passed. They are now in this legislation. These improvements have helped to make this a more acceptable bill.

I'm particularly proud of my role in fighting for child abuse programs, for child care health and safety standards and for the health care safety net. I offered amendments on these issues and fought for their adoption.

From day one, I insisted that we could not do anything in this bill to lessen our commitment to fighting child abuse. I am pleased that this bill no longer includes provisions which would have replaced Federal child abuse and protection programs with an inadequate block grant. As a former child protection worker, I know how vital these programs are for taking care of children who have suffered from abuse or neglect.

I fought to keep current Federal child care health and safety standards. Along with Senator DODD, I offered an amendment to restore those standards which the other party was prepared to abandon. I fought to maintain those standards because I believe strongly that parents should have every assurance that when they place their children in child care, they will be protected from infectious diseases, from unsafe buildings and playground hazards, and that the child care worker will know basic first aid. This is a significant improvement in the bill.

I also fought for a health care safety net for children. I wanted to make sure that children would still be eligible for Medicaid coverage even if their parents failed to meet the work requirements of this bill. This bill contains the provision I fought for to ensure that children will still have access to health care.

I was an energetic and enthusiastic advocate for other improvements to the bill, such as the provisions to provide funding for child care, to exempt mothers with infant children from the work requirements, and the provision that ensures that a mom with a preschooler cannot be penalized for not working if she can't find or afford child care. These are all important measures to protect children, and I am pleased that we were successful in having them included in this bill. The protections for children are significantly better than in previous bills we have considered.

So I acknowledge that this bill has been improved in important ways from the conference report that I opposed and which the President vetoed last year. And I believe the strong support for the Democratic alternative bill is what made these improvements possible.

While I will vote ''yes'' today, there are yellow flashing lights that give me pause. They must be monitored meticulously. And all of us who vote for this bill must be prepared to make modifications if the safety net for children and the working poor becomes tattered.

A key yellow flashing light for me is the bill's changes in the rules for the food stamp program. Changes in the excess shelter deduction could harm the working poor—those families that pay over half their income for housing. Other changes will severely limit food stamps for adults without children who lose their jobs. Another yellow flashing light for me is the bill's restrictions on assistance for children of legal immigrants, who have not yet obtained their goals of citizenship. Another yellow flashing light for me is the bill's provisions for meeting the needs of children whose parents reach the 5-year time limit for benefits and still do not have work. I fought for a requirement that States must assess and meet the basic subsistence needs of those children through vouchers or other non-cash assistance. The conference agreement did not include what I advocated, but it gives States the option to use their title XX, social service block grant funds, to provide vouchers to meet the needs of children.

Mr. President, today we must face facts. We cannot make the perfect the enemy of the good. And so I will vote for this bill. The American people and I want welfare reform. And I believe the people currently mired in poverty, who have not been well-served by the current welfare system, deserve better. There are over 9 million children currently on welfare. Under the current system, that number is estimated to grow to 12 million in 10 years. We owe it to those children to give their parents every incentive to leave welfare behind and to lift themselves and their families out of poverty.

I will vote yes today. But I will be standing sentry and will be in the forefront in fighting for any changes needed to prevent the safety net for children from being tattered.

Mr. HELMS. Mr. President, future historians are likely to regard this as a momentous occasion in Congress—a welfare bill is finally about to be approved by Congress and signed by the President—a bill which will effectively drive a nail in the coffin of the Great Society.

This welfare reform bill proposes to set welfare policy on the right course.

It requires welfare recipients to work;

It promotes family and the work ethic; and

It exercises sound fiscal responsibility.

In addition, this legislation will insist that illegal aliens must not receive welfare and that non-citizens cannot hereafter lawfully receive most Federal welfare benefits during their first 5 years in the United States.

These legislative goals are tough, but fair. Requiring welfare recipients to work provides the hammer that can break the cycle of poverty and dependency. As matters now stand, the average welfare recipient stays at the public trough for 13 years. This bill reverses that folly; it proclaims for all to hear that welfare must not be a way of life.

Equally important, Mr. President, this legislation is fair to taxpayers because it saves $55 billion of taxpayers' money. The average American worker in 1993 paid $3,357 in taxes just to support welfare recipients. Taxpayers are sick and tired of working hard, paying taxes and watching folks on welfare get a free ride.

Mr. President, the taxpayers can be thankful that this bill contains tough work requirements for food stamp recipients. On several occasions, including during the conference, I took the position that Congress should require able-bodied food stamp recipients go to work before they receive free food stamps.

The original Senate welfare bill allowed recipients to receive free food stamps for 6 months every year with no work requirement. Now, Congress is sending a bill to the President that will require food stamp recipients to work 20 hours per week for an average of 11 months per year or be thrown off the welfare rolls. This is a giant step forward from current law which gives folks a free lunch at taxpayer's expense.

Mr. President, when the liberal politicians pushed through their welfare system more than 30 years ago, the American people were assured that welfare would not become a way of life.

And when Lyndon Johnson signed the war on poverty legislation in 1964, he promised, ''The days of the dole in our county are numbered.'' Unfortunately, 30 years after this war began, the days have numbered to about 11,680—and we're still counting.

Since Congress obediently embarked down the road called the Great Society, the result has been the most massive Federal spending in history, increased poverty and untold millions of Americans trapped in the welfare cycle. The Great Society has been a monumental failure, but it got a lot of promising politicians elected because they promised everything to everybody. But with the enactment of the bill, the days of the Great Society are coming to a close.

The cost of welfare programs has now reached a budget-busting $345 billion a year. During the past three decades, welfare spending has cost the American taxpayers $5.4 trillion. It may come as a surprise that welfare programs have cost 70 percent more than the war against Germany and Japan in World War II.

What, Mr. President, do we have to show for these exorbitant expenditures? An increase in the poverty rate. As of 1993, 15.1 percent of Americans were in poverty, compared to 13 percent in 1964, a 2-percent growth.

Mr. President, the human devastation caused by rising illegitimacy rates and the breakdown of the family is even more troubling than the cost of welfare programs. Government programs of any magnitude carry with them a cargo of unintended consequences. In welfare, like most other things, you reap what you sow. For 30 years, the welfare system rewarded idleness and illegitimacy and there has been a marked increase in both.

Mr. President, I emphasize that nobody is opposed to helping those who are less fortunate. Americans, as individuals and communities, have a responsibility to help those who cannot help themselves. That responsibility cannot and should not be abdicated. But we must help them by teaching them to ''help themselves'' as President Kennedy once stated.

This legislation will help those on welfare because it restores the American work ethic which once was one of the cornerstones of this Nation. In addition, this bill takes a step in the right direction in helping reduce the rising illegitimacy rates by providing funds for abstinence education, and by allowing States the option of denying benefits to welfare recipients who already have children living on the public dole.

An Associated Press poll showed recently that 69 percent of Americans favor a 5-year limit on welfare payments. Likewise, most Americans obviously don't think it's right that working people are required to give up a substantial percentage of taxes to support people who refuse to work.

Mr. President, the majority of Americans are calling for welfare reform. Welfare entitlements must be replaced by limited handouts conditional on self-improvement and work.

Mr. ROBB. Mr. President, I rise to support the welfare reform legislation pending before this body. I do so with both reluctance and hope.

My reluctance stems from some very real concerns I have with this bill. First, I am concerned that we fail to give States the resources they need to do the job right. I am willing to pay more in the short term to bring about economic independence in the long term. Second, like the President, I am extremely uncomfortable with both the level of cuts to the Food Stamp Program and the severity of the restrictions on legal immigrants. We cannot simply abandon our obligation to protect the most vulnerable among us. And, finally, I am troubled by specific provisions of this bill—like the one dealing with mothers with young children who do not work because they cannot find child care. The conference lowered the age from 11 to 6—and this is wrong, Mr. President. If we want mothers to move from welfare to work, we have to ensure they have child care for their young children.

I will vote for this bill believing strongly that it is not our final word on welfare reform. And I'm prepared to work with the administration and with my colleagues here in the Congress to address the concerns that I have—and that I know others have—with this legislation.

But, Mr. President, like the President of the United States, I also believe strongly that the opportunity before us is one we cannot let slip away. We simply cannot allow another generation of American children to fall victim to a welfare system that fosters dependency rather than opportunity, that has become for far too many children, not a second chance, but a way of life.

I will vote for this bill, Mr. President, because I believe it contains the incentives needed to bring people out of poverty and into the economic mainstream. It contains tough work requirements, time limits on benefits and nearly $4 billion in new money for child care. It protects health care for current populations and allows States to use Federal money to provide noncash vouchers for children whose parents meet the time limits.

It emphasizes work and responsibility. It includes a strong community service component, which teaches both the value and the obligations of citizenship.

But I know, Mr. President, that all the positive incentives in the world mean nothing if there are no jobs at the end of the line—and that the best social policy of all is economic growth.

That is why I believe that the first edition of welfare reform was approved by this Congress in 1993 with the passage of the President's deficit reduction plan. We can approve legislation today that aims at moving people from welfare to work because we do so amidst a strong, vital economy. In less than 4 years, our economy has created over 10 million new jobs—most of them in the private sector—and we have the lowest unemployment rate in 6 years.

As we bring down our deficit, we enhance our ability to invest in our people. And as we strengthen our economy, we provide new avenues of opportunity for poor Americans to enter the economic mainstream.

We cannot just give incentives to move people from welfare to work, Mr. President. We have to also better invest in programs that give them the tools to succeed—programs like education and job training.

Mr. President, I have outlined my reservations about this bill, and I am committed to working in the coming months to remedy these concerns. But my hope for this bill transcends the ability of individual mothers to exchange a welfare check every month for a pay check.

For every time a welfare recipient earns a living wage, at least one more child in America sees their role model go to work in the morning, earn a salary, pay their bills, believe a little more in their own ability and self-worth, and live in a world that is infinitely stronger because they contribute to it.

And every time a welfare recipient earns a living wage, at least one more child in America escapes from what could become a cycle of dependency and hopelessness that is inherently unAmerican—and which we have an opportunity and an obligation to break.

Although only history will tell for sure, I will vote for this bill because I believe it is the first step in breaking the cycle of poverty which has sapped the optimism and the opportunity of too many generations of innocent American children.

Mr. President, I thank the chair and I yield the floor.

Mr. LUGAR. Mr. President, as we end the debate on the welfare reform conference report, I would like to make several acknowledgements of effort in bringing forward this truly historic legislation.

First, I want to congratulate Chairman DOMENICI and Chairman ROTH and thank them for their leadership. As chairman of the Agriculture Committee, I am pleased to have been a partner with them in crafting this bill.

I also want to thank my staff on the Agriculture Committee for their efforts throughout this 104th Congress to make welfare reform a reality. Staff director Chuck Conner, as always, contributed strong leadership. Dave Johnson and Beth Johnson worked tirelessly to develop proposals that both meet our budget goals and continue to deliver assistance to the needy.

They were assisted ably over the past year by Bill Sims, who has returned to the U.S. Secret Service. Special thanks are also due to Joe Richardson of the Congressional Research Service, whose knowledge of the very complicated nutrition assistance programs was invaluable.

The legislative process that culminates here in the Senate today sometimes seemed like a rollercoaster ride with no end. Frustration and long hours were common for my staff. But they have my sincere thanks for their efforts. They should be very proud of this landmark bill.

In the final analysis, this welfare reform legislation represents the best of our democratic process. After much debate, a proposal of potentially monumental importance is about to be approved overwhelmingly by a Republican-led Congress, and a Democrat President will sign it. I hope we will someday be able to look back at this bill as a major step toward restoring the public's confidence in the ability of its elected leaders to respond to our Nation's pressing needs.

Mr. DORGAN. Mr. President, the bill before us represents a historic opportunity to change and improve the welfare system in this country. Today's Washington Post headline proclaims that this bill represents a ''basic shift in philosophy'' about welfare in this country.

It is true that this bill sends a strong message. That message is: welfare should not be a way of life. We are saying that welfare should be a safety net—a first step toward achieving independence and self-reliance.

But this is not a major change from the way most Americans view the welfare system. We are a compassionate nation, and we accept our responsibility to help those who are less fortunate, who are on the bottom rung of the economic ladder, and those—especially children and the elderly—who are unable to help themselves. This basic notion is embedded in our social policy, and this bill does not—can not—change that fundamental view. Our task in drafting this bill has been to ensure that the safety net will always be there for those families needing assistance to get over a temporary setback.

I will vote for the welfare reform bill today because I think we need to make some changes in our welfare system. I believe that this bill represents a significant improvement over last year's conference report, which I opposed because it did not provide an adequate safety net for poor children. Specifically, this bill does not include the deep levels of cuts in child nutrition programs or an optional block grant for food stamps. It permits States to use Federal money to provide noncash assistance, or vouchers for children. And it preserves a national guarantee for access to health care for pregnant women and children.

This bill also takes the right first steps toward encouraging and rewarding work. It requires welfare recipients to work after receiving benefits for 2 years, and backs up that requirement with the support families need to move from welfare into the workplace.

The bill provides $4 billion more for child care and maintains strong health and safety standards for day care. It gives recipients flexibility to use some of their time on assistance to get the education they need to find and keep a job. The bill also gives States more flexibility to use Federal dollars to create new jobs for welfare recipients, and preserves the earned income tax credit for working families. All of these provisions work together to give welfare parents the support they need so they can afford to leave welfare and enter the workplace. When combined with the minimum wage increase that I hope the Senate will approve in the next few days, it is a significant move in the right direction for America's working families.

While I have reservations about the block grant approach presented in this legislation, the bill does take steps to ensure that States will follow through on their obligation to spend Federal welfare dollars to move people up and out of poverty. Most importantly, we require States to maintain a significant portion of their own contributions for welfare programs. While the maintenance-of-effort provisions are not as strong as I would have liked them to be, they are a major improvement over last year's bill.

One of the most important parts of this bill is its tough child support provisions. Nationwide, only 18 percent of child support cases referred to State agencies for collection result in payments by the absent parent. Yesterday, the President pointed out that, if every parent paid the child support they should, we could move 800,000 women and children off welfare immediately. This bill takes the necessary steps to move us toward demanding responsibility from both parents, and I wholeheartedly support this effort.

Having said why I am voting for the bill, let me now explain that I remain concerned about some of its provisions. One specific area that we will have to adjust with follow-up legislation is the bill's change to the rules for determining eligibility for food stamps. The bill repeals a provision that would have helped families who are forced to pay a higher-than-average percentage of their income for shelter and heating costs. In my state of North Dakota, heating costs take a big bite out of every family's income. For a poor family, this can mean choosing between heat and food. The excess shelter deduction that was scheduled to go into effect next year would have gone a long way toward eliminating the need for that painful decision, and I intend to work to see that provision restored in separate legislation.

We must also address a punitive measure that denies food stamps to Americans who are looking for but have not been able to find work. The conference bill places a 3-month limit on the receipt of food stamps by jobless adults between the ages of 18 to 50. I am certain that each of us knows someone—a brother, an uncle, a cousin—who is out of work, has been looking for work every day, but has not been able to find a job because no work is available. In rural North Dakota, unfortunately, we are not creating a lot of jobs, and finding work may take more than 3 months. It is simply mean-spirited to deny an unemployed person food assistance while they are looking for work, and I will work to fix that.

Despite these concerns, this bill is, on balance, a responsible bill. It moves toward achieving the right balance of personal responsibility and giving people the tools they need to move up and out of poverty. I will support this bill today, and I will work to fix those areas that need improvement.

Mr. GRASSLEY. I am pleased that we are here for this final step in the process of ending welfare as we know it. Just yesterday, President Clinton made clear that he will sign this conference report. After weeks of obfuscation, President Clinton finally has made clear that he will act on his promise to end welfare as we have known it and sign this dramatic change in the welfare system. After all we have been through in the last 18 months, I have to admit that I was beginning to feel like a broken record. We passed 2 different welfare bills under the able leadership of former Senate majority leader Bob Dole. In both cases, the President vetoed those efforts.

From the President's most recent remarks, apparently out hard work has paid off and he is finally going to approve our efforts. Interestingly, Doug Besharov, a resident scholar at the American Enterprise Institute, and known expert on the welfare program, says that the new bill is not significantly different from the 2 previous proposals. A Washington Times article of yesterday quoted Mr. Besharov as saying, ''This business about 'how much' improved is a certain amount of political rhetoric.''

In my judgment, Mr. Besharov is being kind in his remarks. This bill, in fact, is significantly the same as previous efforts.

In the last 30 years we have spent more than $5 trillion to fight the war on poverty. Unfortunately, we have lost. The child poverty rate in our nation is .8 percent higher than it is was when we started this process 30 years ago. So what have the families on welfare gotten for their difficulties? And what have the taxpayers gotten for their money? For all we have invested, we have made no progress.

Clearly, something is not working.

The reconciliation bill before us takes a new approach to an old problem. it restores power and authority to the States to create their own systems to meet the needs of low-income citizens.

Iowa is a perfect example of success. Iowa overwhelming passed legislation in April 1993 to change welfare in the State. In order to implement their plan, the State had to seek 18 initial Federal waivers and more since. Although the State wanted to implement a statewide program, in order to obtain their initial waiver, they were required to have a control group of 5 to 10 percent who would remain under old AFDC policies.

In October of 1993, the work incentives and family stability policy changes were implemented. At that time, there were over 36,000 families receiving assistance, with an average monthly benefit of over $373.

Last week I received the latest State figures. Iowa's caseload is down 12.6 percent to under 32,000 families. The average monthly benefit is down 11.7 percent to $330.

In January 1994, Iowa implemented its personal responsibility contracts. A family commits to pursue independence and the State commits to provide supports. Before the State implemented reform, only 18 percent of Iowa welfare families had earned income. The most recent numbers show that over 33 percent of all welfare families are earning income now.

With Iowa's success as a backdrop, it is easy to understand why States want welfare reform, not waiver reform.

Another reason is the frustration States feel when seeking a waiver. Though President Clinton has expressed glowing support for the Wisconsin welfare waiver it has not been signed. If the President is for the Wisconsin waiver, why can't he approve it? Even yesterday during his CNN interview, the President challenged other States to follow Wisconsin's lead in reforming their welfare system. Once again we see him saying one thing and doing another.

The reconciliation bill before us also provides for a lifetime limit of 5 years for welfare benefits. This means that there is an actual measurable end so that parents are held accountable for their choices.

When working Americans do not show up for work, they are not paid and are likely to lose their job. They want welfare recipients to live with the same reality. Taxpaying Americans do not understand why their hard work is subsidizing those who are not working.

Mr. President, again, I want to say that I am pleased that the President has finally agreed to sign this conference report. I think this is an historic effort on the part of Congress and it is appropriate for him to sign this legislation.

I look forward with anticipation to what our outstanding Governors and State leaders will do with the freedom and responsibility we are entrusting to them.

Mr. FEINGOLD. Mr. President, I will vote for the welfare reform conference report. I do so with grave reservations about many specific provisions.

Like President Clinton, I think the cuts in nutrition programs are too deep and they can and should be corrected.

Like President Clinton, I am concerned about the treatment of legal immigrants—people who followed the rules and came here under our legal immigration laws. Many have contributed in numerous ways to their communities. They are taxpayers and workers who, like all of us, may become ill or unemployed. This bill slams the door on them to a variety of programs in a manner that is neither appropriate nor necessary.

There are other provisions of the final bill that I feel are too harsh and should be changed.

But the overall effort at reforming the current welfare system is one that I support.

When I campaigned for the U.S. Senate in 1992, I said then, and I continue to strongly believe, that if people can work, they should work. The focus of this bill is to encourage people to work, rather than remain on welfare. I support that goal.

I also believe that the States should have more flexibility to design programs to meet the needs of their residents. I do not believe that detailed prescriptions from Washington, DC are the answer to the problems afflicting the current welfare system.

Nationwide, the current welfare system is a disaster.

It keeps families trapped in poverty. It discourages self-sufficiency. It creates unnecessary barriers to those trying to move from welfare to the work force. It forces recipients and local officials to wade through piles of bureaucratic red-tape. It fosters dependency, discourages initiative, and dampens the spirits of those in need.

We must do better. We must change the status quo. We must provide a new, flexible approach that will help people work and get off welfare.

This bill has improved dramatically from the original Republican proposal of last year. Many of the draconian provisions have been dropped.

The Medicaid safety net has been restored for vulnerable children, the aged and disabled. Child care funds have been significantly increased and efforts to roll back Federal health and safety standards for child care were defeated. Attempts to dismantle the food stamp program and child protection programs failed. The effort to impose a family cap—a penalty for having a child when on welfare—was rejected by a bipartisan majority in the Senate. Maintenance of effort provisions were retained, helping to assure that Federal dollars do not simply replace State dollars.

There are other provisions of the bill that I am disappointed about. I am disappointed that the conference agreement did not include an important improvement made during the Senate debate which expanded the educational activities that welfare recipients could take part in. In addition, the bill is too punitive on mothers who cannot work because of lack of affordable child care. There are vast areas that should have been improved.

I believe that those of us who vote for this measure have an obligation to watch closely as it is being implemented to make sure that it works, works fairly, and that if changes are needed, they are enacted. I am deeply concerned about the opposition of many individuals whose opinions I respect. I share their concerns that in an effort to get able-bodied adults to enter the workforce, we do not inadvertently punish innocent children.

But we are faced with the choice of supporting this bill or maintaining the current system. I vote to change the system.

Mr. FRIST. Mr. President, I rise in strong support of the welfare reform bill. I applaud the bipartisan effort that has taken place to end welfare as we know it, but most importantly I applaud the efforts of the former majority leader, Senator Dole for his efforts in helping to shed some light on the problem of America's children living in poverty.

Mr. President, the most vital investment that we can make in America's future is our children. If there has been any one single pledge that I have made to the people of Tennessee, it was that I would spend my time in Washington working tirelessly to protect the American family but most importantly our Nation's children.

In the real world, beyond the Washington Beltway, everyone knows that the real investment and sacrifice on behalf of children is not made by government do-gooders, educrats, Members of Congress, or social workers. The real investment and sacrifice is made by parents.

Mr. President, few in Washington understand this fact more than I do. As the father of three young boys, it is my belief that we should not be asking the question ''what should the Government do for our children?'' Instead our question should be ''what must we do to get parents to do more?'' I strongly believe that our children do not need more Government spending but a mother and a father who care about them.

My Republican colleagues and I pledged to return to families something more than a program or a slogan. We have tried to return resources to families, rather than the Federal Government, to help them in raising their children. Our devotion to our Nation's children is demonstrated in our agenda of strengthened families, safer streets, and stronger communities. Our agenda has included:

A balanced budget that saves tomorrow's generations from crushing debt levels—because of Washington spending, each child born this year already owes more than $187,000 just to pay their share of interest on the debt.

A $500-per-child tax credit to ease the pressures on families and allow parents to spend more time with their kids.

Adoption reforms, including an adoption tax credit, to make adoptions more frequent, less expensive, more secure, and designed to make it easier to place children in loving homes.

Tough crime legislation to protect our children from violent criminal predators.

Welfare reform that lifts families out of poverty and into work, provides for child care, introduces the toughest child support enforcement standards ever considered by Congress, and real reform that reverses the destructive effects of the $5 trillion War on Poverty that has failed so many of our children.

Education reforms which empower parents, teachers, school boards and the local communities instead of the Washington bureaucracy. This includes solid reforms which would enable low-income parents to send their children to quality public, private, and religious schools.

Unfortunately, our efforts to enact much of these pro-family items has been stymied by the President's veto or through filibusters here in Congress. The President vetoed the $500-per-child tax credit, thus refusing to ease the financial burden that so many families feel today, a financial burden that often results in parents spending less and less time with their kids. The President has vetoed a balanced budget, a budget which would have given the children of Tennessee freedom from the repercussions of Washington's destructive spending habits.

Right now, because of the traditional Washington habit of spending now and passing on the bills to future generations, your children and my children will face a lifetime tax burden of more than 80 percent. Imagine that—more than three-quarters of their income will be taken away to pay for the debts we have left behind. That to me is truly immoral. That is why I worked tirelessly last year to pass a balanced budget, the first balanced budget in almost 30 years. A balanced budget would have put a stop to reckless Washington spending and would have allowed us to pay our bills—not pass them on to our grandchildren. The bottom line is: a balanced budget helps to secure a better future for our children—and the President vetoed it.

Mr. President, my Republican Colleagues and I understand that many children are trapped in poverty or failing schools, with little hope of achieving a better life than their parents. During the past year and a half, we have made it our priority to lift the lives and hopes of these children. In addition to lifting the crushing debt burden, we must recognize this immediate, abusive, and destructive threat to the lives of America's children: the liberal welfare state.

Nothing punishes single parents and children more than the current welfare system. Our Federal Government is fixated with a system that is riddled with perverse incentives which discourage work and marriage while encouraging illegitimacy and long-term dependency. Designed as a system to help children, our current welfare system has ended up damaging and abusing the very children it has intended to save.

Consider the facts:

Between 1965 and 1994, welfare spending cost taxpayers $5.4 trillion in constant 1993 dollars.

There are 77 overlapping welfare programs to assist Americans officially designated as poor.

Total welfare spending in the United States, in 1993 exceeded $324 billion. Of this spending, 72 percent is Federal and 28 percent is State. About 90 percent of all State welfare spending is on federally designed welfare programs.

The cost of the war on poverty has been some 70 percent greater than the price tag for defeating Germany and Japan in World War II, after adjusting for inflation.

Welfare spending is so large it is difficult to comprehend. One way to make it more tangible is to recognize that, on average, the cost of the welfare system amounted to $3,357 in taxes from each household that paid Federal income tax in 1993.

A final way to assess the growth in welfare spending is to compare it to the increase in spending on other government functions:

Since President Johnson launched the War on Poverty in 1965, means-tested welfare spending by Federal, State, and local governments has grown more rapidly than spending on all other major government functions.

In 1965, the United States spent 17 cents on welfare for each dollar spent on national defense. By 1993, this had risen to $1.11 on welfare for each dollar spent on defense.

In 1965, the United States spent 29 cents on welfare for every dollar spent on primary, secondary, and post-secondary education by all levels of government. By 1993, the United States spent 91 cents on welfare for every dollar spent on education.

Even if the analysis is restricted to welfare spending on cash, food, housing, and energy programs, the trends are virtually identical. Since the beginning of the War on Poverty, means-tested cash, food, housing, and energy programs have grown more rapidly than defense, education, or Social Security.

After $5.4 trillion has been spent on welfare there remains little to cheer about. The onset of the War on Poverty coincided with the disintegration of the low-income family and the rapid increase in illegitimacy. Overall, 30 percent of American children are born to single mothers. We have spent more money on welfare programs since 1965 than on all the wars we have fought this century, yet people are poorer and more dependent than ever.

These are just a few of the ways that Federal Government's welfare policies and social programs are actually working against the American family and our children. I believe that we have a responsibility to provide a safety net—helping those who, by no fault of their own, have fallen on hard times. It is the right thing to do. But when we help people who are able, and yet make no effort to help themselves, we destroy the individual and undermine the very principles of personal responsibility in which our society was founded on. And this is what has happened.

It is clear that our Great Society national urban policy has not helped people. It has destroyed them. It has not kept families together. It has torn them apart. It has not turned the urban areas of America into shining cities on a hill, it has made them war zones where residents live in fear. Our inner cities should be a symbol of what is right about America. Unfortunately, they have become examples—dying examples—of everything gone wrong with government policy.

Mr. President, this bill changes that harmful government policy.

I firmly believe that most of America's children are being raised in loving, caring families that struggle every day to ensure that their children have a chance at achieving the American Dream. But I also know that many of these same families are filled with guilt, at not spending enough time with their kids because both parents must work to make ends meet. While Washington cannot alleviate these parents' guilt—the 104th Congress has acted to ease the tremendous pressures and burdens on struggling families.

Too many single moms are near poverty because their child support checks are nowhere to be found. Just since President Clinton was elected, 175,000 women, mostly single moms, have slipped into poverty. Through the efforts by my colleagues in the House and the Senate, this welfare reform bill holds fathers accountable for their child support, putting in place the toughest ''deadbeat dads'' provisions anywhere in the country. We increased child care funds by $4 billion over current law in order to help single parents make the successful transition from welfare to work. Our children are suffering from the current welfare state. We must reverse this trend, to make welfare a helping hand, not a way of life.

Changing the welfare system will help children. Encouraging families to stay together will help children. Putting welfare recipients back to work will help children. Restoring the work ethic will help children. Improving the quality of local education will help children. Encouraging spirituality will help children.

Spending more on the current broken Washington welfare system will not help children. It's time we take away the blindfold and accept reality. We have to rebuild parents, families, and communities, but you can not do it from inside the beltway. It has to be done at home, in school and at church.

Mr. President, the most important thing that we as a nation can do for our children, does not come from the Congress or even the White House. Rather, it must come from within all of us—a commitment to read to your son or daughter, a commitment to attend church with your child and family, coaching your son or daughter's little league team, and becoming involved in the education of your son or daughter. Mr. President, our children are the future of this great country.

I urge my colleagues to vote for this historic bill.

I yield the floor.

Mr. PELL. Mr. President, when the welfare reform bill was before us last week, I said that I could not let my desire to vote for reform cloud my judgment about the bill, and about the serious flaws which I perceived in it. The bill has been returned to us from conference with some of those flaws remedied, but alas not all, and the omissions to my mind are determinative. And so once again, I shall vote against the bill.

I am especially concerned about the bill's undeservedly harsh treatment of legal immigrants. I note with dismay that nearly half of the $56 billion that would be saved by this bill comes from the denial of benefits to people in this category. More often then not, legal immigrants are hard-working, tax paying individuals who deeply appreciate the freedom and opportunity of U.S. citizenship, which they hope to attain. To deny them so many of the benefits that they might legitimately need as they build a life here, seems unfair and unjustified. While I applaud President Clinton's assurance that this grievous flaw in the bill will be corrected by future legislation, the provision amounts to justice denied, here and now, and I cannot bring myself to vote for it.

I remain concerned, moreover, about the practical consequences of ceasing to treat welfare as an entitlement and replacing it with block grants. But what this means is that this Nation will cease to respond to anyone in great need, as a matter of right, and that some people in need may be cut off simply because we have shifted this serious national problem to the States, and we have done so without providing them with adequate support to address the problem. I am particularly concerned that some States, including my own State of Rhode Island which has just enacted a new welfare program, may be penalized if they choose to have a welfare program which is relatively more liberal than the Federal law.

Also troubling is the retention of cuts in food stamp spending, projected at roughly $24 billion over 6 years. Unemployed workers without children will be hard hit, as will legal immigrants.

Finally, I continue to be deeply concerned about the plight of children. I simply cannot believe that eliminating an entitlement which ensures that all poor children get the food, clothing, and shelter that they need can move us individually or as a society down the path we all want to go. While some improvements were made in conference, the fact remains that children will be the ones most vulnerable to the vagaries of variable State welfare programs.

Mr. President, it is with real regret, then, that I cast a ''no'' vote on this welfare reform legislation. I recognize that the bill achieves many important broad objectives which are clearly desired by the public at large—including work requirements, time limits on benefits and job creation incentives. But looking at the final product, I cannot say that what we have before us is better than what we now have. The bill is, as the Senator from New York [Mr. MOYNIHAN] reminded us ''radical legislation with unforeseeable consequences.'' Better to reject it now than try to make up for its deficiencies in the future.

Mr. LEAHY. Mr. President, it is the understanding of welfare conferees regarding the reconciliation bill that that bill exempts electronic benefits transfers from coverage of the Electronic Funds Transfer Act. The Department of Agriculture is empowered to establish regulations which will provide some protections against recipients' loss of benefits through electronic transfer systems. We encourage the Department of Health and Human Services [HHS] to develop similar regulations which will require procedures to minimize the losses of benefits for aid to families with dependent children recipients. It is also the conferees' understanding that nothing in this bill in any way prevents or discourages HHS from promulgating these essential regulations.

Mr. HATCH. Mr. President, today we take the first big step in ending the era of big government. Today, we send the states the authority to design their own programs for the needy. We move one step further away from the one-size-fits-all approach that comes from a Federal bureaucracy far removed from individual state environments and constituencies. This bill completely changes the very nature of welfare from one of endless individual entitlement to one of temporary assistance and personal responsibility.

This legislation is the result of a truly bipartisan process. I want to thank my colleagues for their work in crafting a compromise that can be supported by a majority of both parties.

I also want to congratulate the President for joining this effort. While we all wondered whether, after vetoing welfare reform twice in the last year, he would sign this measure, I am delighted that he has announced his support for this bill. I commend him for this decision. This is a great victory for Congress, for the President, for the States, for the taxpayers, and, above all, for the needy families of America.

Do we know exactly what will happen after this bill is passed? No. No one is blessed with that kind of omniscience. The current system provides an excellent illustration of the uncertainty of the future. The current system was well-intentioned at its inception. No one was deliberately trying to create a cycle of dependency or despair for beneficiaries who much too often found themselves locked into the system. However, the current system has turned out to be just that, destroying the very spirit of those who are receiving benefits. Through hindsight, we can see that the approaches taken in the current system have not, do not, and will not work. It has been a near total failure despite its worthy intentions.

We have learned from this experience. We have not crafted this welfare reform proposal out of whole cloth. We did not simply dream it up. We reviewed the findings of academics; we heard hours and hours of testimony; we poured over statistics; and we listened to our constituents.

The result is a welfare system built on a new paradigm—a ''can do'' philosophy that must be infused into recipients and administrators alike.

In designing a new approach to assisting the needy, we have looked to those programs that are successful in moving people to work and helping them become independent. The States have been moving in this direction and have been designing innovative and successful programs for several years. My own State of Utah is in the third year of a successful demonstration project that has just gone statewide. The Single Parent Employment Demonstration [SPED] has 90 percent of the caseload actively participating in work activities, utilizes the use of education and training to provide basic job skils, and has been successful in moving participants into unsubsidized, private sector jobs. This bill will continue this trend and allow the States to continue to design comprehensive programs to address their unique constituencies, needs, and resources.

Mr. President, this bill is not perfect. There are several things included in this bill that I don't agree with. There are many things that aren't in this bill that I think should be there. There are even some things that I think need to be changed. I would particularly like to see an expansion of the use of education and training to provide job skills for long-term employment, changes made in the language regarding existing State waivers, and a broader compromise on Medicaid eligibility to provide a level of administrative relief to the States.

However, the core reforms contained in this bill far, far outweigh these concerns. This bill contains block grants to States and gives them the opportunity to design their own systems—systems that will provide not only the wherewithal to transition people into jobs, such as child care, but also systems that have dignity, hope, and independence as the primary goals.

Throughout this debate, we heard from many who were concerned about the effects that these reforms could have on native Americans. I am pleased that this conference report retains several provisions addressing these concerns. The most important of these provisions is the native American tribal allocation provision. I would like to thank my colleagues for working with me to address this issue.

The tribal allocation provisions in this bill will provide tribal governments the same opportunities and responsibilities as the States to receive direct funding and the flexibility to design their own programs based on the unique geographical and cultural needs of tribal members. This represents a significant shift in thought and Federal policy. Through provisions like these, this legislation reinforces the Federal Government's commitment for Indian self-determination and self-governance.

Mr. President, we have heard from the American taxpayers in no uncertain terms that they are tired of paying for people to do nothing. Families who are getting up to work every day and are still struggling to make ends meet are tired of seeing families receiving assistance with virtually no obligation to work for it. This bill changes all that. Under this legislation, people must work for their benefits. No longer will beneficiaries be able to continue to receive benefits for nothing. Families receiving assistance will now be given the resources and opportunity to receive job training and education and to move into work and independence. The legislation provides child care and other support services to these families.

Mr. President, we have heard much during this debate about the children and about how this bill is bad for children. This bill is not bad for children. If there is a program that has been cruel to children, it is the current system. How can anyone say that a program that traps our families in a hopeless cycle of dependency is good for and helps children? The current system may throw money at the problem of poverty, but it does not provide a solution.

This bill provides a solution, a way out of the dependency cycle. This bill gives needy children back the things that money can't buy—hope, dignity, self esteem, and a way out of long-term dependency. The best way we can help needy children in the long run is to give their parents the skills and resources—and, yes, motivation—to enter and be successful in the labor market. It can be done. Many have done it. Many more can be successful under the new system of assistance and incentives incorporated in this bill.

Mr. President, this bill is not the end of the welfare reform debate. Congress will continue to review and reform programs for the needy of this country. The reforms contained in this bill will continue to be monitored and evaluated. We can even see some technical corrections that could be made in the near future. I assure my colleagues and the American people that the passage of this legislation does not signal the end of congressional interest in the welfare programs. Passing this legislation is only the first, most important step in a long ongoing process.

Not only is this bill only the first step in reforming the welfare system, it is also the first step in tackling the seemingly insurmountable problem of ever-growing entitlement programs and balancing the Federal budget. This is not a plateau but rather a ledge on the way to the top of the mountain. Congress must continue to look at other entitlement programs for the needy. We must look at the Medicaid Program, at Medicare, at programs for the disabled, and yes, even Social Security. Without reforming these programs, this country will find itself digging itself deeper and deeper into a black hole with no way to get itself out. But, more importantly, our citizens who have come to rely on these programs will wake up one day to find that these programs have met with fiscal disaster and are no longer viable.

Just as important as the fiscal aspect of reforming these programs is the evaluation of the role and values of the Federal Government. We must reform the very nature of Federal programs from one of dependency to one of independence and transition. I encourage my colleagues to continue this fight. We must not stop here at the first victory over big government, but rather continue the process of reviewing the role of the Federal Government and of reforming those programs that are holding us back on the way to a prosperous and secure 21st century.

Mr. INOUYE. Mr. President, I regret that the conferees on the welfare reform bill have decided to report out a measure that is short-sighted and punitive to children, the disabled, and legal immigrants. I realize that the President has indicated that he will sign this bill into law, but I have concerns, as have already been expressed by the President in his recent statement, with many of its provisions.

Preliminary estimates that this measure will push an additional 1.3 million children nationwide into poverty. Once families have reached the 5-year time limit for receiving assistance in this legislation, they will have no recourse for assistance if a poor economy leave them without the possibility of finding employment.

Legal immigrants, including those who have been in this country for some time already, will be prevented from participating in all Federal means-tested programs, including the Food Stamp and Medicaid Programs.

This measure also cuts $23 billion from the Food Stamp Program over the next 6 years. It also limits benefits for those out of work without minor children to 3 months total in a 3-year period.

This measure will cause much grief in Hawaii. The State is already at its limit in its ability to assist those living in poverty, and the changes in the Federal law will only exacerbate a bid situation

I believe that the intent of a welfare reform bill should be to make it easier for families to make the transition from welfare to work. This bill does not provide adequate resources for States to provide the necessary support for families to do so. For these reasons, I will vote against the conference report.

However, I wish to commend the conferees for including in the bill that will now go before the President important provisions that would: First, provide child support enforcement services and funding to Indian tribes; second, authorize a State to exempt any Indian tribe from the 5-year limitation on participation for any Indian residing on an Indian reservation where the resident Indian population is 1,000 or more and where the unemployment rate is 50 percent or higher; and third, establish a 3 percent set-aside for American Indian tribal governments in the child care development block grant. Given the President's statement of his intent to sign his measure into law, I am pleased that the conferees have given special attention to the very serious needs of tribal communities.

Mr. PRESSLER. Mr. President, in 1935 Franklin Roosevelt had the foresight to realize that a welfare system that replaces real work with handouts was doomed to fail the very individuals it was intended to assist. In FDR's own words,

> The lessons of history * * * show conclusively that continued dependence upon relief induces a spiritual and moral disintegration fundamentally destructive to the national fiber. To dole out relief in this way is to administer a narcotic, a subtle destroyer of the human spirit.

I am pleased that America's long, costly drug addiction to the easy, insidious welfare drug may be beginning to end today. Destructive generational dependency, illegitimacy, fraud, waste, abuse, and neglect soon will be replaced with greater self-sufficiency, responsibility and pride.

The bill before us would change the welfare system and the lives of many Americans for the better. Welfare was meant to be a safety net, not a way of life. This bill would restore the values of personal responsibility and self-sufficiency by making work, not Government benefits, the centerpiece of public welfare policy. I am proud to be a part of the team that has brought this historic legislation to the Senate and, soon, to the President's desk.

Why did the welfare system fail? The value of work was replaced with a handout, instead of a hand-up. The welfare system eroded the American work ethic. In many cases, welfare recipients today can sit at home and make double the minimum wage. Work, as my colleagues and staff know all too well, is a character building process. For generations, South Dakotans demonstrated this principle, that a hard-work ethic provides for themselves and their families. Imagine how they must feel when their tax dollars are used to support Americans who need not work. I can tell you how they feel—upset. That is why we needed workfare.

Workfare may seem innovative here in Washington, but it's not a new idea. Fifteen years ago, South Dakotans sought to develop new solutions for their welfare system. South Dakota wanted workfare, not welfare. With the reforms it has implemented, South Dakota has succeeded in decreasing its welfare caseload by 17 percent and saved taxpayers $5.6 million. Those reforms, considered radical at that time, will the vision of the future for the rest of the country when the bill before us become law. Governor Janklow first pursued workfare in the early 1980's, and former Governor Miller and our late Governor Mickleson continued with further reforms. I also want to acknowledge and commend Deputy Secretary Mike Vogel, Social Services Secretary, Jim Ellenbecker, Denny Pelkofer, Donna Keller, Judy Heinz, Julie Osnes, and the rest of the staff at the South Dakota Department of Social Services for their efforts to make welfare reform a reality in South Dakota. When today's bill becomes law, these innovators will have even greater freedom to succeed where the Federal Government has failed.

I am pleased that the final bill includes workfare amendments I had included during the Finance Committee's markup of welfare reform. These amendments ensure that welfare recipients will put in a full workweek, just as other Americans do, in order to receive benefits. My amendments also increase the number of welfare recipients who must work and tighten liberal loopholes that have allowed people to avoid real work.

This historic legislation is a dramatic turn to decentralization of government. We are putting greater faith and trust in the states to operate their own welfare programs. I am confident South Dakotans will do better than Washington bureaucrats. No longer will the Federal Government apply a one-size-fits-all welfare system run by bureaucrats. Indeed, the Federal agencies responsible for welfare will be drastically reduced. States will have the flexibility to seek solutions and alternatives to welfare problems. This bill also would do something very revolutionary for the native American community— it would give them the opportunity to run their own welfare programs. This is a great opportunity for them to seek innovative solutions as well. This bill is not just about changing the welfare culture, but also the big Government culture. We change both for the better.

Workfare is not just about restoring responsibility at the individual and State level, it is about protecting children in need. This workfare bill would ensure that children have quality food and shelter. This bill would increase our investment in child care by $4.5 billion and increase federal child protection and neglect funding by $200 million over current law. What this bill eliminates is cumbersome bureaucracy and needless regulations.

We also strengthen child support enforcement and give States new tools to crack down on deadbeat parents. These reforms represent the toughest child support laws ever passed by Congress. The past welfare system fostered illegitimacy and discouraged marriage and parental responsibility. This welfare reform would promote the basic family unit, and crack down on those who deliberately walk away from meeting the needs of their children. More and more children are growing up without the moral guidance and financial support of parents, especially fathers. This is a tragedy of our time.

I am also pleased the final bill includes provisions I authored to crack down on food stamp fraud and prisoner fraud. Last year, I was shocked to learn the extent to which prisoners are able to continue receiving welfare benefits. The workfare bill before us once and for all puts an end to cash payments to alcohol and drug addicts in prison. It also would, reward States that crack down on food stamp recipients who abuse the welfare system. Although my home State's food stamp program is ranked first in the Nation, each year $1.7 billion is lost nationally through food stamp fraud, waste, and abuse. My provision would give additional incentive to crack down on those who abuse the welfare system. I want to extend my thanks to the staff at the South Dakota Office of Recovery and Investigations, specifically Marty Armstrong, for their diligent and effective work on this matter.

Several years ago, President Clinton promised America he would change welfare as we know it. Our former colleague and majority leader, Bob Dole, made the same promise. Last year Congress delivered on that promise. We passed workfare. Unfortunately, President Clinton vetoed that workfare bill. The President vetoed workfare again as part of our balanced budget plan. Thanks to Chairman ROTH, Senator DOMENICI, and so many others we didn't quit. We produced another workfare bill. I am pleased the President has said he will do the right thing this time and support this workfare legislation.

I want to thank the conferees for their quick action in approving the welfare bill. Again, I am proud to have played a significant role in this effort to enact workfare legislation. The workfare bill before us will end welfare dependency by requiring work and placing a time limit on benefits. Tomorrow's welfare system would encourage people to become more self-sufficient and productive members of society, as was intended many years ago. Americans deserve more than a handout for today, they deserve the hope and happiness that come through personal financial independence and the self-realization of work. Welfare reform ensures a better future for all Americans.

Mr. BYRD. Mr. President, as the Senate debates the Conference Report on H.R. 3734, the Personal Responsibility and Work Opportunity Act, Senators are considering one of the most significant pieces of legislation to come before this body in the current Congress. Indeed, if this legislation is approved today—and the President signs it as he has indicated—this welfare reform legislation may be the very hallmark of the 104th Congress. This being said, Mr. President, it is important that all Senators pay heed to the vast and complex changes that this legislation would effectuate on federal welfare policy. I intend to support the Conference Report on H.R. 3734 because I believe it represents a necessary departure from a welfare system that few will deny is fundamentally flawed. My overall support of this legislation notwithstanding, I do harbor certain reservations about the possible effects of certain aspects of this welfare reform initiative on our neediest citizens. With this in mind, Mr. President, allow me to explain why I believe that this legislation, even with its potential deficiencies, represents a marked improvement over ''welfare as we know it.''

Mr. President, by combining many of the current federal welfare programs into a single Temporary Assistance for Needy Families Block Grant, H.R. 3734 would effectively end the federal entitlement to welfare assistance and give the States expanded control over their respective welfare programs. Under the bill's provisions, each State must establish objective criteria for determining eligibility and providing ''fair and equitable'' treatment for its welfare recipients. In order to receive their full block grant, States would have to enforce rigid work requirements for welfare recipients and provide adequate child care resources to families with children. Moreover, H.R. 3734 stipulates that States, in order to receive their full block grant, must continue to spend at least 75 percent of the amount they spent on cash assistance programs in fiscal year 1995. And, importantly, H.R. 3734 would limit welfare recipients to five years of benefits and would require most welfare recipients to work at least 30 hours per week by the year 2000. In addition, to protect children of families whose 5 years of assistance have expired, H.R. 3734 permits States to use funds from their Social Services Block Grant to provide vouchers for food for children.

Finally, the legislation permanently bans illegal immigrants from receiving any Federal benefits, and bans legal immigrants from receiving most assistance for the first five years of their residency in this country.

Mr. President, having mentioned the various aspects of this welfare reform legislation that I believe will improve our system of welfare, I must also allude to a particular provision of the bill that I believe may have unnecessarily negative effects on many of the neediest welfare recipients. Specifically, I am concerned about the food stamp work requirements included in this legislation, which would limit adults without dependent children to just 3 months of food stamps every 3 years. Unemployed laid-off workers would be given an additional three months, and areas with unemployment of ten percent or more would also be given a waiver from the work requirements. Nevertheless, Mr. President, these provisions represent a significant departure from the Senate-passed welfare bill, and they also embody a complete departure from our national policy of providing our needy with the most basic safety net: food. On the surface, it might seem that the two exemptions from the work requirement provide a safety net. Yet, the Congressional Budget Office has reported that States will not be able to create the necessary jobs or workfare slots for individuals that are likely to be subjected to these new work requirements.

Mr. President, the Senate-passed measure, like the measure before us now, would penalize States for not creating the necessary jobs or workfare programs. However, this bill goes further than that by including provisions that would also punish an individual who simply cannot find a job or a workfare slot available. While ostensibly intended to target those who could work but choose not to, this provision may in fact have the worst effect on vulnerable individuals who want to work but cannot find a job. Indeed, this issue warrants careful watching. I believe the conferees would have better served this country by adopting the Senate food stamp work requirements.

While this legislation is not perfect, it represents what I believe to be a reasonable attempt to restore the concept of welfare to its original purpose: a temporary ''safety net'' for those who have fallen on hard times. Welfare should not be a permanent way of life for those among us who are able to work. The cost of such misguided policies is far greater than the dollars spent on providing benefits to those who choose not to work because, in time, they foster dependence and indolence among recipients and their families. This argument is not new. President Nixon, in addressing the Nation on welfare reform in 1969 said, ''If we take the route of the permanent handout, the American character will itself be impoverished.'' Mr. President, I agree fully with President Nixon's statement and that is why I support this conference report.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. PRYOR. Mr. President, today, I will be unavoidably absent from the Senate, as I am in Arkansas on a family matter. However, I feel it is important to express my support for this welfare reform measure and discuss briefly the reasons for my support.

My concerns in the debate over welfare reform stem from proposals that would outright dismantle the safety net in this country. For decades, the Federal Government has assumed the responsibility to help those that cannot help themselves. The welfare reform bill before us shifts much of that responsibility to the States. I voted against last week's Senate version of the welfare bill with the hope that I could improve it in the conference committee. In some ways it has improved, in others it has not.

Even so, if I were able to vote for this bill today, I would. I am not going to say this bill before us today is perfect. It is not. But I cannot justify keeping the current system. There are more individuals in poverty now than ever before. I believe we have a responsibility to seek new ways to help people help themselves. Our current system fails at this task and we must recognize this fact.

Welfare as we know it has not effectively emphasized work or pulled individuals out of poverty. I do not like all of the provisions in this bill, but I can not support the status quo.

In the past week I have heard from many people in Arkansas about welfare reform. They know how the current program works in places like Little Rock, and in Camden, in Fayetteville, and across the Arkansas Delta. They can see that the current program needs reform.

Under this bill, States will be given the flexibility to reform welfare to meet the needs of that State. Yesterday, President Clinton said that the welfare population today is different than the one 60 years ago. It is also true that the welfare population today differs from State to State. Individuals on welfare in Arkansas face different problems and have different strengths than those in New York or California. This legislation will give States the opportunity to design a welfare program unique to that State. It is a big responsibility we hand over to the States today. I pray they act wisely.●

Mr. JEFFORDS. Mr. President, I rise today to voice my support for the legislation upon which we are about to vote. We have been working on this bill for a year and a half and we've been back to the drafting table several times. Today, though, we're going to pass this bill and we have the President's assurance that he'll sign it. I am truly pleased to have been part of this historic effort, and I want to thank my colleagues on both sides of the aisle for their hard work and dedication to reforming welfare.

Does my support mean that I believe we've got the perfect bill and all of our concerns have been addressed? Do I think we've finished the job and we can forget about welfare for another thirty years? Certainly not. No one thinks that this is the perfect approach to reforming welfare. Many of us would like to see less in cuts to food stamps; we would prefer more support for children.

In particular, we're emphasizing work in a way that we never have before—and let me stress that I think we are emphasizing that goal, and I commend the bill on that point. Even so, we're not doing nearly as much as we need to do to ensure that jobs are available for people, and that people have the education and training they need to fill the available jobs. We've spent a fair amount of time and energy this session talking about job training. As we all know, reconciliation on this issue has eluded us to date. We must address this issue. The first thing people need to get and hold down a job is a good education. Too often, I think, we assume that to mean a college education. That is not necessarily true. In the next Congress, I hope we will renew our discussion of how to link education and job training so that people are able to fulfill the expectations of the jobs that are available.

Our international competitors have been leaders in making the important link between education and work. Germany for example, has long been a model for vocational education. As early as the sixth grade, students opt for a college-prep or vocational education program.

Over and over we've said people need to get off welfare and get back to work. I agree with that. We've said ''you can always get a job at McDonalds.'' There are two flaws with this flippant argument. One is that a person doesn't earn a living wage at a fast-food restaurant—but we've had that debate. The other flaw with the argument is that even the fast food industry jobs are not as available as we'd like to believe. A 1995 Columbia University study of fast-food minimum wage job openings found that 14 people applied for every opening. Among those rejected, 14 percent hadn't found work a year later. What are we going to do for these people? What are we going to do about this problem?

While this bill makes some nods in that direction, I think perhaps its biggest failing is it fails to recognize all the work we need to do to get people back to work. So far, the necessary resources in education and job training far exceed the available resources. Job training and education are an investment that will yield us incredible returns. Last year the Department of Education released a study that found that ''a 10 percent increase in the educational attainment of a company's workforce resulted in an 8.6 percent increase in productivity. Whereas a 10-percent increase in the value of capital stock such as tools, buildings, and machinery only resulted in a 3.4 percent increase in productivity.'' I won't belabor this point, but education and job training are issues I will continue to work on, and I urge my colleagues to do the same.

I think all of us realize that it will be our responsibility to monitor the effects of this bill, to improve and enhance those provisions that seem to work well, and to revisit those provisions that are unproductive or fall short of what's needed, such as those surrounding job training and education that I have just highlighted.

This bill is not perfect. Even so, the system we have now is not working and we need to move forward now. The bill before us takes important steps in the right direction, and is clearly preferable to the welfare program we've arrived at after 30 years under the old system.

We enacted this system 30 years ago to combat poverty, and the truth is—this system hasn't worked. In 1965, 3.3 million children received AFDC benefits. In 1990, 7.7 million kids received AFDC benefits, and in 1994 9.6 million children received AFDC. At the same time, between 1965 and 1990, the actual number of children in the United States declined by nearly 5 million. Clearly, the current system isn't working, and because of that there is strong support in this country and in this Congress to reform welfare.

Furthermore, the current system has developed into one that permits, even encourages, a lifestyle of dependence. Under the system we have now, 65 percent of families on welfare will be dependent for at least eight years. One in eight children in this country is on welfare, and nearly one in five mothers in inner cities is on welfare. Without welfare reform, millions more children will grow up dependent on welfare. Under the current system, children who grow up in families dependent on welfare are twice as likely to rely on welfare when they become adults. It is clear that for many people, welfare has become a way of life.

The bill before us will terminate reliance on Federal assistance as a way of life. We end this reliance by terminating cash assistance after 5 years of receiving benefits. After two years, we require people to get jobs. This is real welfare reform. Time limits are unprecedented at the Federal level. Five years of benefits allow adequate time for most people to get their feet under them and get back on the road to supporting themselves. But even after 5 years the line is not a hard and fast one. There can be exceptions. The bill allows a 20 percent hardship exemption for the really difficult cases. So even though we say ''5 years and you're off,'' even then there's some leeway.

Another strength of this reform bill is that it retains the Federal safety net for nutrition benefits. One of the changes I worked hard on in the Senate version of the bill was the food stamp block grant. We eliminated the block grant option last week, and the conference bill retains the food stamp entitlement. The entitlement ensures that food stamps will always be available to our most vulnerable populations: children, the very poor, and the elderly. And food stamps will be available even after the eligibility for cash assistance has ended. I want to thank my colleagues for joining me and voting to strike the optional block grant.

Another difference between this bill and the ones we've considered previously is the money provided for child care. This bill fulfills the Governors' and the President's request for additional child care funds, and as a result we'll be spending $4.5 billion above current law on child care. In addition, the bill retains minimal health and safety standards for child care, and it maintains a quality set-aside from child care block grant funds so we might better focus on encouraging and developing good child care for our children. Finally, this bill requires that the Secretary report to the Congress on how children are affected by welfare policy change; additionally, it requires the states to report on their child poverty rates. If the child poverty rate increases by more than 5 percent, then immediate corrective action is required. I mention all of these factors because they contribute to my willingness to support this bill, and also because they illustrate that the drafters are concerned about children and intend to monitor the effect of this bill and follow up to ensure that we are bringing about the positive change we're attempting to achieve.

In conclusion, let me speak briefly on how this bill will affect Vermont. I was pleased to learn that the Governor of my home State, Gov. Howard Dean, has spoken positively of this bill. While he shares the concerns that many of us have, Gov. Dean thinks that Vermont can come out ahead under the provisions of this bill. Vermont is currently operating its welfare program under a waiver. Not only does this bill allow the State to continue its first-in-the-nation reform project, the Governor recognizes that the calculations used to determine the size of the Federal block grants mean that Vermont will have more money to spend on its welfare program.

While I am on this subject, I would like to take a moment to voice my support and praise for those states, like Vermont, that have already undertaken welfare reform through waivers and demonstration projects. I am pleased that we will allow those waiver projects to continue.

But let me urge clarification on what I consider to be a confusing and counter-intuitive provision in the bill. Under the provisions of the bill setting forth the guidelines for the temporary assistance for needy families block grants we have a section that gives States the option of continuing the waiver projects already underway. In fact, the section goes so far as to require the Secretary to encourage any State operating under a waiver to both continue the waiver and to evaluate the result of the waiver so that other States may make use of the valuable information to be gained from these demonstration projects.

However, under the hold-harmless provisions of this waiver section, we seem to forgive the accrued liability of States that choose to terminate their waiver projects. Our intent, I believe is to forgive the accrued liability of those States, like Vermont, that choose to continue their waiver projects. To take any other stance except one that also wipes those slates clean would give States incentive to terminate their waivers. States like Vermont that are already conducting demonstration projects should be encouraged and supported in their efforts to continue those projects. I understand that there may be an opportunity to revisit that issue soon, and I urge my colleagues to ensure that we're creating incentives to continue the waivers that are promising, rather than offering incentive to terminate those projects.

Another aspect of the bill that is very important to Vermont is the assurance that, as under current law, LIHEAP benefits will not be counted as income for purposes of determining food stamp eligibility. This provision is very important to poor people in cold regions of the country who may rely on both LIHEAP benefits and food stamp benefits. There was a provision in both the House and Senate bills that would have forced people to choose between heating and eating, and I thank my Senate colleagues for accepting my amendment to strike those provisions. I also want to thank my colleagues who worked on the conference committee for working to maintain the Senate bill provisions on this issue.

Mr. President, I agree with my colleagues who say this bill has flaws, and I look forward to working with them next year and in future years as we continue to work towards the proper balance between self-sufficiency and Gvernment assistance. In spite of its weaknesses, I think this is a good bill. We've worked hard over the past year and a half to get to this point and I think we've made some very positive changes that will help all Americans to be productive and contributing citizens. I will be pleased to vote ''yes'' on final passage.

Mr. BIDEN. Mr. President, since 1987, when I first proposed an overhaul of the welfare system, I have argued that welfare recipients should be required to work. None long years later, I am pleased that it is finally about to happen.

It has been a long road. I was pilloried by many of my friends back then for even suggesting the idea of requiring work. Today, I think everyone here believes that work should be the premise of our welfare system.

It was unthinkable a few short years ago, that we would limit the time that people could collect welfare benefits. Today, I think that is a proposition on which nearly everyone here agrees.

And, on the other side of the aisle, it was just a few short months ago, that many were unwilling to invest sufficient amounts in child care so that the children of welfare mothers would be taken care of when their mothers went to work.

We have come a long way toward reaching agreement on how best to reform our failed welfare system. And, much of that meeting of the minds is reflected in this bill. So, I will vote for it, although I believe it could have been better.

I would feel much more comfortable if we were here today debating and voting on the Bipartisan Welfare Reform Act that Senator SPECTER and I introduced in the Senate and that Representatives CASTLE and TANNER introduced in the House. It was more realistic in putting people to work; it was more compassionate to the children who did not ask to be born in poverty; and it was a model of bipartisanship from the very beginning.

Unfortunately, the Biden-Specter, or Castle-Tanner, bill is not a choice facing us today. Today, we have but one choice: this bill with its flaws or the current flawed system. And, in weighing the alternatives, the flawed—I should say failed—status quo is simply no longer an alternative.

The culture of welfare must be replaced with the culture of work. The culture of dependence must be replaced with the culture of self-sufficiency and personal responsibility. And, the culture of permanence must no longer be a way of life. I will vote for this bill, Mr. President, because it is a step toward changing the culture.

This bill will require welfare recipients to work in exchange for their benefits, and it will limit the amount of time that families can receive welfare. The bill will increase our investment in child care so that welfare mothers can go to work, and it will go after the deadbeat dads who refuse to support their own children. Finally, it will crack down on fraud in the Food Stamp Program.

These are important and crucial changes that need to be made in our failed welfare system. They have been my priorities in reforming welfare, and this bill meets those goals.

But, we should not fool ourselves. There will be people, many of them children, who will fall through the cracks because of this bill. I do not know how many. I have heard numbers thrown around on how many more poor children there will be under this bill. To tell the truth, no one knows for sure. But, there will be some. And, for that, we should not brag or boast or pound our collective chests or, as one Member of the other body did yesterday, claim that this will be great for America.

However, that's not a reason for failing to move forward. It is a reason for watching closely what happens as we move forward. As this new welfare system is implemented, we must monitor it with a microscopic eye. And, I hope the authors of this legislation will be as willing to make corrections if corrections are needed as many of us have been willing to vote for a good, but not perfect, bill.

And, this is not a perfect bill. In fact, I do not even believe this is the best bill we could have written. But, it is a good bill. And, it is time to move forward.

Mr. COHEN. Mr. President, about 11 months ago, the Senate passed a welfare reform bill by an overwhelming 87 to 12 margin. That vote demonstrated that there was strong, bipartisan agreement that the current welfare system needs a dramatic overhaul. After almost a year of discussion relating to the best way to reform the current system, it is satisfying that the same bipartisan spirit will be present when we vote on a welfare reform plan for third time.

The current system, with its trademark entitlement programs, has been only marginally successful in providing for the most basic needs of low-income people, and has been a dismal failure in encouraging recipients to become independent.

While we supported changes in 1988 to emphasize work in our welfare system—those reforms included so many exemptions that the incentives to work were seriously undermined. Those reforms did not do enough to help us distinguish those who had fallen on hard times and needed a helping hand from those who simply refused to act in a disciplined and responsible manner. When welfare is a Federal entitlement, it is very difficult to make that distinction.

The legislation before us today will put welfare recipients on notice that their time on the system is limited. We are offering them assistance with child care, health care, and training to become self-sufficient. In return, recipients are expected to put in time improving their education, participating in training, and getting a job to get off the system permanently.

As recipients increase their efforts to comply with these new requirements, States must understand the responsibility they are accepting with the flexibility gained from the block grant. The Federal Government is ending the 60-year philosophy that anyone at anytime is entitled to cash assistance.

The philosophy has changed to: we will help someone get a job and keep a job by providing child care and health care for a specified period of time. This shift in philosophy means that the culture of State welfare offices must evolve into the culture of a job placement service where the focus is getting jobs, not mailing checks.

This legislation also takes a big step forward to reinforce the importance of families in society. Regrettably, too many of our young people are growing up without two parents involved in their lives; 92 percent of AFDC families have no father in the home. This bill recognizes that reducing out-of-wedlock births is an important goal, but does not prescribe Federal solutions that would hamstring the ability of States to try different approaches.

One of the most essential ingredients for self-sufficiency is the availability of child care. By funding child care activities at almost $22 billion, States will have the resources they need to design successful return-to-work programs. With this enhanced funding, parents will have some assurance that their children will be cared for in safe settings.

As the President indicated yesterday, this bill is not perfect. One of my principle concerns is the impact of cuts in food stamps on the working poor. Food stamp benefits do not extend just to families on AFDC. The Food Stamp Program plays an important role in helping poor, working families make ends meet.

Food stamps are the front-line defense against poverty, providing a minimum safety net of 1 out of every 10 people in Maine. This program has proven vital in improving the health of our children and the elderly, and protecting people with disabilities. We need to ensure that this program retains its vital mission: to ensure that families have enough resources to buy food.

One of the most important provisions in this bill is the emphasis on the collection of child support and establishing paternity for children born out-of-wedlock. Child support collections continue to increase across the Nation. The Republican bill includes provision which will encourage even greater increases in child support collections. By taking a tougher stand to establish and then enforce child support orders, some of the families currently tied to the welfare system may be able to get loose.

It is obvious that no one likes the current system. Governors don't like it, welfare recipients don't like it, and the public believes that welfare programs serve only those people who want to take advantage of the system. As a result, support for antipoverty programs has eroded drastically in recent years.

By injecting a work ethic into our welfare system and emphasizing self-sufficiency, which this bill does—we are on the right track. This bill comes very close to providing resources and incentives that will improve our antipoverty programs, but I also hope we will continue to work to ensure that our most vulnerable populations are protected.

Mr. GLENN. Mr. President, today the Senate will be voting to transform the Nation's welfare system. Despite some changes, I believe that the fundamental flaws of the Senate and House passed bills remain and therefore I will vote against the conference report.

Children and low-income working men and women will be the victims of this legislation. There are already far too many poor children in this country and I believe that this bill will in the end cause many more children to live in poverty. I am particularly concerned that in Ohio alone, as many as 43,500 children will be pushed into poverty by the implementation of the bill before us. Mr. President, I cannot support legislation that would cause this kind of harm.

I have been concerned from the start that simply washing our hands of the Federal responsibility for welfare and turning it over to States is no guarantee of success. This is risky policy and there will no longer be any mechanism for guaranteeing a national safety net for our poorest families.

I am concerned that the work requirements in the bill can not be met. States that do not meet employment goals will lose part of their block grants. Penalties would rise from 5 percent in the first year to 21 percent in the ninth year. The Congressional Budget Office has already reported that most States will be unable to meet the work requirements. This legislation lacks the necessary commitment or resources to help people move from poverty to meaningful employment. It does not provide any specific funding for States to help people find or train themselves for better-paying jobs. Rather than moving people off welfare and onto work, this bill emphasizes cutting off welfare.

While I support reform that promotes personal responsibility and community initiatives, I cannot support legislation which undermines the national safety net and reduces resources for hungry families.

Mr. GRAHAM. Mr. President, during consideration of the Senate reconciliation bill, two definitions regarding immigrants, section 2403(c)(1), and in section 2423, section 213(A)(f)(2), were stricken because they contained material that was not under the jurisdiction of the Finance Committee. Specifically the definitions denied all means-tested benefits to immigrants including benefits subject to appropriations.

The Parliamentarian also agreed that the provisions violated another section of the Byrd rule, section 313(b)(1)(D). Section 313(b)(1)(D) prohibits language in a reconciliation bill or conference report if the deficit reduction is merely incidental to the larger policy changes contained within the provision. The Parliamentarian agreed that since the reconciliation process is confined to mandatory spending, expanding the scope of provisions to include benefits provided by discretionary spending was a violation of the Byrd rule.

The conferees were certainly notified about these rulings and the offending provisions were not included in the conference report.

Moreover, would the Senator agree that, when the Senate struck these sections as violating the Byrd rule, the Senate's intent was to prevent the denial of services in appropriated programs such as those that provide services to victims of domestic violence and child abuse, the maternal and child health block grant, social services block grant, community health centers and migrant health centers? Does the Senator agree that recipients of appropriated funds are not forced to conduct checks on citizenship and immigration status when providing community services?

Mr. KENNEDY. Yes. Under the Byrd rule, the budget reconciliation process cannot be used to change discretionary spending programs. Only mandatory spending is affected.

Mr. GRAHAM. Is this consistent with the understanding of the Senator from Nebraska as well?

Mr. EXON. Yes. As ranking minority member of the Budget Committee, I have been concerned to ensure that the budget reconciliation process is limited to affecting mandatory spending and is not misused to achieve other objectives. Budget reconciliation's departure from ordinary Senate rules of debate must be carefully limited to its original and proper purpose. Our colleagues on the other side of the aisle shared this view when they agreed to strike the offending provisions from the Senate bill.

Mr. GRAHAM. Would the Senator agree that the version of the bill recommended in this conference report is consistent with this understanding?

Mr. EXON. Yes. These provisions stayed out of the bill in conference, as the conferees sought to avoid another challenge on the Senate floor that these provisions violated the Byrd rule. This manifests our intent to keep this bill within the proper parameters of budget reconciliation.

Mr. President, changes in discretionary programs on a reconciliation bill, such as the ones mentioned by the Senator from Florida and the Senator from Massachusetts, result in no direct budgetary savings and are therefore extraneous under the Byrd rule.

During floor consideration of this legislation, we struck section 2403(c)(1), and in section 2423, section 213(A)(f)(2) because they contained material that was not under the jurisdiction of the Finance Committee, namely many discretionary programs, because they violated section 313(b)(1)(C) of the Budget Act. These provisions also provide no budgetary savings, and violating the intent of section 313(b)(1)(A) of the Budget Act, but because they were cleverly embedded in language which did provide direct budgetary savings, it was difficult to fully enforce the Byrd rule. Nonetheless, it is clear that this bill should not be used to make changes in discretionary programs, and those who look to interpret the action of the Congress should take this into account.

Mr. President, the purpose of the Byrd rule is to prevent reconciliation bills from being loaded up with provisions, such as these, that have no budgetary impact. This is important because reconciliation bills move in the Senate under special rules which limit amendment and time for debate. Without the protections provided by the Byrd rule, it would be far too easy to take advantage of the privileged nature of reconciliation to enact controversial items without proper consideration in the Senate. Allowing reconciliation to be used in this manner fundamentally undermines the basic nature of the Senate's rules which protect the voice of the minority and damages the Senate as an institution.

For this reason, I feel it is important to bring these provisions to the attention of the Senate, and I thank the Senators for their efforts.

Mr. LEVIN. Mr. President, today, the Senate will reach a milestone in the long and sometimes twisting journey of welfare reform legislation. The Senate will pass this bill, as the House of Representatives did yesterday. The President has told the Nation that he will sign it, and soon it will become law. I will vote in favor of this bill because it is a step toward ending the present system which simply does not work and replacing it with a system which requires and rewards work. I wish, however, that we had before us a reform bill which I could wholeheartedly, without reservation, endorse and support. I would greatly prefer a bill, for example, like the work first legislation which contained a Federal safety net for children and which I cosponsored with Senator DASCHLE and many of my colleagues or even like the bipartisan Biden-Specter approach which I voted for in the Senate.

The bill before us is an improvement over the legislation which I opposed last year and which the President vetoed because, among other things, it provides more support for child care, retains needed child protection programs and services, includes my amendment strengthening the work requirement, does not block grant food stamp assistance, requires a greater maintenance of effort from the States, and doubles the contingency fund to help States in times of economic downturn. However, it contains a number of serious flaws. That is why it is a milestone and not a final destination. It will need repairs. As the President has indicated, there are aspects of this legislation which the Congress will be required to revisit. And beyond that, I believe that this kind of sweeping reform involves an element of risk. Although our efforts are directed toward improving the system, recognizing within the welfare system the principle of the value of work, assuring the protection of children and reasserting the responsibility of absent parents to their children, we cannot possibly be sure that all the effects of such sweeping reform will be those intended. For that reason, the Congress must remain vigilant in its oversight and monitoring of the impacts of this legislation. We must stand ready to address negative impacts. If critics are fully correct and there is a large increase in the numbers of American children who find themselves impoverished, we must stand ready to remedy quickly the defects in this bill.

For a number of years, I have been working toward reform of the welfare system. The existing system has failed. It does not serve families and children well. It does not serve the American taxpayer well. It was created to meet the needs of families in hard times. Unfortunately, for far too many, what was intended as a safety net has too often become a way of life, a cycle of dependency. It is wrong to allow such a system to continue.

Meaningful reform should protect children and establish the principle that able-bodied people work. It should tighten child support enforcement laws and be more effective in getting absent fathers to support their children. the bill before us represents a constructive effort.

The funding levels in this bill are aimed at assuring that adequate child care resources will be available for children as single parents make the transition into work. Those levels are significantly improved over last year's bill. This strengthens the work requirement because it better assures that States can effectively move people into job training, private sector employment, and community service jobs. The bill will provide the kind of flexibility which the States have been asking for. Now, they must step up to the task and meet their responsibility. If they fail, this reform will fail because it is built on the foundation of getting able-bodied people back to work.

I am particularly pleased that this legislation includes my amendment which I first offered last year which greatly strengthens the work requirement in the bill. The original legislation required able-bodied recipients to work within 2 years of receipt of benefits. My amendment adds a provision which requires that unless an able-bodied person is in a private sector job, school, or job training, the State must offer, and the recipient must accept community service employment within 2 months of receipt of benefits.

As I have said, I am deeply concerned by several provisions contained in this legislation. I am afraid that the reductions in food stamp assistance may go too far, although the conference committee added $1 billion in food stamp assistance back in. Also, while some language was added in the conference to allow States to use some funds under this bill to provide noncash vouchers for minimum safetynet support to children of families which lose their benefits they have reached the 5-year limit on assistance, I believe such minimum aid should be mandated. We will want to monitor how the States handle this problem. And, I am concerned that the provisions included, denying benefits to legal immigrants, are too harsh. I particularly object to the impact on legal immigrants who are already in the United States and on legal immigrants who come here, work hard, and then may unfortunately become disabled. As the President stated yesterday, these provisions don't belong in a bill relating to welfare reform.

I am also concerned by a provision in the bill which did not appear in either the House-passed or Senate-passed bill. Both the House and the Senate bills prohibited penalties against single custodial parents with children under 11 years old who cannot find adequate, affordable child care, as determined by the State. Inexplicably, the conference committee changed that provision to lower the protected age to children under the age of 6. Again, I think this is a matter which Congress should monitor closely as it is applied in the States, and revisit it, soon.

Mr. President, the decision on this bill is a difficult and a close one. But, I believe we must reform the broken welfare system which currently serves America's children poorly and serves the American taxpayer poorly. But, as we move forward on a bipartisan basis, we must vigilantly work with the States, to make this reform successful, to get people back to work, and to improve the lives of America's most vulnerable children, with an on-going commitment that mistakes will be addressed, and shortfalls will be reevaluated.

Mr. HATFIELD. Mr. President, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 moves our Nation in a positive direction by reforming our current welfare system. Not only does it eliminate the entitlement status of welfare, but the bill requires those able-bodied recipients who can work, to work. In addition, the bill provides $4.5 billion more for child care than current law, maintains Medicaid eligibility for those citizens who qualify for assistance, and allows those States who are operating under Federal waivers to continue to do so. The child care and Medicaid provisions in this bill will allow welfare recipients to better make the transition to work. Also, the Federal Government, by allowing States to continue with their innovative welfare reform programs, will see continued successes, as in Oregon, in welfare reform.

As chairman of the Appropriations Committee, and while currently embroiled in the appropriations process, my experience has taught me all too well the dire consequences of continuing, without change, entitlement programs that we do not, and cannot control. We can no longer keep spending until all needs are met. These entitlement programs place a great burden on the Appropriations Committee and more importantly, a burden on the many other needs of our Nation.

Only through a commitment to providing better opportunities for those living in poverty will we find a solution to poverty. We can achieve a reduction in welfare spending while working to transition the impoverished, out of poverty. The recent vote in the Senate to increase the minimum wage is an indication of Congress' commitment to ensure that in the area of employment, a minimum standard is assured. However, Congress cannot eliminate poverty by merely raising the minimum wage. There is a cycle of poverty which is passed from generation to generation, and it is the root causes of this poverty that must be addressed: a lack of education and access to upward social, and economic stability. Education is the key to the success of society. Citizens without the opportunity to educate themselves, to increase knowledge and skills, will weaken in despair, maintaining the status quo at best. In my home State of Oregon, the Governor's office, county commissioners, and the Oregon Workforce Quality Council, are only a few among many who have worked towards improving job training. As a result of the efforts in Oregon, in only a few years Oregon has reduced their welfare roles by almost 25 percent. By progressing towards a seamless link amongst differing human resource agencies, Oregon has made outstanding progress in integrating education, employment, and training programs. These are key links in ending the cycle of poverty. Thus, I am pleased to see waiver language contained in this bill which will continue the welfare reform process. With this added flexibility Oregon will be able to continue its extraordinary welfare program.

Mr. President, we have chosen to address welfare reform and Medicaid reform separately; a decision which I cannot fully support. Welfare reform is an integrated effort which includes: child care, effective job training and quality health care. To end welfare as we know it we must allow our citizens the opportunity to climb out of the welfare trap and become productive citizens of our Nation. Without an integrated approach the entire system is placed in jeopardy. Thus, I am dismayed that we did not reform Medicaid while reforming welfare, for they are an integrated pair. However, I am satisfied at this point to know that Medicaid will remain intact for our citizens who are fulfilling the work requirements of this bill. Furthermore, I am pleased that the State of Oregon will continue to operate its Medicaid system under the Oregon health plan. Under the Oregon health plan, my State has enrolled 114,000 more Oregonians who would otherwise not have had access to health care. The Oregon health plan required numerous Federal waivers to achieve this success, and I am hopeful that Medicaid reform, whenever enacted, will have similar success as in Oregon.

I ask unanimous consent to have printed in the RECORD a letter from the State of Oregon endorsing this bill.

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

OREGON DEPARTMENT OF HUMAN RESOURCES,
Salem, OR, July 31, 1996.

Hon. MARK O. HATFIELD,
United States Senator,
Washington, DC.

DEAR SENATOR HATFIELD: Thank you for your ongoing work with us on both our welfare reform waivers and the current pending legislation. Your assistance has made it possible for Oregon to continue to improve upon its extraordinarily successful strategies to move families from poverty to employment.

Regarding the current bill, it is my understanding that the conference committee has allowed states the option to determine if, after a five-year period following enactment, qualified aliens (generally speaking, legally residing non-citizens) would remain eligible for Medicaid coverage. With this issue resolved, the Department of Human Resources is satisfied that the bill will allow the State to have more flexibility and success in helping Oregon families become self-sufficient than would be possible under current law.

Sincerely,

GARY WEEKS,
Director.

Mr. HATFIELD. In Oregon, we are reducing our welfare roles by training our workers and putting people to work. This is being accomplished through a concerted effort of local, State and Federal officials striving together towards a common goal of putting people to work. We are demonstrating that welfare reform is an integrated system of job training, child care, personal responsibility, and health care.

Mr. BINGAMAN. Mr. President, today the Senate will vote to change the Nation's welfare system. While I hope these changes will make people's lives better, I greatly fear that these changes will do far more harm than good.

Let me say I believe the country needs welfare reform, and I strongly support some portions of this bill. I support requiring all able-bodied recipients to work, turning welfare offices into employment offices, providing adequate child care and requiring strong child support enforcement. This bill achieves some of these goals, but I am deeply concerned that it will push more people into poverty instead of lifting them out.

I am encouraged by the President's commitment to pursue these concerns and come back next year to propose changes to this legislation. In fact, I wish we had incorporated those changes in this bill.

I have been hopeful that this Congress would achieve real welfare reform. A good bill would encourage adults to work without threatening the well-being of children or legal immigrants or the States that need welfare assistance most. I originally voted for welfare reform legislation in the Senate with hopes of ultimately achieving this goal.

Unfortunately, this has not happened. In the highly politicized environment in which we find ourselves, I fear that we are trading an admittedly imperfect system for one that may prove to be far worse for our Nation's children and poor. That is why I am voting against the conference report before us.

I have been persuaded that this bill will hurt New Mexico. While under this bill, States may have substantial discretion on how they administer welfare benefits, it is equally clear that they will have substantially less money with which to administer those benefits.

I believe this bill will increase the number of children living in poverty in our State. Relative to other States, low per capita income states like New Mexico will suffer. According to the New Mexico Human Services Department, the number of families on welfare is increasing in New Mexico—from an 18,400 caseload in 1989 to 34,000 cases per month in 1996. New Mexico cannot easily absorb funding cuts when the caseload is growing and the State budget is not.

This bill requires progressively more hours of work, from a greater percent of each State's caseload every year, with States losing cumulatively more funding each year they fail to hit their targets. While I am a strong proponent of work requirements as an integral part of welfare reform, I am skeptical of this approach.

Currently, unemployment in New Mexico is 6.8 percent, higher than the national average of 5.3 percent. While we have experienced a recent period of high job creation, many of those new jobs are concentrated in our urban centers and are not likely to be accessible to those who live in rural areas. And what will happen to New Mexico in the event of an economic downturn, when rates of job creation are not so high? This bill provides a penalty of a 5 percent cut in Federal funds for the State's block grant that will be increased to a maximum of 21 percent cut should targets be missed in consecutive years. The National Governors' Association [NGA] shares the concern that many States will have difficulty in meeting the work requirements. This will leave States with the choice of using State and local funds for education, training, and child care, or throwing more people off the rolls so it will be easier to hit their work targets, or cutting far back on benefits.

The nonpartisan Congressional Budget Office has said that, over 6 years, this bill falls $12 billion short of the funding needed to meet the work requirements of this legislation, and about $2.4 billion short in child care resources. Currently, the caseload in New Mexico is growing. Who will be forced to pick up the shortfall? State and local governments will.

Last year in New Mexico, 239,000 recipients in 87,000 households relied on food stamps. About $28 billion in savings realized by this bill will be in food stamps. Such cuts to funding benefits erode the integrity of the safety net for those who need it most. I say again that we are trading in an imperfect system for one that may prove much worse.

Our common goal is to eliminate public assistance as a way of life while preserving temporary protections for those truly in need. We can do this without denying the basic needs of innocent children and without driving State and local governments further into debt. I look forward to voting for the necessary amendments to this legislation in the next Congress.

Mr. DOMENICI. Mr. President, I am pleased that the welfare reform conference report includes a suggestion I made to the conferees.

Before final passage in the Senate, I suggested that we delete a direct spending appropriation that was in the Senate-passed bill—section 2211(e)(5).

This provision would have given the Social Security Administration [SSA] $300 million in entitlement funding for administrative costs associated with welfare reform.

Although it is important to make sure SSA gets the funds it needs to implement welfare reform, I oppose creating new entitlement spending for Federal agencies.

As an alternative, I suggested that we build upon a process that is already in current law and which adjusts the discretionary spending caps to accommodate additional funding in the appropriations process for SSA to do continuing disability reviews.

I am pleased that the conferees accepted this approach.

Let me also clarify one issue.

The language in the conference report provides that the chairman of the House Budget Committee must take back the cap adjustment in the event the President vetoes the bill.

For the record, we do not need this explicit authority in the Senate. The chairman of the Senate Budget Committee already has the authority to reverse adjustments of this kind in the event the legislation does not become law.

Mr. LIEBERMAN. Mr. President, I rise to support the conference report and welfare reform.

The Congress and the administration have worked now for over 3 years to reform the shameful situation in which millions of Americans on welfare find themselves. Parents seeking work are discouraged from doing so by the current system. Teenage mothers languish alone in households without the support of their children's fathers and often without proper adult supervision. Welfare as we know it has allowed these societal ills to fester and drain increasingly large amounts of public assistance funds. The current system has made it too easy for young men to father children without assuming either the financial or emotional responsibilities of parenthood. For too long, society has assumed the responsibility of caring for poor children with welfare checks, while not placing expectations of accountability upon the young parents. Too many families face the daily burden of survival, unemployment, and society's suspicion of their unwillingness to change their situation.

The provisions of this conference agreement can ensure that our welfare system will finally reflect a respect for two of the most fundamental values of our society—an adherence to the American work ethic balanced with a compassion for those truly unable to care for themselves. This bill redirects hard-earned tax dollars toward achieving employment opportunities for adults and improvements in the quality of life of children.

First and foremost, it eliminates the possibility of receiving public assistance without any intention of making some kind of a contribution to society in return. Beneficiaries will be aware that from the day they receive their first check, the clock will be ticking. Society is fulfilling an obligations to help them get back on their feet, and they in turn are obligated to make every effort to receive job training or education and to find employment. The employment of parents will enrich their children not only financially, but morally as well. In watching their parents benefit from educational opportunities and engage in gainful employment, children may embrace a valuable work ethic and eventually be better able to free themselves from the cycle of poverty and welfare dependence in which they are currently entrapped. States will also have an incentive to help beneficiaries find work. Welfare offices should become employment offices as States strive to move recipients into the work force in order to earn a performance bonus from the Federal Government.

The conference bill also holds the hope of protecting children and reducing welfare spending by attacking the problem of unmarried teen parenthood. Welfare will no longer encourage the proliferation of single and uneducated parents by automatically and unconditionally underwriting the mothers who bear children out of wedlock. Children born out of wedlock are shown by studies to be three times more likely to be on welfare as adults than their peers. By implementing this bill, however, the Federal Government will require States to combat this problem and hopefully prevent it in a number of ways. First, paternity must be established for all children born out of wedlock at birth as a condition for receiving assistance, and fathers will be required to pay child support and set a good example for their children by engaging in either private sector or community service jobs. Mothers must live with an adult parent or relative or in an adult-supervised, strictly run Second Chance Home where they can learn skills necessary to the proper management and care of a child and household. A further condition of receiving assistance is a commitment to educational advancement. Young mothers must stay in a school or training program as a condition of continuing to receive welfare checks.

This welfare reform bill will additionally work to prevent a new generation from entering into the cycle of early parenthood and welfare dependence by making it a national goal to lower teen pregnancy rates. It establishes a national campaign that will assure the creation of teen pregnancy prevention programs in at least 25 percent of American communities by 1997. It includes two amendments which I authored with the intent of combating this problem. One will require the Justice Department as well as the States to crack down on what studies show is a class of older men—many of them predatory—who father the children of young girls in the majority of teen pregnancy cases. The second amendment requires States to reserve a portion of their social service block grant funds for programs and services that educate young people about the consequences of premarital pregnancy. As we reduce the number of teens who become pregnant, we will be increasing the number of children who are able to enjoy a childhood without deprevation.

There are other aspects of this legislation which have been framed with the protection of children in mind. For example, minor children continue to receive Medicaid even if their parents lose coverage as a penalty for not getting off of welfare into job training and work. Families can also be eligible for transitional Medicaid coverage as they move from welfare to work. These provisions are vital as many parents currently refrain from finding jobs and moving off welfare for fear of losing the medical coverage for their children that welfare provides.

Mr. President, this bill provides a significant improvement over the Senate-passed bill in allowing States to provide needy children of parents who go off of welfare with vouchers through the title XXblock grant. The legislation also answers the all-important question of who will care for the children as their mothers and fathers move into the world of education and work. We have designated $13.8 billion—a substantial increase—to be spent just on child care over the next 6 years, and we have retained child care health and safety standards. Moveover, we will not penalize mothers with children under the next 6 years, and we have retained child care health and safety standards. Moreover, we will not penalize mothers with children under the age of 6 who do not accept employment because they cannot find or afford child care. I would have preferred the retention of the Senate provision in this regard which allowed the mothers of children age 6 to 11 who cannot find adequate, affordable child care to stay home with them without penalty.

Mr. President, this is a good bill—a giant step forward from the welfare status quo—but it is no more perfect than any other bill that has passed the Senate on a big, complicated problem. I am especially concerned by the food stamp provision which is a real break with what was agreed to in the Senate-passed bill. It limits the receipt of food stamps by jobless individuals who do not have children to 3 months out of a 3-year period and allows no hardship exemptions. This is far harsher than the Senate provision which allowed jobless individuals to receive food stamps for 6 months out of each year as well as a 20-percent hardship exemption. Food stamps are also now cut for households receiving energy assistance, a proposal not included in the Senate bill. The conference report also cuts the cap on the shelter deduction by $42 and takes away food stamps for more families with children who pay over half their income for housing. And I remain very concerned about the ban on food stamps, Medicaid, and other assistance for legal immigrants; it has no good place in a welfare-to-work bill.

As the President has urged, we must keep these issues in mind for repair in the future even as we recognize that this legislation is definitely an improvement in the current welfare program. In voting for this bill, we will realize an historic opportunity to meet President Clinton's call to ''end welfare as we know it.'' We will have also proven to the American people that the Federal Government is capable of bringing about change through bipartisan cooperation.

This is not the end of welfare reform but it is the largest step forward we have taken to improve the way America cares for its poor, and tries to make real for them the dreams of equal opportunity, which is the driving impulse of our history.

I thank the Chair and yield the floor.

Mr. GRAHAM. I wonder if my colleague could address one point on this bill. I notice that the term ''Federal means-tested public benefit'' was defined in previous versions of the bill. However, in this conference report, no definition is provided.

Mr. CHAFEE. It is my understanding that the Parliamentarian noted that the previous definitions of ''Federal means-tested public benefit'' were broad enough to include discretionary spending. According to the Parliamentarian, that inclusion caused the definition to violate Section 313(b)(1)(D) of the Byrd rule, which prevents reconciliation legislation from extending its scope to items that provide merely incidental deficit reduction, that is, discretionary programs.

Therefore, when the bill was considered in conference, I understand that there was an intentional effort to ensure this provision complied with Byrd rule by omitting the definition of that particular term.

In other words, then, the term ''Federal means-tested public benefit''—if it is to be in compliance with the Byrd rule—does not refer to discretionary programs. I would assume that programs such as funding for community health centers, as well as the maternal and child health block grant, would not be impacted.

Mr. GRAHAM. I thank the Senator for clarifying that point.

Mr. DOMENICI. Mr. President, I believe our last Senator, other than the leader and myself, is Senator THURMOND, and he would like 8 minutes. We have plenty of time, so I give him 8 minutes.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the conference report to H.R. 3734, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This legislation reforms welfare to emphasize fundamental American values. It rewards work and self reliance, promotes personal responsibility, and renews a sense of hope in the future. Additionally, the bill slows the growth of Federal welfare spending, thus reducing the Federal budget deficit by $55 billion over 6 years. The measure does provide sufficient increases in spending to protect vulnerable populations.

This Congress previously passed two welfare reform bills. The President subsequently vetoed those bills, despite his 1992 campaign pledge to end welfare as we know it. I hope as we send him another bill, that the President will finally keep his pledge on this issue, and sign the bill.

Mr. President, more than 30 years ago the Federal Government declared its War on Poverty. Since then, the number of individuals receiving aid to families with dependent children has more than tripled. Over two-thirds of these recipients are children. The increase in the number of children receiving public assistance is closely related to the dramatic increase in births to unmarried women, particularly to teenage young women. Mr. President, the War on Poverty has inflicted many casualties. Multiple generations of children have grown to adulthood, continuing welfare as a way of life. Mothers and children have been abandoned. Families have been destroyed by long-term dependence on Government. The War on Poverty has been costly, both in terms of human suffering and taxpayer dollars spent.

In contrast, this reform measure takes steps to promote stable families and discourage illegitimacy. We recognize many children in America are vulnerable. In response to this need, the bill guarantees they will continue to receive the support they need. In doing so, the prospects of children in welfare families are greatly improved.

Mr. President, the measure before us is built on five main principles, which I believe are supported by residents of South Carolina and by the American people in general. I would like to briefly summarize these pillars of welfare reform.

First, welfare should not be a way of life. By placing lifetime limits on benefits, this bill ensures that welfare will be temporary assistance to those who are in need.

The second principle is work, not welfare. Able-bodied beneficiaries will, for the first time ever, be required to work for their benefits. This principle is designed to restore dignity to the individual and fairness to the system.

Third, welfare for noncitizens and felons will be limited. The bill provides adequate exceptions for emergency benefits, for refugees, and for those who have contributed to this Nation by paying taxes for 10 years or through military service.

Fourth, the bill encourages personal responsibility to halt rising illegitimacy rates. This legislation seeks to counter that trend by increasing efforts to establish paternity and enforce child support orders. Furthermore, the bill encourages the formation and maintenance of two-parent families.

Finally, this legislation returns responsibility and flexibility to the States. The national Government has an obligation to promote the general welfare of the United States. At the same time, we know that those who are closest to the problem are better able to provide for the specific welfare of needy individuals. This bill establishes general guidelines and provides broad cash welfare and child care block grants. With this flexibility States can design programs that meet local conditions and particular needs.

Mr. President, like the two vetoed bills that preceded it, this bill has many provisions that will encourage work and education, lessen dependency on the Government, and foster an environment to reduce unwed and teen pregnancy. The legislation also ensures that needy Americans will receive a wide range of services including cash assistance, child care, food stamps, medical care, child nutrition, and disability payments. The bill also contains strong provisions related to child support enforcement, child protection, foster care, and adoption assistance.

I compliment the managers of the bill who have brought historic reform to our welfare system. This bill deserves our support. I thank the Chair and yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I yield 2 minutes off our side to Senator FORD to go along with whatever he has.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. EXON. I yield 2 minutes on our side to the Senator from Kentucky.

Mr. FORD. Mr. President, I thank my friend from New Mexico for allowing me to have a couple minutes.

Mr. President, I think we need to be very careful to put this bill into perspective. Yes, it will modify a system that no one defends. Yes, it will give States more flexibility to deal with their poorest citizens. Yes, it will provide more for child care than H.R. 4, easing one of the greatest barriers for those on welfare who want to work. All of these things are good reasons for supporting this bill.

But I find some of the predictions of what this bill will do to be a bit of a stretch. It is being suggested by some that this bill will reduce the poverty rate, the illigitimacy rate, the teen pregnancy rate, the crime rate, and just about every other kind of rate you can imagine. We hear that this bill provides dynamic opportunities for education and training and is the opportunity that people who are poor in this country have been asking for.

Well, I hope the strongest supporters of this bill are right. Sometimes I wonder when I listen to some of these speeches just how many poor people some of my colleagues have ever met. Maybe they could come to eastern Kentucky. Maybe then they could understand how difficult it is to determine whether a lack of personal responsibility or a lack of opportunity is the greater cause of poverty.

For those of us in the middle of the political spectum, this is a tough vote. When I hear some of the predictions about what this bill will do, I am skeptical. I have a hard time figuring out how it will affect my State.

We have been doing some innovative things in Kentucky with welfare reform. We are one of the 10 States left that has not obtained a Federal waiver from welfare laws—something you hear so much about in Washington today. Yet we are 1 of the top 10 States in reducing our welfare rolls—reducing welfare rolls without a waiver—23-percent reduction since January 1993. We have tried a lot of things to put people to work. Our current Governor is looking at even broader changes—maybe this bill will allow him to do most things without having to worry about a waiver request, and that is a good thing.

But when I talk to those in my State about why our welfare rolls have come down, the most important reason I hear about is the improvement in the economy. I remember how tough the vote was in 1993 on the deficit reduction package. I believe that vote had a lot to do with the strength of our economy today. In many ways, that bill may have been much more important in reducing welfare rolls and putting people to work than the welfare bill before us today.

And speaking of predictions, I remember the predictions that opponents of deficit reduction made in 1993. They said the 1993 deficit reduction package would cause a recession, cost jobs, increase inflation, cause interest rates to rise, fail to reduce the deficit below $200 billion, and shake up the stock market. Guess what, Mr. President? Our friends who made these predictions were zero for six. That kind of batting average won't even get you in the minor leagues. Just this morning, we learned that the economy grew in the second quarter at an extremely strong annual rate of 4.2 percent. We have a healthy, growing economy, and the deficit has been cut from $290 billion to $117 billion and may go below that. These are important reasons why the welfare rolls are down in my State by 23 percent.

Some of our colleagues who made those wrong predictions about the 1993 deficit reduction package are the same ones making the boldest predictions about what this welfare bill will do. So I am skeptical.

I am willing to support, and will support, this conference report for the steps it takes in the right direction. But we need to monitor the impact of this bill very carefully. About the only thing we know for sure is that it will reduce the growth in welfare spending by about $55 billion over the next 6 years. We hope it will achieve some of the other things that are being predicted today, and at least give our Governors and State legislatures more flexibility in experimenting and designing programs which address poverty. I hope that we will see more success at the State level. But somehow, I am also quite certain that as we monitor the impact of this bill, we will quickly find out that this is not the end of the welfare reform debate, and that future Congresses will find there is much more work to be done. I thank the Chair and yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Senator ROTH started off today following me. Since he is the chairman of the committee that wrote most of this, we thought it might be appropriate that he give the closing argument. We have saved time for him. I yield 5 minutes to Senator ROTH.

Mr. ROTH. Mr. President, in these last few minutes before we put August 1, 1996, into the history books as the day we end the welfare system as we know it, I will close with a few observations and some important acknowledgments.

Last February, after welfare reform had been vetoed twice, the Nation's Governors restarted today's legislation by reaching a unanimous agreement to reform welfare. Gov. John Engler of Michigan testified before the Finance Committee later that month and put this entire debate into its proper perspective. He said:

> Just consider the Washington Post headline describing what the governors' policy—adopted unanimously with the support of our most conservative and most liberal governor and everybody in between—meant.
>
> The Post headline read, ''Governors reform plan would break with 60 years of policy.''

Governor Engler went on to say:

> Remember what the governors propose is changing a law that has been the basis of federal policy for 60 years and remember how counterproductive these policies have been.
>
> They punish parents who work too much.
>
> They punish mothers and fathers that want to stay together.
>
> They punish working families who save money.
>
> They reward teenagers who have babies out of wedlock, and the list is longer.

Mr. President, this 60-year-old welfare system rewards the behavior which leads to poverty and punishes the behavior which leads out of poverty. Yes, it is time to end this system.

Mr. President, this legislation is about personal responsibility and work opportunity. Work is not only about earning our daily bread. Work is an integral part of the human condition. A parent's work also teaches the values necessary to prepare the next generation for its responsibilities.

We can all be proud of our work today because it will make a profound difference in the lives of millions of Americans.

It will go down as one of the most important legislative achievements not only in this Congress, but in many, many years.

This is a historic week for a historic Congress. In a matter of weeks, we have moved from gridlock to winning gold medals. Welfare reform is certainly one of our gold medal achievements.

I end by again thanking Senator DOMENICI for his leadership in orchestrating this legislation through the process. I want to extend my thanks to the Finance Committee conferees, Senator CHAFEE, Senator GRASSLEY, Senator HATCH, and Senator SIMPSON for their extraordinary assistance and cooperation.

The contributions of Senator NICKLES, Senator GRAMM, and Senator SANTORUM as we moved through the conference cannot be overstated. They played key roles in assuring this legislation would meet all of our objectives, especially with respect to tough work requirements.

Let me compliment the majority leader, Senator LOTT, getting this conference report completed. This is a major accomplishment in the brief time of his leadership position.

Our former majority leader and colleague, Bob Dole deserves as much credit for this legislation as anyone. When the tough decisions needed to be made, and there were plenty through this process, he demonstrated the leadership we all look to.

I extend my congratulations and thanks to those Members in the House of Representatives who have worked so hard on this issue. It was a privilege to work with Chairmen BILL ARCHER, CLAY SHAW, BILL GOODLING, and TOM BLILEY over these months.

I extend the thanks of everyone to both the majority and minority staffs of the leadership, the Finance Committee, especially Lindy Paull, Frank Polk, Ginny Koops, and Dennis Smith, the Budget Committee, and the Agriculture Committee, for their work. There are too many to name individually and I would not want to fail to mention anyone. I do thank each of them.

I also extend those same thanks to the respective staffs in the House, most especially to Ron Haskins, Matt Weidinger, Cassie Bevin, and Margaret Pratt at the Committee on Ways and Means.

We should remember that until a few weeks ago, Medicaid was included in this package, so the staffs at Finance and the House Commerce Committee who worked on Medicaid should be recognized, especially Susan Dull, the First Heinz Fellow working in Congress.

Of course, the committee work cannot be done without the help of those staff members at Legislative Counsels in both the Senate and House, especially Ruth Ernst, and Mark Mathiesen.

I extend our thanks to those at the Congressional Budget Office, especially Jean Hearne, Robin Rudowitz, Sheila Dacy, Justin Lattice, and Kathy Ruffin; the Congressional Research Service, most especially, Vee Burke, Gene Falk, and Melvina Ford; and the General Accounting Office, especially, Greg Dybalski and Jerry Fastrup.

Let me mention something else that is historical about this day which has been overlooked.

I know of no other time in which congressional and State officials and staffs have worked so closely together on an issue.

For months, Governors John Engler, Tommy Thompson, and Mike Leavitt have given so generously of their time, support, and the power of ideas. They truly deserve the thanks of the American people.

They have donated the talent and expertise of their staffs, especially LeAnne Redick, Kathy Tobin, who also worked on this legislation as a staff member of the Finance Committee, Joanne Neumann and Mary Kay Mantho.

Mr. President, this will indeed be a day to remember. Thank you and congratulations to all the Republicans in the House and Senate who stuck to our principles and stuck together to make this a reality. Together we have made a difference.

Mr. DOMENICI. Mr. President, I believe we have a few moments left.

The PRESIDING OFFICER. The Senator has 7 minutes and 15 seconds.

Mr. DOMENICI. I will use 5 minutes, then yield the balance to our leader.

While I have during the day given deference to this being a very bipartisan effort, and while I have from time to time and during the day said we are glad the President is going to sign this measure, I take a few minutes of my closing time to thank the Republicans in the U.S. Senate and Republicans in the U.S. House, because I think it is obvious the President of the United States came into office promising the end of welfare as we know it, and for 2 years during his administration he had Democrats in the Senate and Democrats in the House and no welfare reform was achieved.

Now, while we are glad to have the President saying, ''Yes, I will sign this bill,'' I do not think it ought to escape anyone that there would be no welfare reform if the Republicans had not taken control of the U.S. House and the U.S. Senate. I believe I can say that with a degree of certainty, because I worked on reconciliation bills and budget bills that called for reform for at least 10 years and nothing happened.

So I say thank you to the American people who elected the Republican Members to the House and Republican Members to the Senate, because tonight we celebrate a very, very significant achievement. As we moved through the Chamber of the Senate with our efforts to get a balanced budget, I say to most Republicans it was truly a difficult job to stand here and ask you to vote for all those tough items, as we moved a budget resolution toward balance, and a reconciliation bill, a big bill changing the law, only to find that the President did not agree.

I believe tonight the fruits of that effort are going to be realized and a program that has not worked for millions of Americans will begin to work in their behalf, as it works for all Americans who get jobs and assume personal responsibility. For tonight we say if 60 years ago, or even 30 years ago, or even 10 years ago, if we would have looked at this program and said it is inconsistent with everything that is good about America, for it locks people in poverty and denies them the interest and enthusiasm to get a job—for many, many years the welfare laws of America were administered by people who were worried about the sociological problems of the poor.

I am hopeful that across America the offices that are helping welfare people will be job training, will be jobs-oriented, will be talking about training and education, and how people can get off welfare instead of finding ways to assure them that they can stay on.

This bill is going to say most Americans work, and we are going to ask that welfare recipients work. We will give them training. We will give them child care. But we will say, you ought to work because through work, you get responsibility, and through responsibility, you and your families get the joy of living.

Second, simple as it sounds, we are going to ask parents to take care of their children. We stress personal responsibility. I can predict that across this land, as millions of welfare recipients who are not working and have children get jobs, guess who will be the happiest about it? Their children. For they do not like it any more than anyone else that they are locked in, and so are their parents, in poverty.

Third, we are going to change the culture of welfare. How obvious it is—had we changed this culture a few decades ago and said the principle of welfare is a short-lived assistance while you attempt to get a job and take care of yourself, we would not have the welfare problem we have in America today.

Fourth, we will end the futile and cumbersome regulations of the Federal Government and its bureaucrats who set such stringent requirements that they assume a degree of arbitrariness that people cannot even make sense of getting on and off of welfare, and those running them in the State governments are constantly looking through five volumes of regulations to see just what they can do.

Fifth, and finally, and this should not go in any sheepish manner as if we are embarrassed to say it, we are going to save money. What is wrong with that? The taxpayers of America have been paying for a program that does not work. They will be paying now for a program that at least has a chance of working.

I am very hopeful those leaders, including the Catholic hierarchy of America, who I generally talk to and seek advice from, I am hopeful that they understand there is a lot more to welfare reform and to trying to help the poor people than to continue programs that exchange money and give them benefits, for they, too, may find them more responsible and more independent and doing for themselves. I believe this has a chance of working, and I think when we adopt it tonight, it is going to be historic.

I ask unanimous consent that a detailed analysis of the savings to the Federal budget in all categories, made by June O'Neill, dated August 1 be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 1996.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has reviewed the Conference Report on H.R. 3734, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The bill would replace federal payments under the current Aid to Families with Dependent Children program with a block grant to states, restrict the eligibility of legal aliens for welfare benefits, modify the benefits and eligibility requirements in the Food Stamp program, increase funding for child care programs, and tighten the eligibility requirements for disabled children under the Supplemental Security Income program.

Although the estimate assumes that the bill will be enacted by September 1, 1996, its impact on direct spending and revenues in 1996 is estimated to be negligible. The bill would reduce federal spending by $3.0 billion in 1997 and by $54.1 billion over the 1997–2002 period, as well as increase revenues by $60 million and $394 million over these respective periods. Detailed tables are enclosed. For the most part, the underlying assumptions and methodology are described in CBO's estimates for the House- and Senate-reported versions of the bill (see House Report 104–651 and Senate Print 104–59).

In addition to its federal budgetary impacts, the bill would have a significant impact on the budgets of state, local, and tribal governments. A statement on the intergovernmental and private-sector mandates in the bill is also enclosed.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

SUMMARY TABLE.—FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1966; AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON JULY 31, 1966; ASSUMES ENACTMENT DATE BY SEPTEMBER 1, 1966

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002	7 year total
Projected Direct Spending Under Current Law:									
Family Support Payments[a]	18,066	18,371	18,805	19,307	19,935	20,557	21,245	21,937	
Food Stamp Program[b]	25,554	26,220	28,094	28,702	31,092	32,476	33,847	35,283	
Supplemental Security Income	24,510	24,017	27,904	30,210	32,576	37,995	34,515	40,348	
Medicaid	89,070	95,766	105,081	115,438	126,306	138,514	151,512	166.444	
Child Nutrition[c]	7,899	8,428	8,898	9,450	10,012	10,580	11,166	11,767	
Old-Age, Survivors and Disability Insurance	333,273	348,186	365,403	383,402	402,351	422,412	444,081	466,767	
Foster Care[d]	3,282	3,840	4,285	4,667	5,083	5,506	5,960	6,433	
Social Services Block Grant	2,797	2,880	3,010	3,050	3,000	2,920	2,870	2,840	
Earned Income Tax Credit	15,224	18,440	20,191	20,894	21,691	22,586	23,412	24,157	
Maternal and Child Health	0	0	0	0	0	0	0	0	
Total	519,715	546,168	581,571	616,140	652,106	693,186	728,608	775,976	
Proposed Changes:									
Family Support Payments[a]	0	(*)	868	882	897	762	456	−146	3,720
Food Stamp Program[b]	0	(*)	−2,093	−3,939	−4,129	−4,194	−4,334	−4,568	−23,260
Supplemental Security Income	0	(*)	−793	−3,526	−4,280	−4,824	−4,344	−4,958	−22,725
Mediciad	0	0	−38	−514	−567	−581	−948	−1,433	4,082
Child Nutrition[c]	0	(*)	−128	−403	−494	−553	−605	−670	−2,853
Old-Age, Survivors and Disability Insurance	0	0	−5	−10	−15	−15	−20	−20	−85
Foster Care[d]	0	(*)	68	25	16	31	41	51	232
Social Services Block Grant	0	0	−375	−420	−420	−420	−420	−420	−2,475
Earned Income Tax Credit	0	0	−445	−456	−463	−480	−493	−515	−2,852
Maternal and Child Health	0	0	18	35	50	50	50	50	253
Total	0	(*)	−2,923	−8,326	−9,404	−10,224	−10,618	−12,630	−54,127
Revenues: Earned Income Tax Credit	0	(*)	60	61	62	65	68	78	394
Net Deficit Effect	0	(*)	−2,983	−8,387	−9,466	−10,289	−10,688	−12,706	−54,521
Projected Direct Spending Under Proposal:									
Family Support Payments[a]	18,086	18,371	19,673	20,189	20,832	21,319	21,701	21,791	
Food Stamp Program[b]	25,554	26,220	26,001	25,763	26,963	28,282	29,513	30,715	
Supplemental Security Income	24,510	24,017	27,111	26,684	28,296	33,171	30,171	36,390	
Medicaid	89,070	95,786	105,043	114,924	125,799	137,573	150,564	165,011	
Child Nutrition[c]	7,898	8,428	8,770	9,047	8,516	10,027	10,561	11,097	
Old-Age, Survivors and Disability Insurance	333,273	348,186	365,398	383,382	402,336	422,397	44,061	486,747	
Foster Care[d]	3,282	3,840	4,363	4,712	5,099	5,537	6,001	6,484	
Social Services Block Grant	2,797	2,880	2,636	2,630	2,560	2,500	2,450	2,420	
Earned Income Tax Credit	15,224	18,440	19,748	20,438	21,228	22,106	22,919	23,642	
Maternal and Child Health	0	0	16	35	50	50	50	50	

SUMMARY TABLE.—FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1966; AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON JULY 31, 1966; ASSUMES ENACTMENT DATE BY SEPTEMBER 1, 1966—Continued

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000	2001	2002	7 year total
Total	519,715	546,168	578,748	607,814	642,701	682,982	717,991	763,347	

*Amounts less than $500,000.

[a] Under current law, Family Support Payments include spending on Aid to Families with Dependent Children (AFDC), AFDC-related child care, administrative costs for child support enforcement, net federal savings from child support collections, and the Job Opportunities and Basic Skills Training program (JOBS). Under proposed law, Family Support Payments would include spending on the Temporary Assistance for Needy Families Block Grant, administrative costs for child support enforcement, the Child Care Block Grant, and net federal savings from child support collections.

[b] Food Stamps includes Nutrition Assistance for Puerto Rico under both current law and proposed law, and the Emergency Food Assistance Program under proposed law.

[c] Child Nutrition Programs refer to direct spending authorized by the National School Lunch Act and the Child Nutrition Act.

[d] Under current law, Foster Care Includes Foster Care, Adoption Assistance, Independent Living, and Family Preservation and Support.

Notes: Details may not add to totals because of rounding.

SUMMARY TABLE II.—FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE I—TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT; AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON JULY 31, 1996; ASSUMES ENACTMENT BY SEPTEMBER 1, 1996

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	7-year total
Direct Spending:								
Title I: Temporary Assistance for Needy Families Block Grant								
Budget Authority	10	−212	−1,125	−969	−837	−1,109	−1,839	−6,100
Outlays	(*)	−571	−945	−819	−667	−1,064	−1,814	−5,889
Title II: Supplemental Security Income								
Budget Authority	(*)	−408	−1,031	−1,525	−1,869	−1,729	−2,048	−8,610
Outlays	(*)	−408	−1,031	−1,525	−1,869	−1,729	−2,048	−8,610
Title III: Child Support Enforcement								
Budget Authority	88	−21	144	168	183	110	74	746
Outlays	(*)	25	148	173	183	110	74	712
Title IV: Restricting Welfare and Public Benefits for Aliens								
Budget Authority	(*)	−1,174	−3,947	−4,311	−4,652	−4,525	−5,038	−23,655
Outlays	(*)	−1,174	−3,947	−4,311	−4,652	−4,525	−5,038	−23,655
Title V: Child Protection								
Budget Authority	6	86	6	6	6	6	6	122
Outlays	(*)	68	25	6	6	6	6	117
Title VI: Child Care								
Budget Authority	(*)	1,957	2,067	2,167	2,367	2,567	2,717	13,852
Outlays	(*)	1,635	1,975	2,082	2,227	2,377	2,482	12,778
Title VII: Child Nutrition Programs								
Budget Authority	(*)	−151	−449	−505	−563	−615	−680	−2,963
Outlays	(*)	−126	−403	−494	−553	−605	−670	−2,853
Title VIII: Food Stamps and Commodity Distribution								
Budget Authority	(*)	−1,792	−3,539	−3,918	−4,282	−4,580	−4,990	−23,103
Outlays	(*)	−1,792	−3,539	−3,918	−4,282	−4,580	−4,990	−23,103
Title IX: Miscellaneous								
Budget Authority	(*)	−591	−594	−597	−608	−618	−634	−3,642
Outlays	(*)	−578	−609	−597	−608	−618	−634	−3,644
Total Direct Spending:								
Budget Authority	104	−2,296	−8,468	−9,504	−10,265	−10,493	−12,430	−53,353
Outlays	(*)	−2,923	−8,326	−9,404	−10,224	−10,618	−12,630	−54,127
Direct spending:								
Repeal AFDC, Emergency Assistance, and JOBS:								
Family Support Payments:								
Budget Authority	(*)	−8,021	−16,550	−17,003	−17,439	−17,893	−18,342	−19,247
Outlays	(*)	−7,925	−16,510	−16,973	−17,409	−17,863	−18,322	−95,001
Repeal of Child Care Programs: [a]								
Family Support Payments:								
Budget Authority	0	−1,405	−1,480	−1,540	−1,595	−1,655	−1,715	−9,390
Outlays	0	−1,345	−1,475	−1,535	−1,590	−1,650	−1,710	−9,305
Authorize Temporary Family Assistance Block Grant: [b]								
Family Support Payments:								
Budget Authority	(*)	8,368	16,389	16,389	16,389	16,389	16,389	90,314
Outlays	(*)	8,300	16,389	16,389	16,389	16,389	16,389	90,246
Population and Poverty Adjustment to the Temporary Family Assistance Block Grant:								
Family Support Payments:								
Budget Authority	0	0	87	174	261	278	0	800
Outlays	0	0	87	174	261	278	0	800
Food Stamp Program:								
Budget Authority	0	0	−5	−10	−15	−15	0	−45
Outlays	0	0	−5	−10	−15	−15	0	−45
Contingency Fund: [c]								
Family Support Payments:								
Budget Authority	0	107	210	313	393	473	565	2,061
Outlays	0	107	210	313	393	473	565	2,061
Food Stamp Program:								
Budget Authority	0	−5	−15	−20	−25	−30	−35	−130
Outlays	0	−5	−15	−20	−25	−30	−35	−130
Study by the Bureau of the Census:								
Family Support Payments:								
Budget Authority	10	10	10	10	10	10	10	70
Outlays	(*)	4	18	10	10	10	10	62
Research, Evaluations, and National Studies:								
Family Support Payments:								
Budget Authority	0	15	15	15	15	15	15	90
Outlays	0	3	15	15	15	15	15	78
Grants to Indian Tribes that received JOBS Funds:								
Family Support Payments:								
Budget Authority	0	8	8	8	8	8	8	46
Outlays	0	6	8	8	8	8	8	44
Grants to Territories:								
Family Support Payments:								
Budget Authority	0	116	116	116	116	116	116	696
Outlays	0	116	116	116	116	116	116	696
Penalties for State Failure to Meet Work Requirements:								
Family Support Payments:								
Budget Authority	0	0	0	−50	−50	−50	−50	−200
Outlays	0	0	0	−50	−50	−50	−50	−200
Grants to States that Reduce Out-of-Wedlock Births:								
Family Support Payments:								
Budget Authority	0	0	0	50	50	50	50	200
Outlays	0	0	0	50	50	50	50	200
Bonus to Reward High Performance States:								
Family Support Payments:								
Budget Authority	0	0	0	200	200	200	200	800
Outlays	0	0	0	200	200	200	200	800
Hold States Harmless for Cost-Neutrality Liabilities:								
Family Support Payments:								
Budget Authority	0	50	0	0	0	0	0	50

SUMMARY TABLE II.—FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE I—TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT; AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON JULY 31, 1996; ASSUMES ENACTMENT BY SEPTEMBER 1, 1996—Continued

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	7-year total
Outlays	0	50	0	0	0	0	0	50
Establish Rainy Day Loan Fund:								
Family Support Payments:								
Budget Authority	0	0	0	0	0	0	0	0
Outlays	0	0	0	0	0	0	0	0
Extension of Transitional Medicaid Benefits:								
Medicaid:								
Budget Authority	0	0	0	180	390	400	210	1,180
Outlays	0	0	0	180	390	400	210	1,180
Increased Medicaid Administrative Payment:								
Medicaid:								
Budget Authority	0	500	0	0	0	0	0	500
Outlays	0	75	135	135	135	20	0	500
Effect of the Temporary Assistance Block Grant on the Food Stamp Program:								
Food Stamp Program:								
Budget Authority	0	45	90	170	430	560	695	1,990
Outlays	0	45	90	170	430	560	695	1,990
Effect of the Temporary Assistance Block Grant on the Foster Care Program:								
Foster Care Program:								
Budget Authority	0	0	0	10	25	35	45	115
Outlays	0	0	0	10	25	35	45	115
Effect of the Temporary Assistance Block Grant on the Medicaid Program: [d]								
Medicaid:								
Budget Authority	0	0	0	0	0	0	0	0
Outlays	0	0	0	0	0	0	0	0
Total Direct Spending, Title I, by account:								
Family Support Payments:								
Budget Authority	10	−752	−1,195	−1,319	−1,642	−2,059	−2,754	−9,710
Outlays	0	−684	−1,142	−1,284	−1,607	−2,024	−2,729	−9,459
Food Stamp Program:								
Budget Authority	0	40	70	140	390	515	660	1,815
Outlays	0	40	70	140	390	515	660	1,815
Foster Care Program:								
Budget Authority	0	0	0	10	25	35	45	115
Outlays	0	0	0	10	25	35	45	115
Medicaid:								
Budget Authority	0	500	0	180	390	400	210	1,680
Outlays	0	75	135	315	525	420	210	1,680
Direct Spending Total All Accounts—Title I:								
Budget Authority	10	−212	−1,125	−989	−837	−1,109	−1,839	−6,100
Outlays	0	−569	−937	−819	−667	−1,054	−1,814	−5,859

* Amounts less than $500,000.

[a] Funds for existing child care programs are repealed by this title, but equal or greater funding for similar activities is restored in Title VI.

[b] States have the option to begin to operate under the Temporary Assistance for Needy Families Block Grant any time after enactment of this bill. A few states may opt to do so in FY 1996 creating small savings in the AFDC, Emergency Assistance, and JOBS programs and small costs in the TANF program.

[c] The bill appropriates $2 billion for the contingency fund for use in years 1997 through 2001. The estimate shows costs of the contingency fund in 2002 because section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 requires that the baseline shall assume that mandatory programs greater than $50 million dollars are continued.

[d] The bill retains categorical eligibility for Medicaid for families that meet the eligibility criteria for Aid to Families with Dependent Children as they are in current law.

FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE II—SUPPLEMENTAL SECURITY INCOME; AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON JULY 31, 1996; ASSUMES ENACTMENT BY SEPTEMBER 1, 1996

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	7-year total
Direct Spending:								
SSI Benefits to Certain Children:								
Supplemental Security Income:								
Budget Authority	(*)	−125	−925	−1,450	−1,800	−1,675	−2,000	−7,975
Outlays	(*)	−125	−925	−1,450	−1,800	−1,675	−2,000	−7,975
Family Support Payments:								
Budget Authority	(*)	([a])	([a])	([a])	([a])	([a])	([a])	([a])
Outlays	(*)	([a])	([a])	([a])	([a])	([a])	([a])	([a])
Food stamps: [b]								
Budget Authority	(*)	20	130	210	240	265	290	1,155
Outlays	(*)	20	130	210	240	265	290	1,155
Medicaid:								
Budget Authority	(*)	−5	−25	−40	−45	−55	−60	−230
Outlays	(*)	−5	−25	−40	−45	−55	−60	−230
Subtotal provision:								
Budget Authority	(*)	−110	−820	−1,280	−1,605	−1,465	−1,770	−7,050
Outlays	(*)	−110	−820	−1,280	−1,605	−1,465	−1,770	−7,050
Reduction in SSI Benefits to Certain Hospitalized Children With Private Insurance:								
Supplemental Security Income:								
Budget Authority	0	−40	−55	−60	−70	−60	−65	−350
Outlays	0	−40	−55	−60	−70	−60	−65	−350
Funding for Cost of Reviews: [c]								
Budget Authority	0	([c])	([c])	0	0	0	0	0
Outlays	0	([c])	([c])	0	0	0	0	0
End Payment of Pro-Rated Benefits for Month of Application:								
Supplemental Security Income:								
Budget Authority	(*)	−55	−130	−150	−160	−165	−175	−835
Outlays	(*)	−55	−130	−150	−160	−165	−175	−835
Pay Large Retroactive Benefit Amounts in Installments:								
Supplemental Security Income:								
Budget Authority	0	−200	−15	−15	−15	−15	−15	−275
Outlays	0	−200	−15	−15	−15	−15	−15	−275
Tighten Restrictions on Payment of Social Security Benefits to Prisoners: Make Payments to Prison Officials Who Report Ineligible Recipients:								
Old-Age, Survivors and Disability Insurance—benefits saved: [d]								
Budget Authority	0	−5	−10	−15	−15	−20	−20	−85
Outlays	0	−5	−10	−15	−15	−20	−20	−85
Supplemental Security income—benefits saved:								
Budget Authority	0	(*)	−5	−10	−10	−10	−10	−45
Outlays	0	(*)	−5	−10	−10	−10	−10	−45
Old-Age, Survivors and Disability Insurance—payments to prison officials:								
Budget Authority	0	0	0	0	0	0	0	0
Outlays	0	0	0	0	0	0	0	0
Supplemental Security income—payments to prison officials:								
Budget Authority	0	2	4	5	6	6	7	30
Outlays	0	2	4	5	6	6	7	30

FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE II—SUPPLEMENTAL SECURITY INCOME; AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON JULY 31, 1996; ASSUMES ENACTMENT BY SEPTEMBER 1, 1996—Continued

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	7-year total
Subtotal, provision:								
Budget Authority	0	−3	−11	−20	−19	−24	−23	−100
Outlays	0	−3	−11	−20	−19	−24	−23	−100
Total Direct Spending:								
Supplemental Security Income:								
Budget Authority	(*)	−418	−1,126	−1,680	−2,049	−1,919	−2.258	−9,450
Outlays	(*)	−418	−1,126	−1,680	−2,049	−1,919	−2.258	−9,450
Food Stamps: [b]								
Budget Authority:	(*)	20	130	210	240	265	290	1,155
Outlay	(*)	20	130	210	240	265	290	1,155
Medicaid:								
Budget Authority:	(*)	−5	−25	−40	−45	−55	−60	−230
Outlays	(*)	−5	−25	−40	−45	−55	−60	−230
Family Support Payments:								
Budget Authority	(*)	([a])	([a])	([a])	([a])	([a])	([a])	([a])
Outlays	(*)	([a])	([a])	([a])	([a])	([a])	([a])	([a])
Old-Age, Survivors and Disability Insurance:								
Budget Authority	0	−5	−10	−15	−15	−20	−20	−85
Outlays	0	−5	−10	−15	−15	−20	−20	−85
Total All Accounts:								
Budget Authority	(*)	−408	−1,031	−1,525	−1,869	−1,729	−2,048	−8,610
Outlays	(*)	−408	−1,031	−1,525	−1,869	−1,729	−2,048	−8,610

* Denotes less than $500,000.
[a] Proposed to be block-granted elsewhere in the bill.
[b] Includes interactions with other food stamp provisions of the bill.
[c] The bill proposes an adjustment to the discretionary spending caps of $150 million in 1997 and $100 million in 1998 to cover the costs of reviewing 300,000 to 400,000 children on the SSI rolls under the new, tighter criteria. The bill does not, however, directly appropriate that money. Its availability remains contingent on future appropriation action. In addition to those one-time costs of $250 million or more, the bill would require that most disabled children who qualify even under the tighter eligibility criteria be reviewed every 3 years to see if their medical condition has improved. That cost, which CBO estimates at about $100 million a year beginning in 1998, could be met by raising the caps on discretionary spending as permitted in P.L. 104–121. The cap adjustment in that law, however, was designed to cover periodic reviews and not the heavy volume of one-time reviews that would be mandated in 1997 by this legislation.
[d] The provision would encourage prison officials to exchange data with SSA by paying them up to $400 for providing information that helps to identify each inmate who receives SSI (and whose benefits should therefore be suspended). In the course of checking that information, SSA would find that some inmates collect OASDI. Therefore, although the language makes no mention of OASDI, savings in that program would result.

FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE III—CHILD SUPPORT ENFORCEMENT; ASSUMES ENACTMENT BY SEPTEMBER 1, 1996

[Outlays by fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	1997–2002
New enforcement techniques:								
State directory of new hires:								
Family support payment	0	0	−1	−4	−6	−9	−10	−30
Food stamp program	0	0	−1	−7	−12	−18	−21	−59
Mediciad	0	0	−3	−11	−20	−31	−38	−102
Subtotal	0	0	−5	−21	−38	−58	−70	−192
State laws providing expedited enforcement of child support:								
Family support payment	0	0	0	−17	−35	−55	−77	−185
Food stamp program	0	0	0	−6	−13	−21	−30	−70
Mediciad	0	0	0	−5	−11	−18	−26	−59
Subtotal	0	0	0	−28	−59	−94	−133	−314
State laws concerning paternity:								
Family support payment	0	−16	−18	−20	−22	−24	−26	−127
Food stamp program	0	−3	−3	−4	−4	−4	−5	−23
Mediciad	0	−2	−2	−2	−3	−3	−3	−15
Subtotal	0	−21	−23	−26	−29	−31	−34	−164
Suspend drivers' licenses:								
Family support payment	0	−4	−9	−14	−19	−20	−21	−88
Food stamp program	0	−2	−5	−8	−12	−12	−13	−52
Mediciad	0	−1	−3	−5	−7	−8	−9	−35
Subtotal	0	−7	−17	−27	−38	−41	−43	−175
Adoption of uniform state laws:								
Family support payment	0	10	2	−7	−11	−15	−21	−41
Food stamp program	0	0	−1	−3	−4	−6	−9	−24
Mediciad	0	0	−2	−3	−6	−8	−11	−30
Subtotal	0	10	−1	−13	−21	−29	−41	−95
Subtotal new enforcement	0	−19	−46	−115	−185	−254	−322	−940
Lost AFDC collections due to reduced cases funded by black grant funds:								
Family support payment	0	0	29	63	142	200	224	658
Food stamp program	0	0	0	0	0	0	0	0
Mediciad	0	0	0	0	0	0	0	0
Subtotal	0	0	29	63	142	200	224	658
Eliminate $50 passthrough and exclude gap payments from distribution rules at state option:								
Family support payment	0	−222	−236	−260	−285	−311	−336	−1,850
Food stamp program	0	114	122	139	147	164	171	857
Mediciad	0	0	0	0	0	0	0	0
Subtotal	0	−108	−114	−121	−139	−147	−165	−793
Distribute child support arrears to former AFDC familes first:								
Family support payment	0	0	62	69	76	148	183	539
Food stamp program	0	0	−11	−12	−14	−27	−33	−96
Mediciad	0	0	0	0	0	0	0	0
Subtotal	0	0	51	57	63	122	150	442
Hold states harmless for lower child support collections:								
Family support payment	0	0	17	29	34	39	29	148
Food stamp program	0	0	0	0	0	0	0	0
Mediciad	0	0	0	0	0	0	0	0
Subtotal	0	0	17	29	34	39	29	148
Other Provisions with Bugetary Implications:								
Automated data processing development:								
Family support payment	(*)	83	91	129	129	8	0	440
Food stamp program	0	0	0	0	0	0	0	0
Medicaid	0	0	0	0	0	0	0	0
Subtotal	(*)	83	91	129	129	8	0	440
Automated data processing operation and maintenance:								
Family support payment	0	12	55	52	52	46	40	257

FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE III—CHILD SUPPORT ENFORCEMENT; ASSUMES ENACTMENT BY SEPTEMBER 1, 1996—Continued

[Outlays by fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	1997–2002
Food stamp program	0	0	0	0	0	0	0	0
Medicaid	0	0	0	0	0	0	0	0
Subtotal	0	12	55	52	52	46	40	257
Technical assistance to state programs:								
Family support payment	(*)	48	51	50	48	47	45	290
Food stamp program	0	0	0	0	0	0	0	0
Medicaid	0	0	0	0	0	0	0	0
Subtotal	(*)	48	51	50	48	47	45	290
State obligation to provide services:								
Family support payment	0	0	0	3	11	22	39	75
Food stamp program	0	0	0	0	0	0	0	0
Medicaid	0	0	0	0	0	0	0	0
Subtotal	0	0	0	3	11	22	39	75
Federal and state reviews and audits:								
Family support payment	0	3	3	3	3	3	3	20
Food stamp program	0	0	0	0	0	0	0	0
Medicaid	0	0	0	0	0	0	0	0
Subtotal	0	3	3	3	3	3	3	20
Grants to States for Visition:								
Family support payment	(*)	10	10	10	10	10	10	60
Food stamp program	0	0	0	0	0	0	0	0
Medicaid	0	0	0	0	0	0	0	0
Subtotal	(*)	10	10	10	10	10	10	60
Optional Modification of Support Orders:								
Family support payment	0	−5	0	10	15	15	20	55
Food stamp program	0	0	0	0	0	0	0	0
Medicaid	0	0	0	0	0	0	0	0
Subtotal	0	−5	0	10	15	15	20	55
Subtotal, Other provisions	(*)	151	210	258	269	151	157	1,197
Total, by account:								
Family support payment	(*)	−81	57	99	142	103	101	421
Food stamp program	0	109	100	99	88	76	62	533
Medicaid	0	−3	−8	−27	−46	−68	−88	−242
Total	(*)	25	148	172	184	110	74	712

*Amount less than $500,000.

**Budget authority is generally equal to the outlay shown in this table. Where this is not the case, budget authority is shown here: Family Support Payments Budget Authority—

	1996	1997	1998	1999	2000	2001	2002	1997–2002
Automated data processing development	42	42	91	129	129	8	0	440
Technical assistance to state programs	36	44	47	46	48	47	45	314
Grants to States for visitation	10	10	10	10	10	10	10	70
All other provisions	0	−222	−95	−91	−45	38	45	....
Family support payments: Total BA	88	−127	53	95	142	103	101	455

FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE IV—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS; AS ORDERED REPORTED BY THE COMMITTEE ON CONFERENCE ON JULY 31, 1996; ASSUMED TO BE ENACTED BY SEPTEMBER 1, 1996

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	7-year total
Direct Spending:								
Supplemental Security Income:								
Budget Authority	(1)	−375	−2,400	−2,600	−2,775	−2,425	−2,700	−13,275
Outlays	(1)	−375	−2,400	−2,600	−2,775	−2,425	−2,700	−13,275
Medicaid:								
Budget Authority	(1)	−105	−615	−815	−1,015	−1,245	−1,495	−5,290
Outlays	(1)	−105	−615	−815	−1,015	−1,245	−1,495	−5,290
Family Support Payments:								
Budget Authority	0	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Outlays	0	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Food Stamps: [3]								
Budget Authority	(1)	−470	−700	−660	−630	−610	−590	−3,660
Outlays	(1)	−470	−700	−660	−630	−610	−590	−3,660
Child nutrition: [4]								
Budget Authority	0	0	0	0	0	0	0	0
Outlays	0	0	0	0	0	0	0	0
Earned income tax credit:								
Budget Authority	0	−224	−232	−236	−242	−245	−251	−1,430
Outlays	0	−224	−232	−236	−242	−245	−251	−1,430
Total Direct Spending:								
Budget Authority	0	−1,174	−3,947	−4,311	−4,662	−4,525	−5,036	−23,655
Outlays	0	−1,174	−3,947	−4,311	−4,662	−4,525	−5,036	−23,655
Revenues: Earned income tax credit	0	28	29	29	30	30	31	177
Deficit Effect	(1)	−1,202	−3,976	−4,340	−4,692	−4,555	−5,067	−23,832

[1] Denotes less than $500,000.

[2] Proposed to be block-granted elsewhere in the bill.

[3] Includes interactions with other food stamp provisions of the bill.

[4] Section 742 of the bill, in Title VII, specifically states that benefits under the school breakfast and school lunch programs shall not be contingent on students' immigration or citizenship status. Therefore, CBO estimates no savings in the child nutrition program from the proposed restrictions contained in Title IV on immigrants' eligibility for federal benefits.

Note: The CBO estimate assumes that the proposed exemption for public health programs that provide immunizations will be modified or interpreted to permit continued Medicaid funding for pediatric vaccines.

FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE V—CHILD PROTECTION; AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON JULY 31, 1996; ASSUMES ENACTMENT BY SEPTEMBER 1, 1996

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	1996–2002
Direct Spending:								
Extend Enhanced Match Rate for Computer Purchases for Foster Care Data Collection:								
Budget Authority	0	80	0	0	0	0	0	80
Outlays	0	66	14	0	0	0	0	80
National Random Sample Study of Child Welfare:								
Budget Authority	6	6	6	6	6	6	6	42

FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE V—CHILD PROTECTION; AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON JULY 31, 1996; ASSUMES ENACTMENT BY SEPTEMBER 1, 1996—Continued

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	1996–2002
Outlays	(*)	2	11	6	6	6	6	37
Total Direct Spending:								
Foster Care:								
Budget Authority	6	86	6	6	6	6	6	122
Outlays	(*)	68	25	6	6	6	6	117

FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE VI—CHILD CARE; AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON JULY 31, 1996; ASSUMES ENACTMENT BY SEPTEMBER 1, 1996

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	1996–2002
Direct Spending:								
New Child Care Block Grant:								
Budget Authority	0	1,967	2,067	2,167	2,367	2,567	2,717	13,852
Outlays	0	1,635	1,975	2,082	2,227	2,377	2,482	12,778

Note: For states to draw down the child care block grant remainder, this subtitle requires them to maintain the greater of fiscal year 1994 or 1995 spending.

FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE VII—CHILD NUTRITION PROGRAMS; AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON JULY 31, 1996; ASSUMES ENACTMENT BY SEPTEMBER 1, 1996

[Outlays by fiscal year, in millions of dollars]

Section	1996	1997	1998	1999	2000	2001	2002	1996–2002
Direct Spending:								
704 Special assistance:								
Extension of payment period:								
Budget Authority	....	(*)	(*)	1	1	1	1	4
Outlays	....	(*)	(*)	1	1	1	1	4
Rounding rules for lunch, breakfast, and supplement rates:								
Budget Authority	....	−2	−15	−15	−15	−15	−15	−77
Outlays	....	−1	−10	−15	−15	−15	−15	−71
706 Summer food service program for children:								
Budget Authority	....	−24	−29	−29	−34	−34	−39	−189
Outlays	....	−18	−29	−29	−34	−34	−39	−184
708 Child and adult care food program:								
Budget Authority	....	−105	−380	−430	−480	−535	−595	−2,525
Outlays	....	−90	−340	−420	−470	−525	−585	−2,430
723 School breakfast program authorization:								
Budget Authority	....	−10	−15	−22	−25	−22	−22	−116
Outlays	....	−8	−14	−21	−25	−22	−22	−112
731 Nutrition education and training programs:								
Budget Authority	....	−10	−10	−10	−10	−10	−10	−60
Outlays	....	−10	−10	−10	−10	−10	−10	−60
Total Child Nutrition Programs:								
Direct Spending:								
Budget Authority	....	−151	−449	−505	−563	−615	−680	−2,963
Outlays	....	−128	−403	−494	−553	−605	−670	−2,853

*Less than $500,000.

Note: Details may not add to totals because of rounding.

FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE VIII—FOOD STAMPS AND COMMODITY DISTRIBUTION; AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON JULY 31, 1996; ASSUMES ENACTMENT BY SEPTEMBER 1, 1996

[Outlays by fiscal year, in millions of dollars]

Section	1996	1997	1998	1999	2000	2001	2002	1996–2002
801 Definition of certification period	0	0	0	0	0	0	0	0
802 Definition of coupon	0	0	0	0	0	0	0	0
803 Treatment of children living at home	0	−115	−245	−255	−265	−280	−290	−1,450
804 Adjustment of thrifty food plan	0	−935	−980	−1,025	−1,070	−1,115	−1,155	−6,280
805 Definition of homeless individual	0	(*)	(*)	(*)	(*)	(*)	(*)	(*)
806 State option for eligibility standards	0	0	0	0	0	0	0	0
807 Earnings of students	0	−10	−10	−10	−10	−15	−15	−70
808 Energy assistance	0	−125	−170	−175	−175	−180	−180	−1,005
809 Deductions from income:								
Standard deduction at $134 each year [a]	0	0	−555	−770	−990	−1,220	−1,465	−5,000
Homeless shelter allowance	0	−1	−1	−2	−3	−3	−5	−15
Cap excess shelter deduction at $247 through 12/31/96. $250 from 1/1/97 through FY98 $275 in FY99 and FY00 and $300 in each later fiscal year	0	−350	−570	−505	−565	−490	−550	−3,030
State option for mandatory standard utility allowance and otherwise allow change between SUA and actual costs only at recertification	0	−35	−70	−75	−80	−80	−85	−425
810 Vehicle Allowance at $4,650 FY97–2002	0	−45	−140	−175	−200	−225	−245	−1,030
811 Vendor payments for transitional housing counted as income	0	−10	−10	−10	−10	−10	−10	−60
812 Simplified calculation of income for the self-employed	0	0	0	0	0	0	0	0
813 Doubled penalties for violating Food Stamp program requirements	0	(*)	(*)	(*)	(*)	(*)	(*)	(*)
814 Disqualification of convicted individuals	0	(*)	(*)	(*)	(*)	(*)	(*)	(*)
815 Disqualification	0	−5	−5	−5	−5	−5	−5	−30
816 Caretaker exemption	0	0	0	0	0	0	0	0
817 Employment and training	0	2	6	9	11	13	15	56
818 Food stamp eligibility	0	−15	−21	−27	−27	−27	−27	−145
819 Comparable treatment for disqualification	0	−20	−20	−20	−20	−20	−25	−125
820 Disqualification for receipt of multiple food stamp benefits	0	−5	−5	−5	−5	−5	−5	−30
821 Disqualification of fleeing felons	0	(*)	(*)	(*)	(*)	(*)	(*)	(*)
822 Cooperation with child support agencies								
Option to require custodial parent cooperation:								
Food Stamps	0	−5	−10	−15	−20	−20	−20	−90
Family Support Payments	0	5	10	10	15	15	15	70
823 Disqualification relating to child support arrears	0	−5	−15	−25	−25	−30	−30	−130
824 Work requirement	0	−160	−830	−960	−1,010	−1,050	−1,100	−5,110
825 Encourage electronic benefit transfer system	0	(*)	(*)	(*)	(*)	(*)	(*)	(*)
826 Value of minimum allotment	0	0	−30	−30	−30	−35	−35	−160
827 Benefits on recertification	0	−25	−25	−25	−25	−30	−30	−160
828 Optional combined allotment for expedited households	0	0	0	0	0	0	0	0
829 Failure to comply with other means-tested public assistance programs	0	−25	−25	−25	−25	−25	−25	−150

FEDERAL BUDGET EFFECTS OF H.R. 3734, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE VIII—FOOD STAMPS AND COMMODITY DISTRIBUTION; AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON JULY 31, 1996; ASSUMES ENACTMENT BY SEPTEMBER 1, 1996—Continued

[Outlays by fiscal year, in millions of dollars]

Section	1996	1997	1998	1999	2000	2001	2002	1996–2002
830 Allotments for households residing in centers	0	(*)	(*)	(*)	(*)	(*)	(*)	(*)
831 Condition precedent for approval of retail stores and wholesale food concerns	0	0	0	0	0	0	0	0
832 Authority to establish authorization periods	0	0	0	0	0	0	0	0
833 Information for verifying eligibility for authorization	0	0	0	0	0	0	0	0
834 Waiting period for stores that fail to meet authorization criteria	0	0	0	0	0	0	0	0
835 Operation of food stamp offices	0	0	0	0	0	0	0	0
836 State employee and training standards	0	0	0	0	0	0	0	0
837 Exchange of law enforcement information	0	0	0	0	0	0	0	0
838 Expedited coupon service	0	0	0	0	0	0	0	0
839 Withdrawing fair hearing requests	0	0	0	0	0	0	0	0
840 Income, eligibility, and immigration status verification systems	0	−5	−5	−5	−5	−5	−5	−30
841 Investigations	0	0	0	0	0	0	0	0
842 Disqualification of retailers who intentionally submit falsified applications	0	0	0	0	0	0	0	0
843 Disqualification of retailers who are disqualified under the WIC program	0	0	0	0	0	0	0	0
844 Collection of overissuances	0	−25	−30	−30	−25	−25	−30	−165
845 Authority to suspend stores violating program requirements pending administrative and judicial review	0	0	0	0	0	0	0	0
846 Expanded criminal forfeiture for violations	0	(b)	(b)	(b)	(b)	(b)	(b)	(b)
847 Limitation of federal match	0	−2	−2	−2	−2	−2	−2	−12
848 Standards for administration	0	0	0	0	0	0	0	0
849 Work supplementation or support program	0	5	15	20	30	30	30	130
850 Waiver authority	0	0	0	0	0	0	0	0
851 Response to waivers	0	0	0	0	0	0	0	0
852 Employment initiatives program	0	−1	−2	−2	−2	−2	−2	−11
853 Reauthorization	0	0	0	0	0	0	0	0
854 Simplified Food Stamp program	0	0	5	10	20	20	25	80
855 A study of the use of food stamps to purchase vitamins and minerals	0	0	0	0	0	0	0	0
856 Deficit reduction	0	0	0	0	0	0	0	0
871 Emergency Food Assistance program	0	100	100	100	100	100	100	600
872 Food bank demonstration project	0	0	0	0	0	0	0	0
873 Hunger prevention programs	0	0	0	0	0	0	0	0
874 Report on entitlement commodity processing	0	0	0	0	0	0	0	0
891 Provisions to encourage electronic benefit systems [c]	0	0	0	0	0	0	0	0
Interactions among provisions	0	20	101	111	136	141	166	674
Total Food Stamp Program:								
Budget Authority	0	−1,792	−3,539	−3,918	−4,282	−4,580	−4,990	−23,103
Outlays	0	−1,792	−3,539	−3,918	−4,282	−4,580	−4,990	−23,103

*Less than $500,000.

Note: Details may not add to totals because of rounding.

a No savings are shown in fiscal year 1997 for setting the standard deduction at $134 because the fiscal year 1997 Agriculture Appropriations Act which cleared the Congress before this bill cleared, contained a similar provision.

b Any proceeds from this provision would be used to reimburse law enforcement agencies or for retail compliance investigations. Thus, CBO estimates no net effect on the federal budget, though funds could be received in one year and not spent until a later year.

c This provision is included elsewhere in the bill. If the exemption from Regulation ''e'' were not enacted, there likely would be costs to the federal government. CBO estimates these costs would be small.

FEDERAL BUDGET EFFECTS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996; TITLE IX—MISCELLANEOUS; AS ORDERED REPORTED BY THE COMMITTEE OF CONFERENCE ON JULY 31, 1996; ASSUMES ENACTMENT BY SEPTEMBER 1, 1996.

[By fiscal year in millions of dollars]

Section	1996	1997	1998	1999	2000	2001	2002	1996–2002
Direct Spending and Revenues:								
908 Reduction in block grants to States for social services:								
Social Services Block Grant:								
Budget Authority	0	−420	−420	−420	−420	−420	−420	−2,520
Outlays	0	−375	−420	−420	−420	−420	−420	−2,475
909 Denial of earned income credit on basis of disqualified income: [a]								
Budget Authority	0	−170	−168	−151	−146	−152	−160	−947
Outlays	0	−170	−168	−151	−146	−152	−160	−947
Revenue	0	26	27	27	23	23	25	151
Net Deficit Effect	0	−196	−195	−178	−169	−175	−185	−1,098
910 Modification of adjusted gross income definition for earned income credits: [a]								
Budget Authority	0	−98	−106	−112	−120	−129	−138	−704
Outlays	0	−98	−106	−112	−120	−129	−138	−704
Revenue	0	15	18	20	22	25	28	128
Net Deficit Effect	0	−113	−125	−133	−141	−154	−166	−832
911 Abstinence Education:								
Budget Authority	0	50	50	50	50	50	50	300
Outlays	0	18	35	50	50	50	50	253
Interaction among revenue provisions:								
Budget Authority	0	47	50	36	28	33	34	229
Outlays	0	47	50	36	28	33	34	229
Revenue	0	−9	−13	−14	−10	−10	−6	−62
Net Deficit Effect	0	56	63	50	38	43	40	291
Total Miscellaneous—Title IX:								
Direct Spending:								
Social Services Block Grant:								
Budget Authority	0	−420	−420	−420	−420	−420	−420	−2,520
Outlays	0	−375	−420	−420	−420	−420	−420	−2,475
Earned Income Tax Credit:								
Budget Authority	0	−221	−224	−227	−238	−248	−264	−1,422
Outlays	0	−221	−224	−227	−238	−248	−264	−1,422
Maternal and Child Health Services Block Grant:								
Budget Authority	0	50	50	50	50	50	50	300
Outlays	0	18	35	50	50	50	50	253
Total All Accounts:								
Budget Authority	0	−591	−594	−597	−608	−618	−634	−e,642
Outlays	0	−578	−609	−597	−608	−618	−634	−3,644
Revenues: Revenue [a]	0	32	32	33	35	38	47	217

a Estimates provided by the Joint Committee on Taxation. Components may not sum to totals because of rounding.

CONGRESSIONAL BUDGET OFFICE: CONFERENCE AGREEMENT ON H.R. 3754, ESTIMATED COST OF INTERGOVERNMENTAL AND PRIVATE SECTOR MANDATES, AUGUST 1, 1996

INTERGOVERNMENTAL MANDATES

CBO cannot determine if the bill contains intergovernmental mandates that would impose costs exceeding the $50 million threshold established in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). At issue is a provision dealing with an increase in child poverty.

Temporary Assistance for Needy Families (TANF). The bill would require a state to carry out a corrective action plan if it determines that the rate of child poverty increases by five percent in a given year as a result of carrying out its new program for needy families. Depending on how this requirement is enforced, it may constitute a mandate when it is combined with the reduction in federal funding for needy families and the work requirements of the bill. Under the work requirements, a state would be required to have 50 percent of certain families that are receiving assistance in work activities by fiscal year 2002.

Under Public Law 104–4, an increase in the stringency of conditions of assistance or a reduction in federal funding for an entitlement program under which the federal government spends more than $500 million annually is considered a mandate only if state, local, or tribal governments lack the authority under that program to amend their own financial or programmatic responsibilities to continue providing required services.

The bill does not specify how this child-poverty requirement would be enforced. On the one hand, if a state would be allowed simply to submit a corrective action plan but would not be required to take action to reduce child poverty, then the requirement, by itself or in combination with the other changes, would not constitute a mandate because the state would have the flexibility to reduce caseloads and benefit levels in response to the federal requirements and reduced federal funding. On the other hand, if the bill would require a state to reduce child poverty (and a mechanism was developed to enforce that requirement) then it may constitute a mandate when it is combined with the funding reductions contained in the bill and the work requirements.

Even if the requirement is stringently enforced, however, states may still have sufficient flexibility to meet all the requirements of the bill without devoting more state funds to the TANF program. States, not an outside party, would determine whether the rate of child poverty has increased by 5 percent. In addition, the majority of people currently receiving Aid to Families with Dependent Child (the program that TANF would replace) are already in poverty, so that rate of child poverty might not increase significantly even if these people lose benefits.

Child support. The bill would mandate changes in the operation and financing of the state child enforcement systems. The primary changes include using new enforcement techniques, eliminating a current $50 payment to welfare recipients for whom child support is collected, and allowing former public assistance recipients to keep a greater share of their support collections. The net savings from these mandates would exceed the costs by $200 million to $500 million annually over the next six years.

Restricting Welfare and Public Benefits for Aliens and Supplemental Security Income. CBO estimates that the new mandates contained in the portion of the bill titled Restricting Welfare and Public Benefits for Aliens would not be significant. However, the bill would reduce the size of an existing mandate. Current law requires states that supplement federal Supplemental Security Income (SSI) either to maintain their supplemental payments levels at or above 1983 amounts or to maintain their annual expenditures at a level at least equal to the level from the previous years. Once a state elects to supplement SSI, federal law requires it to continue in order to remain eligible for Medicaid payments. Because the bill would restrict eligibility for SSI, primarily for aliens and disabled children, states would no longer have to maintain their supplements for these individuals. CBO estimates that states could save roughly $750 million annually by fiscal year 1998.

Other Titles. Two other titles of the bill—Child Nutrition and Food Stamps—contain intergovernmental mandates, but the total cost of the mandates would be significantly less than the $50 million threshold.

PRIVATE SECTOR MANDATES

The bill contains several private sector mandates as defined in Public Law 104–4. CBO estimates that the direct cost to the private sector of those provisions would be $65 million in fiscal year 1997 and would total about $1.0 billion over the five-year period from 1997 through 2001, as shown in the following table.

[Fiscal year (dollars in millions)]

	1997	1998	1999	2000	2001
Requirement on Employers	....	$10	$10	$10	$10
Requirement on Sponsors of New Immigrants	$5	20	55	195	400
Changes in the Earned Income Credit	60	61	62	65	68

Requirement on Employers. The child support provisions of the bill include a requirement that employers provide information on all new employees to new-hire directories maintained by the states. This provision would impose a direct cost on private sector employers of approximately $10 million per year once it became effective in 1998. Based on data from the Bureau of the Census, CBO estimates that private employers hire over 30 million new workers each year. Even so, the cost to private employers of complying with this mandate would be expected to be relatively small. Many states already require some or all employers to provide this information, so that a federal mandate would only impose additional costs on a subset of employers. In addition, employers could comply with the mandate by simply mailing or faxing a copy of the worker's W–4 form to the state agency, or by transmitting the information electronically.

Requirement on Sponsors of New Immigrants. The bill would also impose a new requirement on individuals who sign affidavits of support for legal immigrants by making future affidavits legally binding. This requirement would impose a direct cost on the sponsors estimated to be $5 million in 1997, rising to $400 million in 2001. This estimate represents the additional cost to sponsors of providing the support to immigrants that would be required under the bill. The added costs are larger after the first three years because of the new responsibility sponsors would have to provide support after a three-year deeming period.

Changes in the Earned Income Credit. Finally, the bill would make several changes in the Earned Income Credit. The bill would modify adjusted gross income by disregarding certain losses, expand the definition of disqualified income and index the threshold, and strengthen compliance. The Joint Committee on Taxation estimates that the direct mandate cost of these changes would be $60 million in 1997, increasing to $68 million in 2001. These estimates include only the revenue effect of the changes in the credit, and not the effect on federal outlays.

Mr. DOMENICI. I yield the floor.

Mr. LOTT. Mr. President, I believe the Democratic leader is on his way and will be prepared to close on that side, and I will go immediately following that.

Until he arrives, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Mr. President, after 18 months, we are about to pass welfare reform. It has been a long, divisive debate about the direction our Nation will follow on fundamental social policy. The initial bill, approved by the House last year, I think, by virtually any standard, was an extreme piece of legislation. As a result, it enjoyed very little public support. Twice the President vetoed extreme legislation, and that resulted in far more bipartisan cooperation in the ensuing months.

It is clear that there is a consensus on many concepts relating to welfare reform. Most of us believe the current system is not working, that welfare must be reformed, that welfare as a way of life must end. There is a consensus about the need for work, that able-bodied people should work, that there should not be welfare for those who are unwilling to work. There is a consensus about the need to allow States flexibility and a recognition that South Dakota is different from New York and different from California. There is a consensus that the lack of child care is a major barrier to work, that States need to provide adequate funds to help parents afford it, that the current law with regard to health and safety standards must be maintained and even improved, and that child care needs to become more available and certainly more affordable.

So there are points on which there is common ground and a great deal of agreement. The welfare debate has come a long way since those early months when the President felt compelled to veto that extreme legislation. There have been many areas where bipartisan progress in reducing the barriers that I have just discussed has been made. The debate began on welfare reform with not $1 for child care money, with not $1 for child care to be provided under any circumstances. Now, in this legislation, there is $14 billion to assist parents' efforts to secure child care.

The debate began over a House bill with absolutely no guarantee of Medicaid coverage for families under any circumstances. Now families moving from welfare to work will continue to receive health care during a 1-year transition period.

We have made bipartisan progress in other areas, too. This bill improves the Nation's child support enforcement system. It improves the Nation's supplemental security program for the disabled children of our country. We dropped the proposals to block grant food stamps and eliminate the national nutrition safety net, and we dropped proposals to block grant child abuse funds, which would have undermined our Nation's child protection system.

So, Mr. President, this bill does represent progress. In these areas, and in others, I think it is fair to say that we have come a good distance. But in a democracy everybody has to make their own assessment. We have our own internal comfort zone. We have our own sense of what is right. From phone calls I have received from my State of South Dakota, and letters I received from across the country, the views are as diverse outside Washington as they are here in the Senate.

Every Senator, every Representative, and the President of the United States must make his or her own judgment and draw his or her own lines. It is better than when we started. We began having a threshold for which there could be agreement and consensus on items that I have discussed. Thoughtful people will disagree about where we go from here, how we can assess that progress, and whether or not this marks enough progress to stop now. For many, including this Senator, it is a tough call.

There is no crystal ball. Nobody can predict with certainty the effect of this bill. It will improve, in some ways, the welfare system that we have right now. I think that is a given. But will it help move welfare recipients to work? We can only hope that it does. Will it ensure that children are protected? We can only hope that it does.

Is there a guaranteed safety net for children in the future? On that answer, in my view, Mr. President, the answer is not even hopeful. The answer, in my view, is no. Is this the last point? Is this the only point? There are others. But the fact is that this important issue affecting 100 percent of the future population is not resolved. On that issue, we can do better.

We all want reform. We want to require people to work. But we also want to protect children who can't protect themselves.

We have to be careful to balance those goals. The need a meaningful safety net for children—a guarantee that they will not pay for the mistakes or circumstances of their parents—ought to be paramount for every one of us as we make our decision tonight.

Mr. President, we need vouchers to ensure children's basic needs are met when their parents reach the time limits, and you can't find vouchers in this bill—not to any meaningful extent. We need a contingency for emergencies. When we went through the last recession, this country drew down more than $6 billion in emergency AFDC funds an 18-month period. These were the resources necessary to provide the safety net, especially for children who otherwise had nothing—$6 billion. You know what is in this bill? We have about $2 billion in contingency funds. We may be more than $4 billion underfunded the next time we have a recession in this country. Then what happens?

The level of nutrition cuts continue to concern me as well. I am not comfortable reducing food stamp benefits for families with children who pay more than 50 percent of their income in rent. We do not treat the elderly that way, and we should not. And we should not treat children that way, either. Nutrition cuts have nothing to do with work, nothing to do with reforming welfare. It is an attack on the essential nutritional safety net in this country, and we ought to recognize it as that.

I support strong work requirements. But the work requirements in this bill are inadequately funded. This is something that we ought to be concerned about, and the Congressional Budget Office says that most States in the country, when this legislation passes, will fail to meet the work requirements. They will not even be close.

We all agree that the lack of affordable child care is a barrier to work. The Senate and House bills said mothers with elementary school children could not be sanctioned or terminated from assistance if they don't find child care or cannot afford it, but the conference bill precludes sanctions only for mothers with children under 6. The distinguished Senator from Connecticut addressed this point earlier this afternoon. I am concerned that this is an impossible choice for mothers. A mother's choice is to go to work in order to receive assistance, leaving a child of 7 or 8 alone after school, or not to go to work and lose the help she needs to feed and clothe her child. What a choice. Mr. President, that is not a choice that you and I and the rest of this body can be comfortable with.

Frankly, I am very troubled about the treatment of legal immigrants. There is no assistance for illegal immigrants, and perhaps that is appropriate. But this bill attacks legal immigrants. I am not talking about those who cross our borders in the dead of night. Individuals who have followed the rules, paid taxes in this country, and gone to fight in other parts of the world for this country are now going to be told that there is nothing, no help whatsoever, even when they desperately need it through no fault of their own.

It was 100 years ago that my grandparents came to this country with the promise of 160 acres of soil. They came with a lot of hopes and dreams about what this country could provide for them and their grandchildren and for all of the Daschles to follow. They came here for freedom. They came here in the belief that this would be a better life. We joked about the Government betting you 160 acres of land that you could not survive it on for 5 years in South Dakota. If you could survive for 5 years, it was yours. They got off the railroad, they built a sod house, and survived. But the Government gave them the opportunity to survive, gave them the license to be Americans, and I am here 100 years later because that happened.

We do not have any more land to give, but I sure hope we can still give dreams. I hope that there are still people out there who believe that the freedom that they can find in this great country of ours, for all of the things this country can provide, ought to be ample reason to come to this country and give it their best.

But we are saying we are not going to help you; we are going to punish you if you even try. That is not American. My grandparents could not have come with this law in effect 100 years ago.

So, Mr. President, it is with some sadness that we have come to the conclusion that we cannot do better than this. But we are going to pass this legislation tonight with the understanding that there are some very severe deficiencies. Is it an improvement over what we passed a year ago? Yes. Can we do better? I think we all know in our heart of hearts that the answer to that is also yes.

I hope that we can agree when it is signed into law that we will go back, without much time to waste, and attempt as best as we can to fix those deficiencies so we do not punish children, so we do not send the wrong message to people who want to be Americans, so we recognize that this country is still all that it can be, so we can work together to make it an even better one.

I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I believe we have some 2½ minutes left, and beyond that I will use my leader time.

Mr. President, over the years we have watched a program that we started some 60 years ago with very good intentions to help the weak and the genuinely poor people in this country to be able to get some degree of temporary assistance to help them exist.

We have watched over the years as the taxpayers of this country worked hard to try to look after their families, tried to get clothes to put their children in school, and pay their taxes. Then they began to wonder, who was thinking about them? Because they saw this program continue to grow and build, and they saw it continue to cost more and more billions of dollars, and they saw abuses. Then they started to worry. What about the children that are getting locked into this system of welfare dependency?

Over the years it moved in that direction—to where we have disaffection on all sides; those who pay the bills for the welfare program and those who are on the program. People ask: Who is it really helping? Is it really giving people a lift out of poverty, or it is it locking them in? Does it really help the children when the parents are not able to get a job, they do not have the training, the education, nor the day care to be able to really get a job? Who is the real loser? The children have become the losers of this program. It has become a program of dependency without a way out. That is what this bill is really about.

I am happy that the Senate is about to take this final action on this monumental accomplishment, a bipartisan accomplishment on a bill that is entitled ''Personal Responsibility and Work Opportunity Act of 1996.'' We call it welfare reform, but that is the real title. That is what it is really about—personal responsibility; taking advantage of the program when you really need it on a temporary basis, to give you an opportunity to exercise your responsibilities and get off the system and get into a job—work opportunity. That is the American way; to have an opportunity to get what you need temporarily with training to go out and get a job and look after your family.

It has been a long haul with more than a few dead-ends. But we stuck with it. We forged the kind of compromises that were needed to move it ahead, and at last we have come to our destination: ending the destructive welfare cycle. That is what this is all about.

There is more than enough credit to go around. But I think special tribute clearly should be given to the Senator from Delaware, Senator ROTH. He has pulled off a gold medal performance this week. He was lead chairman on the welfare reform bill. He was the chairman that negotiated the agreement on the small business tax relief bill, and he was the lead participant in the health insurance reform legislation; a tremendous week. We are all indebted to Senator ROTH for that great work. I know it has been exhausting, but I know you are extremely proud of the accomplishment that you have in this bill and those other bills.

Of course, the venerable chairman of the Budget Committee, Senator DOMENICI, hangs in there. It was going to be maybe just a few hours and then it looked like it was going to be the full 10 hours. He has to do it over and over again. He has been a partner with the Senator from Delaware. They have done a great job. He is the most knowledgeable Member that we have on how we deal with these budget issues.

Senator NICKLES, at my request, was representative of the leadership in a lot of the negotiations. That youngster from Pennsylvania, Senator RICK SANTORUM, he was great. He came to the floor one night. He did his job. He knew his subject matter. He has been working on it for 2 years—actually longer than that. I guess about 4 years. He really knows the intricacies of this bill. It has been bipartisan, House and Senate. The vote in the House, 328 to 101. That looks mighty broad to me in its support and its bipartisanship.

In the Senate, Senator BREAUX was involved and helpful as we went along. Senator LIEBERMAN, I read his article, I believe, in a New York newspaper last week, an excellent article. So I think we have truly made this bipartisan. It is an effort of which we can be proud.

Also, I have to say this. A lot of credit goes to the man whom I succeeded as majority leader. Bob Dole worked on this effort, pushed this effort, would not let it end, helped get it through, not once but twice, and was committed to getting it done again this year for the third time. Without his leadership, without his determination, without his commitment, we would not be here tonight passing this welfare reform package. In my opinion, it should truly be called the Dole Welfare Reform Package.

The last time I spoke on the Senate floor about welfare, I expressed the hope then that President Clinton would not again veto the reform bill that we had come up with on welfare. And I did have an opportunity over the past 2 weeks to talk with him about it. There were some changes made that he had hoped for in the bill, and so I am, frankly, greatly satisfied that he has announced he will, indeed, sign this bill into law.

So now our country begins a great transition. It will be complicated and difficult and probably will require fine tuning on our part in the future, but we have made a start. We have made a commitment. We signed on to the blueprint for the most profound restructuring of public assistance since the New Deal.

This legislation will end the Federal entitlement to welfare and replace it with block grants to the States. All by itself, that makes this landmark legislation. But the flexibility for the States and the Governors, I think, will work well. They are close to the problems. They will be able to use the money where it is needed the greatest to help the people who need it the most.

More than that, for the first time ever we are legislatively imposing time limits on the receipt of welfare on an endless basis, and for the first time ever we are applying a meaningful work requirement that can help recipients make the move—and we know it is not always an easy one—from dependence to independence.

That is what we desire and we hope for all Americans. This bill responds to a consensus among the American people by ending most welfare for noncitizens. It strengthens our child support enforcement and paternity establishment requirements. It combats fraud and abuse of welfare programs and will save the taxpayers about $54.5 billion over the next 6 years.

We can be proud of this package, and we can build on it in the months ahead as we seek to improve Medicaid and other programs of assistance to the needy. We are going to be working with the Governors to make sure that this bill sets the pattern for a new era of cooperation between the States and the Federal Government.

Again, I thank everyone whose diligence and patience brought us this far. There is an old saying: ''Well begun is only half done.'' Today, the herculean task of comprehensive welfare reform is, indeed, well begun and much more than half done.

With the lessons we have learned in this effort, we can finish the job for the benefit of both the taxpayers of America and the poor in the months ahead.

I yield the floor.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. SMITH). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report to accompany H.R. 3734, the Budget Reconciliation Act of 1997. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

[Disturbance in the Gallery]

The PRESIDING OFFICER. The clerk will cease until order is restored.

The Sergeant at Arms is directed to restore order.

The Senate will come to order.

The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is necessarily absent.

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

The result was announced—yeas 78, nays 21, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—78

Abraham	Ford	Lott
Ashcroft	Frahm	Lugar
Baucus	Frist	Mack
Bennett	Gorton	McCain
Biden	Graham	McConnell
Bond	Gramm	Mikulski
Breaux	Grams	Murkowski
Brown	Grassley	Nickles
Bryan	Gregg	Nunn
Burns	Harkin	Pressler
Byrd	Hatch	Reid
Campbell	Hatfield	Robb
Chafee	Heflin	Rockefeller
Coats	Helms	Roth
Cochran	Hollings	Santorum
Cohen	Hutchison	Shelby
Conrad	Inhofe	Simpson
Coverdell	Jeffords	Smith
Craig	Johnston	Snowe
D'Amato	Kassebaum	Specter
DeWine	Kempthorne	Stevens
Domenici	Kerry	Thomas
Dorgan	Kohl	Thompson
Exon	Kyl	Thurmond
Faircloth	Levin	Warner
Feingold	Lieberman	Wyden

NAYS—21

Akaka	Feinstein	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Inouye	Murray
Bradley	Kennedy	Pell
Bumpers	Kerrey	Sarbanes
Daschle	Lautenberg	Simon
Dodd	Leahy	Wellstone

NOT VOTING—1

Pryor

The conference report was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will come to order. Members will stop conversations so the Chair can recognize the majority leader.

Mr. WELLSTONE. Mr. President, can we have order in the Chamber?

The PRESIDING OFFICER. The Senate will come to order. Will Senators please take their conversations to the Cloakroom?

MEASURES PLACED ON CALENDAR—S. 2006, S. 2007 and H.R. 2391

The PRESIDING OFFICER. The clerk will now read three bills for the second time.

The assistant legislative clerk read as follows:

A bill (S. 2006) to clarify the intent of Congress with respect to the Federal carjacking prohibition.

A bill (S. 2007) to clarify the intent of Congress with respect to the Federal carjacking prohibition.

A bill (H.R. 2391) to amend the Fair Labor Standards Act of 1938 to provide compensatory time for all employees.

Mr. LOTT. Mr. President, I object to further consideration at this time.

The PRESIDING OFFICER. Objection is heard. The bills will be placed on the calendar.

The PRESIDING OFFICER. The majority leader.

THE SENATE'S SCHEDULE

Mr. LOTT. Mr. President, I know that Senators are waiting to see what might be the schedule for the remainder of the evening. There are a number of discussions underway now on a number of issues that we would like to get completed before we leave this weekend.

I want to say again tonight, as I did this morning, I really think that the last 2 days have involved a lot of tremendous legislative good work by Members on both sides of the aisle. I do not ever recall having ever seen as many bipartisan conferences in as many places at one time as yesterday.

Yesterday morning, I really didn't think it would be possible to reach an agreement on the conference report on health insurance reform, on safe drinking water, and, of course, we already reached agreement on welfare reform, and before the night was out, even the small business tax relief package and minimum wage. It looks like there will be an agreement also on illegal immigration.

I don't know exactly when all of those will move, but it is my fervent hope that all that work will not be for nought before we leave. We would like to be able to bring up some appropriations conference reports that have been completed. The legislative appropriations conference report is ready. We hope to be able to get to the military construction appropriations conference report, if not tonight, tomorrow.

That probably will require a vote, since we didn't vote on it when it went through earlier, and the District of Columbia appropriations conference report will also probably require a vote.

We would like to do those either tonight or in the morning. And we would like to also get the conference reports that have been agreed to: the health insurance conference report, the safe drinking water conference report, the small business tax relief package with minimum wage, and if there are other conference reports that could become available later on. The Department of Defense authorization conference report is available, too.

So we have several conference reports that we could get done tonight or tomorrow with just a little cooperation. There are some nominations that we think we can move forward. We have been working on those today. I think we can get some of those moved. So it is my hope that we could get those done.

Also, I would want to move to the HUD–VA appropriations bill. I know the chairman is here, Senator BOND, who has been very patiently waiting his appropriations opportunity. The Senator from Maryland is here ready to go. So if we could have a few unanimous-consent requests and work through those, then we would try to go to the HUD–VA appropriations bill.

I just want to make the Members aware of that. We need to have some additional discussions here in the next few minutes. If we could come to some agreements, then we should be able to notify the Members within 30 minutes what they can expect for the remainder of the evening and whether or not there would be any recorded votes tonight.

I would be prepared to yield the floor and observe the absence of a quorum, Mr. President, where we could work on a couple issues, and we would let the Members know as soon as possible thereafter. I yield the floor, Mr. President, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, I do not believe we have been able to come to a satisfactory resolution of some of our concerns that Senators have on both sides of the aisle. We have had a very productive week and a good day. It is already 20 until 9. I know several Senators have had other things on their minds today, so I do not see any sense in pressing the point too far tonight.

I do feel constrained to ask for at least two unanimous-consent requests. We will see what happens. Then, depending on that, we will be able to make some further announcement.

UNANIMOUS-CONSENT REQUEST—CONFERENCE REPORT TO ACCOMPANY H.R. 3754

Mr. LOTT. Mr. President, with regard to the legislative branch appropriations conference report, I ask unanimous consent that the Senate now turn to the conference report to accompany H.R. 3754, the legislative branch appropriations bill, that the conference report be considered as having been read and agreed to, and the motion to reconsider be laid upon the table.

Mr. WELLSTONE. Mr. President, reserving the right to object, and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. You did object? All right.

Mr. President, we have been hoping to go to the HUD–VA appropriations bill for over a week now, but because we were assured on various bills that they would take just a short period of time, we have been able to move through eight appropriations bills. I appreciate the success we have had with that. But this is the one that we need to go to and get done so that we do not have to have a Saturday session. It is my intent to complete this bill even if it does involve going to a Saturday session.

It would be nice if we could put that down tonight so that the chairman and the ranking member could get some work done. But we can do that tomorrow, and then we can finish up or we can work on that on Saturday. It is already in my mind that we are going to be here Saturday. So I have been feeling all day that this is really kind of Wednesday, and so tomorrow is only Thursday by my body clock.

UNANIMOUS-CONSENT REQUEST—H.R. 3666

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the HUD–VA appropriations bill, H.R. 3666.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving the right to object, and the majority leader has been working in very good faith. I appreciate it.

I just let my colleagues know that this is not my first choice, but month after month after month I have been very patient. The last several weeks I have been very patient. I think the majority leader would be the first person to say I have worked through the process.

We have a very gifted judge, Hennepin County Judge Ann Montgomery. I thought there was a clear agreement that she would be cleared last night. That did not happen. It is not my choice that somebody objected. I have heard no substantive reasons given to that objection, and that is why I object to moving forward.

I am going to fight very hard for Ann Montgomery because she is an immensely talented, gifted judge, with broad support in Minnesota, broad support in the legal community. What has been going on here is just or fair to her. That is why I object.

Mr. LOTT. Mr. President, if I could respond, first, let me announce that was the last vote tonight. There will be no further votes tonight. We will begin tomorrow morning at 10:30 on Friday morning.

I think all the Members know I have been trying to work through these judges. We have, I think, cleared 16 judges from across the country. Some of them had some problems. We were able to look into those problems, and

Senators have spent time working through those lists. That is how we have been able to move 16 of them. We are working on another one right now. I think maybe it will be cleared.

Let me emphasize this: Judges quite often are somewhat controversial. Senators have different views on that. Senators have a right to express themselves on it. The time may come when we will have to move some of these judges. My approach is always to see what the problems are and see if we can work through them. We will keep working on this one. I am hoping maybe tomorrow we can satisfy concerns.

Sometimes what happens with these, it is not just the judge, but it gets involved with other issues, other legislative issues, and you have to deal with those problems before you can deal with the next problem.

We worked on that. I think we made real progress. The Senate, I think, would have to acknowledge that I have worked steadily at it. I think we have approved an average of at least one a day for the last 3 weeks.

Mr. NICKLES. Will the Senator yield?

Mr. LOTT. I am happy to yield to the Senator.

Mr. NICKLES. I have been here a little while, and I cannot remember anybody objecting to moving to an appropriations bill because they did not get a judge confirmed.

I will give one example. I remember we had a judge in Oklahoma that I was trying to get confirmed in 1992 and the Democrats were in control of the Senate. George Mitchell was the majority leader. I kept trying to get the judge moved, the nomination moved. The nominee was Frank Keating. There was no opponent, but we kept having a hold. To make the story short, we never could get his nomination placed before the Senate. He would have been an outstanding judge. There was kind of a roving hold on it, primarily inspired by my good friend and colleague from Ohio, Senator Metzenbaum, who is no longer with us.

The point being, we had an outstanding person, but we did not hold up any appropriations bill. We did fuss about it, and we groaned about it, and maybe griped about it, but I want to thank Senator Metzenbaum for putting a hold on Frank Keating because he is now the Governor of Oklahoma.

Judges have been held for different reasons, maybe good reasons, maybe bad reasons, but a lot of times it happens. However, I am not familiar with the holding of major pieces of legislation, particularly appropriations bills, hostage. I hope we are able to work through this and do our bills. We know we have to do the appropriations bills, and I am hopeful we will be able to move forward.

I congratulate the majority leader and the minority leader. I think this week has been a very constructive week. The welfare bill that just passed is certainly historic, and the legislation that we will have before the Senate tomorrow dealing with health care, dealing with small business tax relief, is also very important. I hope we will be able to complete that as well.

Mr. LOTT. I yield to the distinguished chairman of the HUD, VA Appropriations Subcommittee, if he would like to make a comment.

Mr. BOND. Mr. President, I appreciate very much the efforts of the majority leader. I assure you that the ranking member, Senator MIKULSKI, and I have worked long and hard with many Members to accommodate the interests Members have. We were prepared to negotiate time agreements so we could move this expeditiously.

The matters involved in this bill include the funding for the Veterans Administration, the funding for the Housing and Urban Development, funding for EPA—there seems to be a great deal of concern about drinking water facilities; those funds are appropriated in this bill—Environmental Protection Agency, NASA, National Science Foundation. It had been our hope that by working with and being responsive to the concerns of Members on both sides of the aisle, with respect to what is, frankly, a very complicated bill, that we could wrap this up so we would not have to impinge upon any Saturday or Sunday activities that our colleagues may have.

Mr. President, that is why I am deeply disappointed. The ranking member and I have been ready since last Wednesday to go forward on this bill. It is a complicated bill. I had hoped we would be able to go tonight. I am very disappointed, personally, and for the agencies and the people working with us.

Let me say at this point that we have worked together prior to the bill coming to the floor. The ranking member and I have agreed that we can accept a significant number of amendments that have been presented to our staff. If there are other amendments, we ask Senators to bring them to us or to our staffs tonight so we may determine if we can accept them or work with the Members to gain accommodation on them.

I have approved, as has my colleague, a number of colloquies that will be ready to go if we are able to move to this bill tomorrow. I think there are perhaps three or four issues which would require a vote, and we would like to work with the leadership and get short-time agreements on these votes, reserving everybody the right to submit additional comments for the RECORD so we can handle this in an expeditious manner. We understand how controversial the issues can be. We think we can deal with it in a timely fashion.

I ask that people who do have amendments, questions, colloquies, please contact us tonight and perhaps we can move expeditiously tomorrow.

I share the leader's disappointment that we are not able to do this tonight. With cooperation in bringing the amendments to us tonight, perhaps we can deal with the issues in a timely fashion tomorrow.

I thank the majority leader, and I thank the Chair.

Mr. WELLSTONE. I will take just 1 minute. I know the minority leader wants to speak on this.

Let me just say I heard the word ''controversial'' used. Judge Ann Montgomery has the support of both Senators from Minnesota. She has the broadest possible support in the legal community, the highest possible marks from the ABA. She is imminently qualified.

I would be more than pleased for someone to move this. I do not ask for unanimous consent, although I think that is the best way to do it. I would be willing to debate this nominee with anybody.

Just to be very clear, as far as the delay, I was not the one that put the hold on Judge Montgomery. I am not the one that has objected to moving forward. Other Senators have. I am just doing what any Senator would do from any State, which is that I am fighting hard for a woman who richly deserves to be Federal district judge. There is no reason in the world why anybody should be trying to stop this. This woman came out of committee back in March. She has been waiting and waiting and waiting, and I have patiently worked through the process.

I am absolutely convinced the majority leader is working in good faith, and I look forward to working this out tomorrow. I apologize to my colleague from Missouri, who is a friend whom I respect. I am not the one that has delayed this.

Mr. DASCHLE. Mr. President, we don't need to rehash all the history on this. I think it is fair to say that there has been a tremendous amount of cooperation this month. I pledged my efforts to the new majority leader when he became leader and indicated that I wanted to work with him. I think that fact has now been well-documented. The distinguished Senator from New Hampshire was in the chair last night, and I applaud him for his willingness to preside at late hours. As he was presiding last night, it seems to me that the cooperation stopped.

Before last night, we had another indication of the degree to which we were going to work on both sides to move things along, with the clear understanding on both sides that we had to finish the executive calendar on judgeships this month. The distinguished majority leader said that he would try to help us get that done. I said I would try to work with you to accommodate all of the specific pieces of legislation that need to be addressed so long as we can continue to work in good faith toward those ends. Last night, it stopped.

So, Mr. President, we have no choice but to continue to find a way with which to resolve this impasse. We need to finish the four circuit court judges, plus the other district judges that remain on the executive calendar this week.

The distinguished Senator from Oklahoma made a good point that there have been holds in the past on individual judges. I will not deny that. But I think it is important that we emphasize that, in 1992, under similar circumstances, the majority at that time, the Democratic majority, confirmed 66 district and circuit judges. On July 1 of this year, not one, zero judges had been confirmed. Now we have confirmed, I believe, 16. So we are making progress. But we can't be expected to allow the balance that we had agreed to to be disrupted. If we can continue to find ways to cooperate and work together, all of the pieces of legislation that the distinguished majority leader mentioned, I think, are possible. Realistically, I don't think we are going to be able to do the VA–HUD bill this week, but I do believe that all of the conference reports and things that the majority leader mentioned are things we ought to be able to work together to achieve before we recess. But we have to get those judges done, as we earlier agreed to do. If we can do the judges, we can do the legislation. That balance is something that I think we have made very clear from the beginning. I hope we can work together to make that happen.

I yield the floor.

JUDICIAL NOMINATIONS

Mr. LEVIN. Mr. President, I wonder if the majority leader would help us out a bit with this question. It was my understanding that, early in July, the majority leader had indicated an intention to work through all of the judges on the calendar, and that if there was an objection, the objection would be required to be stated, and then the majority leader would attempt to move to the confirmation of each of the judges on this calendar. I am particularly interested in a court of appeals judge, Eric Clay, from Michigan, who has the support of both Senators from Michigan. I know the majority leader has spoken to my colleague, Senator ABRAHAM, and me about Mr. Clay.

My question is this: Is it still the hope of the majority leader to call each of the names of the judges that are on the calendar and see if there is an objection, and if there is, to move to the confirmation of each of the circuit court judges, as well as district court judges, on this calendar? Is that still the intention of the majority leader before we recess?

Mr. LOTT. It is my intent to continue to try to work through these matters. I never indicated, in any way, that I could guarantee that we would get them all done. There are objections to some of them, and multiple objections to some of them. But I will continue to work on them one at a time, because you can't work six or seven at a time. It has worked pretty well. And I am working on that one. I have talked to the other Senator from Michigan, Senator ABRAHAM, about this judge. We are looking into what might be the problems and what might be done. Let me say this. Circuit judges are viewed very differently than district judges for a lot of reasons, and we can discuss that some other night. But that is not to say that we will not continue to work on it.

Mrs. BOXER. Will the Senator from Michigan yield to me for a question?

Mr. LEVIN. Yes. I yield the floor.

Mrs. BOXER. I really want to thank the majority leader for doing all this. I want to make the point to the Senator from Texas, and others who have problems with this, that you are talking about real people when you stand here late at night and object. Sometimes we forget that. I think Senator WELLSTONE was very real last night when he came back and he was on the phone ready to tell this particular nominee that all was well.

I happen to know two judges on that list from California. Their lives are on hold. They are human beings, just as we are. Many have been waiting for months and months. I say to the majority leader, please, do all you can, because pretty soon we are going to come down here with photographs of the families that are in limbo. They don't know. Some of them are closing other practices up. It is a hardship on the families. These are wonderful people. These are people who came out of those committees, many of them without one objection. These are people who have support of both Senators, in many cases, Republican and Democrat alike. So we really changed course here when many of us understood it was going to go a certain way. It is very hard, I think, on the people whose lives are affected, their children and their spouses.

So I hope we can work together for the good of, frankly, these people and their families and the criminal justice system. I don't think it does any good to have these judgeships vacant. Justice needs to be done, and it is hard to serve it when you don't have the judgeships filled.

I yield the floor.

Mr. LOTT. Mr. President, I am going to have to respond to some of that. There are real people, also, whose lives would be affected by these appointments. These are not administration appointees who will serve at the pleasure of the President for a year or 4 years. These are lifetime appointments to the Federal judiciary, and it is very important who these people are—

Mrs. BOXER. Yes, it is.

Mr. LOTT. And how they are going to rule. We should look not only at their education, background, and qualifications, but also—particularly when it comes to circuit judges—what is their philosophy with regard to the judiciary and how they may be ruling. We have a legitimate responsibility to ask those questions. I have to tell you, we have all been through this. I have had a couple of judges that I have been interested in, one from the Fifth Circuit Court of Appeals. He is a great guy, a great lawyer, Harvard educated, with all the credentials. He did not make it in 1992. That is the way it goes. Some people did not like him because he was a very conservative lawyer. I think the philosophy does make a difference when it comes to the circuit.

I want to emphasize here that, when we start painting this mosaic about this person and the family going to be affected, we have a right to think about all the families whose lives will be affected by some of the ridiculous decisions we see in the Federal judiciary, and the activism where they start writing laws, which is our job. I never intended to infer, in any way, or imply that I could guarantee that all these would be done or that I would even vote for all of them. All I said was that I would work through this list and I would try, because I didn't know any of them, not a single one of them, when I started out.

I started down the list, at the direction of my predecessor, I got to know some of them and worked through them. I tried to move four en bloc one night, and because we did not have all of them on the list, it was objected to by a Senator. I thought we had worked it out. Later, I tried to move the same four judges again that nobody objected to, except when I brought it to the floor, a Democratic Senator objected because his judge was not on the list. And then the majority leader left, and I said, well, maybe I can work through more of them. I got it up to nine judges. One night, I came to the floor and we had 10 that had cleared on the hotline. I even talked to a couple Senators as they hit the ground at the airport trying to get them done. At the last minute, one of those dropped by the wayside. I tried nine judges, and I had an objection from a Democrat when I was trying to clear nine judges. I think at least five or six of those were supported by Democrats. So I said, OK, that hasn't worked. In an abundance of good faith, I said I will do them one-by-one.

I brought up one. It was objected to. But then I started working it with the minority leader. He started working it with his people. And then we started to move with the ones that were really not controversial. We got four or five done. Then we got five more done. And I think it is 15 or 16—16 that we are working through the process.

I really must say that the minority leader was fair in his remarks of how we talked about it. We work together on it. We will just keep moving through the process.

But again these are not insignificant. These are big-time, lifetime, high-paid jobs that are going to affect our lives, and, if we do not know who they are, if we do not ask questions, then we will be shirking our responsibilities.

But we will continue working on these judges. Just like the Senator from Michigan said, we will talk more about that.

Mrs. BOXER. Will the leader yield?

Mr. LOTT. Certainly; I am happy to yield.

Mrs. BOXER. I thank the leader for yielding. I appreciate what he is saying. He is so right about that. I have to say having had the real, great privilege to get a number of judges through this U.S. Senate—

Mr. LOTT. There was one from California that we moved.

Mrs. BOXER. Absolutely. I want to say that the committee is doing its job. They were very clear with all of us—the Republican Senators—saying we want to make sure when you bring people up that they have Republican support as well as Democratic support in their committees. And it has been, frankly, a joy for me to work to bring these types of people who have that type of bipartisan support.

But I guess the one point that I just want to make—and I will not belabor this any longer—is that I heard the Senator from Minnesota say that he would be delighted to debate this. He is ready.

Mr. LOTT. Let me say in this case that I have already told him. If I could reclaim my time for a moment, it is relevant. If we can't get it worked out, I intend to move it, and we'll have a debate.

But here is one of my problems. We have a few hours left here. We have a lot of work that we need to get done that you want, and that we want. So I plead with everybody. Let us keep our heads cool. Let us keep talking.

Also, I again say that I think it would be a major mistake—a major mistake—for Senators to hold up health insurance reform, safe drinking water, small business tax relief, and minimum wage, if we can't work through all of these things tomorrow. I plead with you not to do that. I urge you not to do it.

Let us get these conferences that we have worked together on in a bipartisan way. I understand there is some objection maybe to the illegal immigration bill. I do not know the details of the negotiations there. But this is something the American people feel outraged about. We can't control illegal immigration in this country. But if there is some problem with the way it was handled we will take that into consideration.

There are three of these conference reports which everybody has pretty much signed on to. They have problems with them.

Mr. NICKLES. Will the Senator yield?

Mr. LOTT. Yes.

Mr. NICKLES. I just want to say that I appreciate the comments, and this has been informative.

In the last couple of months, if my figures are correct, there have been 23 judges on the Executive Calendar ready for confirmation by the Senate. We have confirmed 16. We have 7 still left on the calendar.

So I tell my colleagues on the other side who might be frustrated that is a pretty good batting average. That is 16 out of 23 in this period of time. I admit that hardly—I think maybe one judge was confirmed prior to that time.

Also, just while we are looking at this, I mention Frank Keating who was not confirmed in 1992. And my colleague, Senator DASCHLE, mentioned that we confirmed 66 judges in 1992, which is a lot. That is correct. But we also had 58 nominations pending at the end of 1992. Right now the total nominations of judges on the calendar—and that have been nominated—the total is 28.

So, if you look at the total percentage of those we have on the percentage—

Mr. LOTT. That is, those on the calendar and those still pending in the Judiciary.

Mr. NICKLES. Still pending before the Judiciary Committee.

So the only thing you have had on your plate is that there has been 23 judges on the Executive Calendar. The Senate has now confirmed 16. There are 7 remaining.

So I would say that in the past month the majority leader has been very cooperative in the fact that he has moved 16 out of 23. That is 70 percent of the judges.

So I think he has been very cooperative in working with all Senators.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the President.

I just ask the majority leader to extend the courtesy, if he can. I want to add my compliments to those that he has already received for such a good job, and I think too in a most serious way. He has tried to—

Mr. LOTT. One of those was from New Jersey, if the Senator will yield.

Mr. LAUTENBERG. Absolutely.

Mr. LOTT. We ran into a little problem, and we worked it out.

Mr. LAUTENBERG. To use an expression, ''I don't have a judge in this fight.'' So I want you to know that.

[Laughter].

I enjoy not only working with him but my kind, friendly tete-a-tete with the majority leader.

I ask the majority leader whether or not in reality these judges did not move tonight because they had something to do with something else? Is there some legislative redress that is being sought here, a judge is being held hostage, and people seeking justice are being held hostage because we are not processing their cases in an expeditious fashion? I ask the majority leader because it was suggested to me that perhaps there was something that I might do to help it along here.

I just would like to know whether or not there is some particular piece of legislation that may have offended someone that has them out here saying, ''No. I am going to object to judges. I am going to object to anything that goes on in this place, and I do not care what the consequences are. I object to the legislation.'' Could I possibly be correct in my assumption, Mr. Leader?

Mr. LOTT. I do not think it has ever happened in the Senate before; that one matter would be impacted by an unrelated matter in another area. Why, of course, everything in the Senate is tangled up and related to something else. I do not guess there is any relationship between the judge not moving tonight and the objections to taking up the HUD and Veterans appropriations bill. Why, of course, they are related.

But I have found the way you do that, you get all tangled up, and you work with them, and quite often they manage to work themselves out and we get the job done. But they are related.

Look. You know that Senators on both sides of the aisle feel strongly not only about the judges but about the legislation. People are worried when you have a bill that involves a stalking of women and children that you really care about, and you think that there is a mistake there, and it is a bill that is universally supported. When that bill gets tangled up in the course of events, a Senator gets excited about that, and upset about that. When a Senator feels like his or her rights are trampled upon, they move and they take advantage of whatever rights they have.

My attitude with the Senator from Minnesota tonight was, ''Look. I understand. You are doing what you have to do.'' And we will see what we can do with his problem that has been affected by another problem. We will work them all.

Yes. They are all related. There is nothing new in that.

Mr. LAUTENBERG. The majority leader—like my name—is frank, and I appreciate that candor. Because, if we are talking about the stalking bill here that passed the Senate that is over in the House, it carries an amendment by me that says wife beaters, child beaters, spouse abusers should not have a gun. Apparently there is an objection. ''We are concerned about that. We want to give those guys guns. What did they do? Beat up their wives? That is not a crime.'' One judge said, ''I hate to give a noncriminal a criminal sentence.'' One judge was so tough that he gave a man who murdered his wife in Baltimore County 18 months with time to be served on weekends. He murdered his wife. The judge said, ''I do not like to really punish someone like the criminals. They are not really a criminal. All they did''—he did not say this. I am saying it. ''All he did was murder his wife.''

So I am asking for my amendment and that bill to be carried along, and now suddenly I hear that has something to do with the approval of judges, which now has us tangled up in appropriations bills. I think it is pitiful that someone would object as we saw here last night; the Senator objected to an order that the minority leader requested and refused to answer a question—refused, turned around and walked out. This place is deteriorating into a sorry condition. But I know the majority leader is working on it.

I think it is very important that people across the country hear that eight judges are not being appointed because of a piece of legislation that would prevent wife beaters and child abusers from getting guns. I think that is pretty important. I hope the public hears it and listens to it, and I hope the press hears it and listens to it.

I say to the majority leader, my apologies for this little tirade, but I had to kind of get it off my chest.

I thank the Senator.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

THE RUSSIAN ELECTIONS

Mr. LEAHY. Mr. President, on June 16, something happened that has tremendous implications for the American people and for people everywhere. On that day, Russia, which just a few years ago was the greatest threat to democracy in the world, held a democratic election to select its President.

That alone, Mr. President, is reason to celebrate. Despite calls from people across the Russian political spectrum who still do not understand what democracy is about to cancel the election, the Russian Government stuck by its commitment to democracy—

No decisions were taken by secretive Politburos.

Parties representing the full spectrum of political sentiment participated.

Candidates crisscrossed that vast country making promises to win the votes of ordinary people.

And in the end, most stunning of all, there was a graceful concession speech by the losing candidate, the leader of the Communist party that only a little while ago we regarded as the personification of tyranny, committing the party to challenge irregularities in the election ''in the courts, not in the streets.''

Mr. President, this was not a perfect election. There were irregularities. There may well have been instances of ballot box stuffing. I was quite concerned about the extent to which media coverage of the election appeared to favor one candidate. But it also occurred to me that, if I were a newspaperman covering an election in which one major party had a record of advancing democracy and the freedoms associated with it and the other had a 70-year history of suppressing the freedom of newspapers like mine, I might have tended to advocacy rather than neutrality too. That is not an excuse, but despite the irregularities, there is general agreement that the will of the Russian people was heard in this election.

The Russian people voted for democracy, and the tremendous significance of that should not be lost on anyone. Despite all of the hardship they are experiencing. Despite the crime and corruption. Despite their loss of empire. Despite the fact that the standard-bearer of the forces of democracy has made many mistakes, the brutal war in Chechnya being the most egregious, and is in poor health.

The Russian people voted for freedom. Freedom to speak their minds. Freedom to associate. As ultra-nationalist Vladimir Zhirinovsky, who is not someone I admire, put it in explaining why he would not support the communists: freedom to decide where to spend his vacation. For some, it came down to things as simple as that, things which we take for granted.

Mr. President, the world has changed profoundly in the last decade. Communism as a world force is gone. Whatever the future may bring in terms of the distribution of power in the world, the age of ideological confrontation between communism and democracy is over. While there remain many aggressive forces in the world, I cannot help but feel that the world will be a safer place when its two greatest powers are both committed to democracy and the protection of individual rights.

And I think we owe credit to President Clinton, Secretary of State Christopher, and Deputy Secretary Talbott. Over the past three years, they have braved the attacks by those, including some in this chamber, who cannot bring themselves to give up their cold war notions about evil empires and would have us focus only on the vestiges of the old and ugly in Russia and ignore all that is new and promising.

Where do we go from here? As the ranking member of the Foreign Operations Subcommittee, I have watched as funding for foreign assistance has been slashed over the past 18 months, including assistance to Russia. Assistance to Russia is being phased out over the next 2 years, even though it is obvious that it is going to take the Russian people at least another decade to be able to take control of their own lives instead of expecting the government to do it for them, and that our assistance would be valuable to them.

President Yeltsin has won the support of his people to continue reform. But the Russian economy remains a shambles. The Russian Government has no money to finance its reforms. Crime is rampant. There are still pensioners on the streets of Moscow hawking pairs of children's rubber boots in order to survive.

Aid from the United States cannot possibly solve these problems directly. The problems are so immense that only the Russian people working together will be able to.

But what our aid can do is show them the way. Most Russians still have only a faint notion of what a market economy offers. Most also still carry the perceptions drilled into them by their Soviet masters that Americans are their enemies.

I have not been fully satisfied with the results of our aid program in Russia. There has been confusion, a lack of strategic thinking, and boilerplate approaches that did not fit the unique conditions there. Too much of the money has ended up in the pockets of American contractors, without enough to show for it.

But some programs have given the Russian people hope for a better future. People-to-people exchanges are an example of how we can help change old ways of thinking. I believe the thousands of exchanges of ordinary citizens that we have sponsored over the last 4 years played a role in President Yeltsin's victory. Farmer-to-farmer programs. Business exchange programs. Academic exchange programs. Civic organization development projects. They have shown the Russian people what is possible.

Americans have learned from these exchanges too. We have learned that the Russian people are not ogres. Like us, they are mostly worried about the welfare of their families. But they are learning for the first time that it is possible to have a system of government whose primary aim is the defense of individual rights, and which actually serves them.

Mr. President, there remains much to criticize in Russia. The democracy that exists there is fragile, and the future unpredictable. There will continue to be setbacks, and instances when Russia behaves in ways that are inconsistent with international norms. I have been horrified by the brutality of the Russian military in Chechnya. While it has been reassuring to see the outpouring of protest against this barbarity by the Russian people themselves, President Yeltsin and his security advisors need to recognize that Chechnya's future is not going to be decided by bombing its people into submission.

Having said that, let us today recognize how much has changed for the better in Russia compared to just a few years ago. And I hope we will also reaffirm our commitment to support reform in Russia. We know how to put our aid dollars to good use there, and there is much good yet to be done.

TRIBUTE TO THE LATE HARRY M. ''MAC'' JOHNSTON

Mr. THURMOND. Mr. President, the emergence of South Carolina as a center for business and industry is due to many factors including a temperate climate, a trained and enthusiastic workforce, cooperative government officials, and not the least significant, community leaders committed to bringing new jobs into their towns, cities, and counties. One of the fastest growing areas of the Palmetto State is the region known as the Upstate, and a gentleman by the name of Harry M. ''Mac'' Johnston, played a key role in business development in Union County, until his recent and untimely death.

Mr. Johnston served as the director of the Union County Development Board for slightly more than 2 years, a short tenure to be certain. Despite the brevity of his administration, cut tragically short by a stroke, Mr. Johnston managed to achieve several important accomplishments that will be of great benefit to his fellow citizens. Thanks to the efforts of the late Mr. Johnston, the historic Buffalo Mill was purchased and re-opened, Union County was named as the home of South Carolina's new Juvenile Justice facility, and Upstate residents will celebrate community spirit this fall at the first ever ''Uniquely Union Festival.'' Without question, these are three excellent examples of Mr. Johnston's abilities as a civic booster and promoter of Union County, and had his life not been ended so abruptly, I am confident that he would have continued to have played an important role in the development of Union County.

Mr. President, the impact Mr. Johnston had in Union County was tremendous. He was a very capable and well liked man, and in memory of the many contributions he made to his community, the County Council recently voted to name the new county industrial park after this man. This is a fitting tribute to a person who dedicated so much of his efforts to making our State a better place to live. I commend the Union County Council on the honor they have paid Mr. Johnston and I extend my deepest condolences to his family on the loss they have suffered.

RETIREMENT OF AMBASSADOR DAVID COLSON

Mr. PELL. Mr. President, I take the floor today to pay tribute to a distinguished civil servant, Ambassador David A. Colson. Ambassador Colson is Deputy Assistant Secretary for Oceans in the Bureau of Oceans and International Environmental and Scientific Affairs. He will retire from 25 years of Government service on August 2; his departure is a loss to the Department of State and a loss to our country.

Dave Colson's career is an exemplar of public service. In 1966, he graduated from college and joined the Peace Corps, serving for 2 years as a teacher in Liberia. Thereafter, he enlisted in the United States Marine Corps. Upon completion of his tour of duty in 1971, he returned to law school. In 1975, he began working for the Department of State, the organization which has enjoyed the benefits of his efforts ever since.

Dave progressed rapidly up the career ladder at State. First as Attorney-Adviser, then as Assistant Legal Adviser, and finally as Deputy Assistant Secretary. He received a career appointment to the Senior Civil Service after only six years working in the Legal Advisers office. Since 1991, he has served with the rank of Ambassador.

Mr. President, those are titles and ranks. They are impressive, but they speak little to Dave's accomplishments and service to our country. The true measure of his contributions lies in the body of international law that he leaves behind and the people whose lives are better because of his work. In these areas, his achievements are legion.

At the Foreign Relations Committee, Ambassador Colson is best known for his expertise in the area of living marine resources. In the past three Congresses, he appeared before our Committee to testify on numerous marine resource treaties. Each of these advanced the interests of the United States and its citizens. Each of them improved the conservation of in the world's marine resources. Each of them developed further the framework of international law that governs the use of ocean space. And each of them was brought about either in large or partial measure through Ambassador Colson's efforts.

Dave Colson's accomplishments are not, however, confined to living marine resources. As Deputy Assistant Secretary for the OES Bureau at the State Department, he has been extensively involved in a variety of issues including the Law of the Sea Convention, the London Dumping Convention, a number of maritime boundary negotiations, navigation issues, and a range of matter associated with the Arctic and Antarctic.

Simply put, Dave Colson became one of the leading experts in the world on oceans. He is to be commended for his invaluable and lasting contributions. I wish him all the best as he embarks on this new phase of his life.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 31, the Federal debt stood at $5,188,888,625,925.87.

On a per capita basis, every man, woman, and child in America owes $19,550.80 as his or her share of that debt.

MAINTAINING OUR PARTNERSHIP WITH ISRAEL

Mr. PRESSLER. Mr. President, I want to take this opportunity to comment on our nation's continued support with its chief ally in the Middle East, Israel. Last week, the Senate completed action on the Fiscal Year 1997 Foreign Operations Appropriations Bill. The final legislation soon will be brought before us. This legislation represents the annual opportunity for Congress to demonstrate its clear support for the people of Israel.

This year is no exception. Both House and Senate bills would continue last year's investment levels to Israel—$1.2 billion for economic assistance and $1.8 billion in military aid. I commend the House and Senate Chairmen of the Foreign Operations Appropriations Subcommittee—Senator MCCONNELL and Congressman CALLAHAN for their efforts to maintain our full commitment to the people of Israel.

I have been a strong critique of foreign aid excess. However, I firmly believe that one of the wisest investments we can make is to the economic viability and national security of Israel. Failure to maintain that commitment could pose even greater costs in the future—costs in lost jobs, lost opportunities and far worse, even lost lives.

I have been concerned of late with the proliferation of advanced weapons to nations that traditionally have been hostile to Israel's existence. In the past year, Iran has acquired advanced cruise missiles from China, and has engaged in an aggressive campaign to develop a nuclear weapons and ballistic missile program. It also recently was reported that Syria may have obtained advanced ballistic missile technology from China. It is no secret that Syria is seeking to develop a far more capable ballistic missile than the Scud missiles that rained down on Israel during the Gulf War. Given these developments, it is crucial that Israel maintains a technological edge in its defense systems. Our continued support of Israel's defense, therefore, is vital.

Mr. President, as we all know, just a few weeks ago, a joint session of Congress was held in order to hear an address by the newly elected Prime Minister of Israel, Binyamin Netanyahu. We witnessed a stirring speech. Prime Minister Netanyahu deserves our congratulations for articulating a thoughtful vision for the people of his country.

Perhaps most important, the people of Israel deserve our congratulations for demonstrating their commitment to democratic values. For nearly a half century, the people of Israel have built and preserved a democracy despite constant hardship and hostility. The recent elections are proof that the people of Israel are determined to withstand pressures from without and within to maintain a democracy, build a vibrant economy and achieve peace and security in the entire region.

Prime Minister Netanyahu came to Washington as Israel's first popularly elected Prime Minister. Rather than be the choice of a governing coalition, Prime Minister Netanyahu is the people's choice. The people chose him to lead the Israeli government, rather than the government itself.

The Prime Minister's speech to Congress demonstrated his appreciation and understanding of the American-Israeli partnership—a partnership that goes beyond common political and strategic bonds. Both nations share a common set of values —values of freedom, individual responsibility, and hope and opportunity. The Prime Minister noted that it was no coincidence that the birth of Israel coincided with the rise of the United States as the world's preeminent power. He is right.

I also was particularly heartened with the Prime Minister's assurances that he is committed to establishing real peace in the region. Indeed, he articulated a clear, commonsense vision of how peace can be established. He called this vision the ''three pillars of peace.'' The pillars being security, reciprocity, and democracy and human rights. Americans should understand and appreciate each one of these pillars.

It was Ronald Reagan who popularized the maxim ''peace through strength.'' Actually, as Prime Minister Netanyahu reminded us, that maxim has its origin in Hebrew verse, which when translated, reads as follows: ''God will give strength to His people; God will bless His people with peace.'' We are a nation long blessed with peace because we always made the defense of this nation a high priority. America's combined economic and military power provided the strength needed to secure a peaceful victory in the Cold War. Similarly, we cannot undermine Israel's security in the name of peace. That, in essence, was what the Israeli elections were all about.

Therefore, we should not question Israel's commitment to peace if it demands as a prerequisite an end to terrorist aggression, or state-sponsored attacks against Israeli citizens and cities. We should not second guess Israel's desire to move the peace process forward if it demands as a prerequisite that existing peace agreements be respected by all sides. We should embrace these conditions for they have at their core the values of any true democracy—the values of personal freedom and the rule of law. In essence, that is what Israel is seeking from its neighbors. American know peace cannot exist without respect for individual rights and the rule of law. The people of Israel should expect no less.

I applaud Prime Minister Netanyahu for being unwilling to believe that Israel will remain the Middle East's one lone democracy. There is no reason that the shared traditions of our two countries—human rights, democracy, free speech, religious tolerance—cannot be the growing traditions in any part of the world. Democracy has seen advances in Asia and Africa. The Middle East should not be immune to its benefits, one of them being a lasting peace.

Prime Minister Netanyahu understood and demonstrated to all of us that democracy is the ultimate method to achieve peace. After all, as he correctly pointed out, ''modern democracies do not initiate aggression.'' That being the clear case, and understanding the values inherent in democracies, there should be no question in the minds of those who seek peace, that the Middle East's lone democracy should be the sole sovereign of the city of Jerusalem. I am pleased that Congress took a stand for one, unified city of Jerusalem by voting to move our Embassy there. Is it no surprise that under a unified democratic system, Jerusalem has witnessed peace and protection to members of all nationalities that have come to worship there? Certainly, it is no surprise to Americans. We know, as Prime Minister Netanyahu said, that a city divided is not a city at peace or tolerant of its diversity.

Mr. President, let me conclude my remarks with the subject I started with—our continued support for Israel. Prime Minister Netanyahu has vowed that he would like to take Israel down the road of less reliance on U.S. economic assistance, and greater reliance on the powerful forces of capitalism and free markets. I commend him for setting his nation on this course of economic independence. This decision demonstrates his confidence with his fellow citizens of Israel to build a vibrant, strong, self-reliant nation. That being the course he has set, the best we in the United States can do is help him and the people of Israel achieve that admirable goal.

As a U.S. Senator, I have watched and admired a brave and determined people build a democracy under brutal circumstances that more than tested their resolve. This past year was no exception. It has been a year that witnessed the assassination of Israel's great leader, Yitzhak Rabin, repeated terrorist attacks, and a very contentious election. Through it all, the people of Israel stood strong, holding to its values and its belief that their home, their country, will stand strong, prosperous and at peace. The people of the United States cannot help but admire that determination. The people of the United States stand ready to help the people of Israel as they move down a road of peace, security and economic self-reliance.

OREGON COAST AQUARIUM

Mr. HATFIELD. Mr. President, for 30 years I have had the pleasure of representing a State known for its emphasis on educating its citizens on the importance of understanding and preserving their surrounding environment. The Oregon Coast Aquarium serves as a wonderful example of this unique spirit of conservation.

Visitors at the Oregon Coast Aquarium are able to experience the indigenous coastal habitat and view many examples of marine creatures and plant life. However, the aquarium is much more than a collection of exhibits, it is an education center. The theme chases a raindrop from the moment it drops from the sky and hits the Coast Range, until it reaches its final destination, the Pacific Ocean. By following this path through numerous interactive exhibits, theaters, and touch pools, children and adults alike are able to learn about the native Oregon coastal environment and its important function.

Located just south of Newport along the scenic Oregon coastline, the Oregon Coast Aquarium has recently become the rehabilitation center for the 16-year-old orca whale Keiko, known for his role in the movie ''Free Willy.'' The aquarium was selected by the Earth Island Institute, whose job it was to find a suitable new home for the 21-foot-long and 7,000-pound killer whale, as the only facility in the country that satisfied the necessary criteria. Keiko was transported, via a UPS B–130 cargo jet, to the aquarium from an amusement park in Mexico, where his health had been rapidly deteriorating. Since his arrival in January, Keiko has steadily improved and is moving ever closer to the goal of his eventual release.

I am honored today to recognize the Oregon Coast Aquarium and welcome the most recent addition to our coastal waters.

On Sunday, July 28, 1996, the New York Times published a full page article on Keiko and the Oregon Coast Aquarium.

Mr. President, I ask unanimous consent that a copy of this article be printed in the RECORD.

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

[From the New York Times, July 28, 1996]

WILLY NOT FREE, BUT MENDING

(By Donald S. Olson)

On Jan. 7 of this year thousands of people lined Highway 101 south of Newport, Ore., to welcome a 7,720-pound, 21-foot-long celebrity from Mexico City. Keiko, the 16-year-old orca whale who starred in the movie ''Free Willy,'' arrived by U.P.S. B–130 cargo jet. He was loaded onto a flatbed truck and hauled past cheering crowds to his new home, the Oregon Coast Aquarium. Several aquariums wanted Keiko, but the Oregon Coast was chosen because it was the only one with the space to build a pool large enough to rehabilitate him for possible release into the wild—the first such attempt ever made with a captive orca.

Since it opened in 1992, the magnificent 37-acre facility, about two and a half hours southwest of Portland, has drawn me back to Newport and the coastal region around Yequina Bay several times. Situated on the bay's south side, adjacent to an estuary teeming with wildlife, the aquarium is designed in the vernacular of seaside buildings such as boat sheds, with imaginative interior detail. The pillars, for instance, are cast with sandy reliefs of marine life, and the doorhandles are octopus tentacles and heron heads cast in bronze.

A sculptured school of 150 thrashing coho salmon hanging in the front entry hall leads to the first exhibit, where a short video introduces the concept behind the aquarium. Following the course of a raindrop that falls in the Coast Range, trickles down streams, flows into rivers, washes through wetlands and finally reaches the sea, the galleries, arranged in a circular pattern, present a cross-section of various coastal habitats linked by water into one vast inter-connected marine ecosystem.

The first gallery focuses on Oregon's sandy beaches, which support crabs, shrimps, sea stars, sea pens and sand dollars. The flatfish, whose camouflage abilities are highlighted in a special tank, is one of the stranger creatures on view. As it grows it changes color, its eyes migrate toward one another, and it begins to swim sideways. A central floor-to-ceiling walk-around tank recreates the pier-and-pilings environment found along Newport's Bay Front. Leopard sharks, smelt and tubesnouts glide in and out among the piers, barnacles and anemones attach themselves to pilings.

A favorite spot for children (and many adults) is the Touch Pool in the next gallery, called Rocky Shores. Here, under the genial tutelage of aquarium volunteers, visitors can gently stroke starfish and chitons. Smaller tanks contain oddities like the grunt sculpin, which crawls or leaps across rocks with broad, fingerlike fins, the pea sized spiny lumpsucker and the decorated war bonnet. An array of delicate anemones wave their pulpy pink, white and purple tentacles in other tanks.

Visitors often gasp in surprise when they enter the Coastal Waters Gallery and see the central moon jellies exhibit. The glass of the oval-shaped tank magnifies these pink, brainless beauties as they gracefully palpitate up toward the top and drift down again. Sea nettles, another jellyfish species, look like aquatic, caramel-colored Art Nouveau lampshades, and the fragile bell jellies resemble tiny transparent light bulbs. For sheer creepiness, on the other hand, nothing compares with the hagfish, coiled like a pale, bloated sausage in its own tank. This repulsive creature covers dead fish with a glaze of slime, swims inside, and proceeds to eat its way out again. A close runner-up in the ugly department is the huge, primitive-looking wolf-eel, which uses its mouthful of buck teeth to crush shellfish.

The circular route of the galleries brings the visitor to the long covered portico near the entrance, beyond which are the outdoor exhibits—four acres of specially constructed caves, cliffs and pools that distinguish this aquarium.

Both aboveground and through underwater viewing windows visitors can watch sea lions, seals, sea otters, octopuses and seabirds. The otters, rescued as infants from the Exxon Valdez oil spill in Alaska, are the only animals not indigenous to Oregon. They look cuddly and playful, but they're very territorial and aggressive. Cody, the 80-pound male, has smashed the protective glass window on more than one occasion.

Keiko, of course, is now the star attraction, housed in his own state-of-the-art pool, 150 feet long, 75 feet wide and 25 feet deep. Although Keiko did not come to the aquarium to perform, his trainers have devised a series of brain games and high-energy remedial workouts—including breaches, barrel rolls, bows and high-speed swims—to improve his physical abilities and keep him mentally challenged. To the delight of visitors, he also spends a great deal of time at the underwater viewing windows, watching the people watch him.

The Free Willy-Keiko Foundation, which now owns the animal, will make the final decision regarding his release. After Life magazine brought Keiko's plight to the public's attention in 1993 and children around the world bombarded the Warner Brothers Studio with letters demanding to know why ''Free Willy'' was ailing and still in captivity the studio hired Earth Island Institute, an environmental advocacy group headquartered in San Francisco, to find a facility where the whale—then a ton underweight, with a collapsed doral fin and skin lesions—could be rehabilitated.

The institute set up the Free Willy-Keiko Foundation, and Warner Brothers donated $2 million of the $7.3 million needed to complete his new pool. The rest of the money, for relocation, veterinary care and **penses (such as the 120,000 pounds of fresh-frozen fish Keiko will eat every year), has come from private donations. The goal of the foundation and the Oregon Coast Aquarium is to make Keiko well enough to so that he can eventually be returned to his family pod. Already there are signs that his health is steadily improving, his veterinarian and others at the aquarium say. He is eating nearly twice as much as he did in Mexico City, and because of the change in water chemistry—he now swims in cold fresh seawater instead of warm chlorinated water—he's shed a layer of skin, including patches of lesions near his tail flukes and pectoral flippers.**

Dr. Lanny Cornell, his veterinarian, recently stressed, however, that while the initial news is good, ''it's a very short time to make long-term predictions about his eventual recovery.''

Other factors beside Keiko's health must also be taken into consideration before he can be considered ready for life in the wild. For one thing, each orca pod communicates with its own ''dialect'' based on geographic location. Keiko can't be released into the Pacific because he wouldn't be able to communicate with the West Coast orcas. Willy had been captured off the coast of Iceland; marine biologists must find his original pod, and it's possible that they may no longer be alive. In the meantime, from underwater viewing windows, visitors now have a chance to see an orca explore an environment that recreates a portion of his natural habitat.

Since Keiko's arrival, Newport, a small coastal town on the north side of Yaquina Bay, has experienced a major tourist boom.

From the aquarium it takes about five minutes to reach the town via the Yaquina Bay Bridge, build in 1932 to 1936 as a W.P.A. project.

South Jetty, the oldest on the West Coast, extends far out into the Pacific, protecting the entrance into the bay. The section of Newport that stretches along Highway 101 is little more than an anonymous-looking strip mall, but a couple of areas still preserve remnants of the old fishing community's crusty past.

Nye Beach, a neighborhood that fronts on the Pacific Ocean just west of Highway 101, is full of the weathered, unpretentious cottages and beach shacks that until recently characterized Newport and most Oregon coastal towns.

The Sylvia Beach Hotel, a former boardinghouse that is now a cozy hotel, is perched above the broad, white-sand beach.

From Highway 101, the road curves down past a Coast Guard station to Bay Boulevard, the main street where Newport's beleaguered fishing industry is still headquartered. The Bay Front, with its assortment of seafood restaurants, is a good place to sample fresh local fish, oysters, shrimp, mussels, crabs, geoducks (pronounced gooey-ducks) and clams. White clam chowder, thick as pudding, is a staple in these parts. More seafood to go can be found, uncooked, at the indoor counters of the bayside canneries and fish-processing plants. In seconds they can clean, crack and package a whole Dungeness crab, one of the sweetest-tasting crustaceans in existence. The Bay Front is the liveliest spot in Newport.

In addition to local craft, antiques, gift and candy shops, there's Mariner Square, with a child-pleasing Ripley's Believe It or Not. Dozens of colorful trawlers still dock at Newport's marina, chugging out to fish for cod, flounder, tuna, shrimp and oysters. But the recent, federally imposed quotas on salmon and halibut has slowed the town's charter-boat business.

Strolling along the narrow bayside sidewalks, visitors are often surprised to hear the grunting gutteral barks of nearby sea lions. There are so many male sea lions in Yaquina Bay that residents call it the Bachelor Club. The females stay in the sea with their young, but the hulking males like to congregate on waterside docks.

The stretch of Highway 101 from Newport to Lincoln City, 22 miles north, is filled with a spectacular array of the saltwater habitats recreated at the aquarium. One of the best areas for viewing coastal wildlife is Yaquina Head, on the northern outskirts of Newport. Here, in the water and on the rocks below Oregon's oldest lighthouse, a gleaming white tower activated in 1873, a raucous assortment of harbor seals, sea lions, cormorants, murres, puffins and guilemots make their home.

This is also a good spot for whale watching in the wild. If the spring and early summer more than 18,000 gray whales pass by on their seasonal migration from Alaska to Baja California.

Once or twice a year orca whales, such as Keiko, also make their way into Yaquina Bay. After gulping down whatever fish is available—and often a sea lion or two they swim back to the open sea. They bay itself is a thriving oceanic ecocenter.

Not only does it support 200 species of birds, but it is so clean that every day at high tide the Oregon Coast Aquarium pumps two million gallons of water directly from the bay into their tanks and another two million into Keiko's pool.

IN TRIBUTE TO JOHN PAUL BOLLMAN

Mr. HATFIELD. Mr. President, today I come to the floor to pay tribute to a great man who has dedicated his life to helping people and families in need. John Paul Bollman has grown up in the small town of Dallas, OR. His family has made funeral service their life's work and as a result, he has helped thousands of people cope with the most difficult loss a family can experience. Over the past 4 decades he has worked tirelessly to help people in need by extending kindness and compassion to acquaintances and strangers alike, each as if they were an old friend. A man of conviction, he is deeply admired by his peers, respected for his principles, and highly regarded as a noteworthy civic leader. Throughout his life he has embodied the true sense of a Christian. He has helped all people, doing so humbly and with great adoration from his community.

John has spent countless hours working for the betterment of the community and has achieved a number of significant accomplishments as a result. Serving on the boards of the local school district, the education service district, the local hospital, along with numerous civic and professional boards, John has dedicated his time to improving the community at all levels. Whether he has taken the time to offer a helping hand, a kind word, or a heartfelt gesture, he is always available for those who need him. He recognizes that people are busy today and don't always want to invest their time helping in a classroom or teaching a high school student about a business or profession, so John leads by example and hopes that his involvement will encourage others to give of their time as well. He realizes that an opportunity to explore a career path at a young age can make the difference between providing a child an incentive to stay in school and dropping out. For many young people, John has shown them the connection and the importance of receiving a good education.

Over the years, many fortunate people have had a unique opportunity to learn from this man who has made helping others his life's work. Following in the steps of his father, John entered the funeral service in 1960. It was with a great deal of pride, that John welcomed his son Michael into the family business 10 years ago, to follow in the footsteps of his father and grandfather before him. I share a great fondness for the Bollman family, for it was John's grandfather, Dr. L.A. Bollman that brought me into this world 74 years ago. I have known four generations of this family and have seen the attributes of his father and grandfather in John and have seen them passed on to his children. His daughter Amy worked in my offices in Washington, DC and Oregon and I saw in her the qualities of her father. She, too, is an outstanding role model in her community. We need more people like John Bollman—people willing to give their time and their hearts to help others. Mr. President, I would like to take this opportunity to thank John for his tireless service to those in need and let him know that his selfless dedication to his profession and his community does not go without recognition and appreciation. The town of Dallas, OR and all who know him are both fortunate and blessed. John Paul Bollman embodies the words of Ralph Waldo Emerson in his famous poem entitled Success:

> To laugh often and much; to win the respect of intelligent people and the affection of children; to earn the appreciation of honest critics and endure the betrayal of false friends; to appreciate beauty, to find the best in others; to leave the world a bit better, whether by a healthy child, a garden patch or a redeemed social condition; to know even one life has breathed easier because you have lived. This is to have succeeded.

TRIBUTE TO NINA H. REEVES

Mr. HEFLIN. Mr. President, my friend Nina Reeves will soon be retiring from her position as youth director of the North Alabama Conference of the United Methodist Church after nearly 50 years. She will be leaving her post in August 1996 after the conference's international peace camp. The official publication of the North Alabama Conference, the Voice, published a tributary interview with Nina in its April issue, saying,

> If the North Alabama Conference has an icon, then Nina H. Reeves definitely would be that person * * * From thousands of youth and hundreds of events, the ministry of Nina Reeves stretches from the lives of each youth she has touched throughout the years.

Nina Reeves grew up in Yazoo City, MS and was reared as a Presbyterian. She went on to attend Millsaps College and later graduate school at the University of Alabama, earning a master's degree in physical education and recreation. After working part time for the Wesley Foundation, she joined the North Alabama Conference at the early age of 22. She had planned to be a teacher, but, even though she didn't know that much about the Methodist Church at the time, took the position as youth director at the persistent urging of Brother V.H. Hawkins, who vowed to teach her everything she needed to know. Hawkins had seen her at work leading folk dancing, storytelling, and recreation at a Tuscaloosa Methodist Church. She calls herself the oldest living youth worker.

Each year, Nina has brought a large group of Methodist youth from all over north Alabama to Washington each year. While in the capital, they met with Government leaders to get acquainted with public affairs and the political process. They also visited the United Nations headquarters in New York City. The annual breakfast town meetings with the Alabama congressional delegation at the Capitol complex were truly outstanding and informative. I was always impressed with these young people, since they seemed to have a genuine interest in Government and world affairs. They also tended to be intellectually curious and quite progressive in their thinking, believing that they had the ability to make a real difference in their communities, State, Nation, and world. Nina Reeves deserves much of the credit for instilling these kinds of positive attitudes in the youth to whom she ministered and offered guidance over the years.

I am pleased to commend and congratulate Nina Reeves for her nearly 50 years of service to the Methodist youth of north Alabama. She has been their spiritual guide, their teacher, and their friend. She will be greatly missed, and never really replaced, but her immeasurable contributions and life of service in shaping the leaders of tomorrow will never be forgotten. I wish her all the best as she enters the well-deserved retirement phase of her life.

TRIBUTE TO GRADY LILES

Mr. HEFLIN. Mr. President, Grady Liles, the moving figure behind bringing the NCAA division II national championship game and with it national recognition to the Shoals area of north Alabama, will be honored for his outstanding community leadership on September 5, 1996, at the Florence, AL, Conference Center. He also originated the idea of the Harlon Hill Trophy to honor the top collegiate football player in division II. It is named after a former University of North Alabama player who went on to star with the Chicago Bears, winning the Jim Thorpe Award in the mid-1950's.

In 1985, Grady helped organize and establish the Shoals National Championship Committee, which made a successful bid to host the NCAA division II football championship game. The nationally televised game has been played in the Shoals for 10 years.

Grady Liles is a native of Florence and was the 1947 golden gloves boxing champion and the 1950 middle-weight champion in the U.S. Marine Corps. In 1957, he helped organize the Florence rescue squad, which was the first volunteer squad in north Alabama. He served as a firefighter for 13 years and was selected Alabama's fireman of the year in 1965. In 1963, he had successfully lobbied for the approval of the State fireman's bill, which regulates and controls the maximum working hours for city firefighters. This bill was the first to help firefighters on a Statewide level.

Grady is a man of many awards. He was named ''outstanding young man'' by the Jaycees in 1965 and 1967 and that same year was selected for outstanding personalities of the south in 1967. In 1968, he received the Distinguished Service Award after saving the life of an infant who had stopped breathing through mouth-to-mouth resuscitation. He was selected Shoals citizen of the year in 1987.

He is a member of the Florence Civitan Club, Shoals Chamber of Commerce, American Legion, Knights of Phythias, and Shrine Club. He is also president of the UNA Sportsman's Club and the National Harlon Hill Award Committee and chairman of the Shoals National Championship Committee.

I am pleased to commend and congratulate Grady Liles for all his energetic boosterism and tireless community leadership. I wish him all the best for a memorable night of honor and roasting on September 5 in Florence.

THE 39TH ANNUAL RED SALTSMAN PICNIC

Mr. FORD. Mr. President, next Monday evening will mark the 39th annual Red Saltsman picnic in Sorgho, KY. For a few hours that evening a little town of less than 100 people will be the hot spot for the evening; host to thousands of people listening to good music, eating barbecue and bringing each other up to date on the latest political happenings.

It's all thanks to the good will of Katherine and Red Saltsman who 39 years ago just wanted to say thanks to the regulars at their restaurant known as the fish house of the south. That little picnic for family and friends just sort of grew.

Now, you'll not only find friends and patrons of Red's restaurant, but politicians beating a path to the picnic as well. They know that if they want to get their message out, they have to first convince the political movers and shakers who come to Red's.

But perhaps the best things about this picnic is that no matter how big the picnic gets, it's always Red's picnic. Oh there's a bigger spread and it's become a permanent stop on the Kentucky campaign trail, but the good intentions of one man and his family to say thanks and give back to the community are still at the heart of this picnic.

Red and his family are pillars of this community. They're constantly doing far more than their part to ensure Kentucky is the kind of place each of us can call home.

And so in a way, this picnic reminds us how much we each can do to make our communities thrive. And for that reason—more than the good food and music—we are all grateful to Red Saltsman.

AGRICULTURE CONFERENCE REPORT—PUBLIC LAW 480 FUNDING

Mr. LEAHY. In the Appropriations Committee's Subcommittee on Agriculture, Rural Development and Related Agencies' conference, on July 30, the conferees accepted a proposal to reduce the Senate's title III funding level by $10.5 million and increase title I funding by approximately $7.9 million. I do not serve on the subcommittee but I am concerned about the implications of this action. I would like to hear from the Senator from Iowa, who has expertise on the subject through his years of service both on the Agriculture Committee and on the Agriculture Appropriations Subcommittee. Senator HARKIN, what are your thoughts about this action?

Mr. HARKIN. I thank the distinguished Senator from Vermont for raising this issue. His work on food aid issues has been unsurpassed. It was under his leadership as chairman of the Senate Committee on Agriculture, Nutrition, and Forestry in 1990 and as ranking member during the 1996 farm bill, that the Public Law 480 Food for Peace program continues to benefit the world's starving and undernourished people.

I share the concerns of the Senator from Vermont regarding the funding level for the title III Food Aid Program adopted in conference. It would have been much better, in my view, to have retained the Senate level of funding for title III. Title III is an important tool in combating the long-term obstacles to food security, yet it has been cut significantly over the past several years. The title III fiscal year 1995 funding level was down by well over 50 percent from fiscal year 1994, and the number of countries receiving title III food aid dropped from 13 in fiscal year 1994 to 7 in fiscal year 1995.

Title III serves the poorest and most food-deficient countries. In times of shrinking budgets, it is especially important that in using the available funds priority be given to addressing the most pressing needs. Unfortunately, the $40 million contained in the President's budget and in the Senate bill already represented a substantial cut in title III funding, as compared to $50 million in fiscal year 1996, $117.4 million in fiscal year 1995, $255.1 in fiscal year 1994, and $333.6 million in fiscal year 1993. So I believe that at a minimum the title III funding should have been maintained at the $40 million level in the President's budget and the Senate bill.

Mr. LEAHY. I thank the Senator for his comments. I share his concern that by cutting this program we are cutting aid to those populations that are the most needy. I can only hope that this occurred because of a lack of understanding about what this program does and what populations it serves. These programs are now tightly focused on the poorest, most food-deficit countries in the world such as Bangladesh and Ethiopia.

Let me give an example of the way the program operates: Title III wheat in Ethiopia has been used to capitalize an emergency reserve. This has helped to stabilize grain markets, while providing a cushion against periodic drought. Under this program Private Voluntary Organizations such as Catholic Relief Services and Care can borrow from this reserve to meet emergency requirements, with a promise to replenish the reserve in the future. Without this facility we would have greater requirements for costly emergency feeding programs.

So here's a way, in a time when we are cutting back on total food aid dollars, that we can help alleviate problems before they become expensive emergency situations. I think the U.S. Congress should be in favor of this type of preventive activity.

Mr. HARKIN. The Senator from Vermont is certainly correct in his comments about the title III program. The focus of title III is on structural, policy reforms and activities that directly affect or improve food production and consumption, including nutrition. Helping the poorest, most food-deficient countries address these issues will help them see their way to food security. Reforms achieved through title III are an important tool in a longer term strategy for poorer developing countries.

Mr. LEAHY. I understand that the Senator from Iowa also shares my grave concerns about the consistent reductions in our funding of the Public Law 480 Food for Peace Program—a key part of our global effort to foster international food security throughout the globe.

Mr. HARKIN. The Senator from Vermont is correct. In addition to our discussion about title III, I would like to speak about my deep concern regarding the overall cuts in funding for the Public Law 480 Food for Peace Program in recent years. These cuts, combined with higher commodity prices and the virtual disappearance of surplus commodities, have caused a dramatic reduction in the volume of U.S. food aid. Since fiscal year 1993, total food aid provided by the United States has dropped by about two-thirds—from 8 million metric tons to about 2.8 million metric tons this fiscal year.

The United States has been generous in providing food aid. Since its inception in 1954, our Food for Peace Program has delivered over 372 million metric tons of food to needy countries—and Americans sincerely want to help alleviate world hunger. We also realize that Public Law 480 assistance works to our own benefit. It is a win-win proposition for our farmers and agricultural businesses. In the short term, purchases for Public Law 480 shipments strengthen markets for U.S. commodities. Over the long term, Public Law 480 helps develop world markets for U.S. agricultural exports. Forty-three nations that once received U.S. foreign aid are now among the top consumers of U.S. agricultural products.

It is very unfortunate that these cuts in Public Law 480 are occurring at a time when world food aid needs are growing dramatically. These needs are expected to double by 2002 according to a report by USDA's Economic Research Service issued in October 1995. Regrettably, as U.S. food aid tonnages have dropped, so have those of other donor nations, resulting in only about 6 million metric tons of food aid annually to meet need amounting to some 27 million metric tons of food.

Over 800 million people on Earth are now chronically undernourished. The people hardest hit are young children and pregnant and lactating mothers who are deprived of adequate nutrition at the most critical times in their lives because of abject poverty and horrible living conditions. They suffer from frequent illness, poor growth and development, lack of productivity, and early death.

Mr. LEAHY. The Senator is correct. Under the Public Law 480 program, each title addresses a vital, yet different need and population group. These titles are like tools in a toolbox. Each one has a vital function; each one is needed but at different times.

Mr. HARKIN. We have discussed the importance of title III in targeting countries with low incomes, high infant mortality, and low caloric intakes. Title II is similarly focused on addressing the critical needs of the hungry and malnourished. Title II saves lives through emergency assistance and improves health, incomes, and living conditions through development programs conducted by private voluntary organizations.

It is particularly important that title II have enough resources so that emergency food aid demands do not consume resources that would otherwise be available for the development component of title II carried out by

PVOs. Eroding these development programs—which are critical to alleviating poverty and hunger over the long term—to meet overriding emergency demands is surely a stark example of eating one's seed corn.

By contrast, the title I market development program serves a completely different population. Title I is important to U.S. agriculture and to foreign market development—and I am concerned about the funding cuts it has suffered—but I also believe that we must seek a reasonable balance among the three titles in light of pressing human needs.

Given the growing need for food aid and the reductions in Public Law 480 funding, I encourage the administration to make full use of its authority to focus the limited Public Law 480 funds on meeting the priority needs of the poorest and most food-deficient countries.

Mr. LEAHY. I agree with the Senator from Iowa and I know that we can work in concert with the administration and the Congress to ensure that our limited food aid resources are effectively used to promote food security.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Sherman Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:15 a.m., a message from the House of Representatives, delivered by Ms. Geotz, one of its reading clerks, announced that the House passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3006. An act to provide for disposal of public lands in support of the Manzanar Historic Site in the State of California, and for other purposes.

H.R. 2823. An act to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes.

H.R. 2636. An act to transfer jurisdiction over certain parcels of Federal real property located in the District of Columbia, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 1051. An act to provide for the extension of certain hydroelectric projects located in the State of West Virginia.

H.R. 3663. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to permit the Council of the District of Columbia to authorize the issuance of revenue bonds with respect to water and sewer facilities, and for other purposes.

S. 531. An act to authorize a circuit judge who has taken part in an in banc hearing of a case to continue to participate in that case after taking senior status, and for other purposes.

S. 1757. An act to amend the Developmental Disabilities Assistance and Bill of Rights Act to extend the Act, and for other purposes.

S.J. Res. 20. Joint resolution granting the consent of Congress to the compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, entered into between the States of West Virginia and Maryland.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3603) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3754) making appropriations for the legislative branch for the fiscal year ending September 30, 1997, and for other purposes.

At 6:04 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 3215. An act to amend title 18, United States Code, to repeal the provision relating to Federal employees contracting or trading with Indians.

H.J. Res. 166. Joint resolution granting the consent of Congress to the Mutual Aid Agreement between the city of Bristol, Virginia, and the city of Bristol, Tennessee.

MEASURES REFERRED

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

H.R. 2636. An act to transfer jurisdiction over certain parcels of Federal real property located in the District of Columbia, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2823. An act to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3006. An act to provide for disposal of public lands in support of the Manzanar National Historic Site in the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following measures were read the second time and placed on the calendar:

S. 2006. A bill to clarify the intent of Congress with respect to the Federal carjacking prohibition.

S. 2007. A bill to clarify the intent of Congress with respect to the Federal carjacking prohibition.

H.R. 2391. An Act to amend the Fair Labor Standards Act of 1938 to provide compensatory time for all employees.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on August 1, 1996, he had presented to the President of the United States, the following enrolled bills and joint resolution:

S. 531. An act to authorize a circuit judge who has taken part in an in banc hearing of a case to continue to participate in that case after taking senior status, and for other purposes.

S. 1757. An act to amend the Development Disabilities Assistance and Bill of Rights Act to extend the act, and for other purposes.

S.J. Res, 20. Joint resolution granting the consent of Congress to the compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, entered into between the States of West Virginia and Maryland.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3574. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon,'' received on July 29, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3575. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon,'' received on July 26, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3576. A communication from the Acting Under Secretary for Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Use of Trisodium Phosphate on Raw Chilled Poultry Carcasses,'' (RIN0583–AB65) received on July 25, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3577. A communication from the Secretary of the Department of Agriculture, transmitting, pursuant to law, a report on animal welfare enforcement for fiscal year 1995; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3578. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act; to the Committee on Appropriations.

EC–3579. A communication from the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, a notice concerning a multi-function cost comparison; to the Committee on Armed Services.

EC–3580. A communication from the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, a notice concerning a multi-function cost comparison; to the Committee on Armed Services.

EC–3581. A communication from the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, a notice concerning a multi-function cost comparison; to the Committee on Armed Services.

EC–3582. A communication from the Clerk of the Court of Federal Claims, transmitting, pursuant to law, a report on two legal questions relative to cable television; to the Committee on Armed Services.

EC–3583. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to provide for adjustments to capital and operating assistance grants for the public transit program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC–3584. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the report of a rule entitled ''Management Official Interlocks,'' (RIN1557–AB39, 3064–AB71, 1150–AA95) received on July 25, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–3585. A communication from the Acting Director, Office of Management and Information, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''West Coast Salmon Fisheries,'' (RIN0648–ZA20) received on July 29, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3586. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives,'' (RIN2120–AA64) received on July 29, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3587. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to renew and improve certain activities of the National Highway Traffic Safety Administration for fiscal year 1997; to the Committee on Commerce, Science, and Transportation.

EC–3588. A communication from the Acting Director of the Office of Fisheries Conservation and Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States,'' (RIN0648–AI02) received on July 26, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3589. A communication from the Acting Director of the Office of Fisheries Conservation and Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Tuna Fisheries,'' received on July 26, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3590. A communication from the Acting Director of the Office of Fisheries Conservation and Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Tuna Fisheries,'' (RIN0648–AI29) on July 26, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3591. A communication from the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report relative to the Telecommunications Act of 1996; to the Committee on Commerce, Science, and Transportation.

EC–3592. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation relative to department assets; to the Committee on Energy and Natural Resources.

EC–3593. A communication from the Secretary of Energy, transmitting, pursuant to law, the report of rebates from the Low-Level Radioactive Waste Surcharge Escrow Account for calendar year 1995; to the Committee on Energy and Natural Resources.

EC–3594. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Horses From Mexico,'' received on July 31, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3595. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Dried Prunes Produced in California,'' received on July 31, 1996; to the Committee on Agriculture, Nutrition,and Forestry.

EC–3596. A communication from the Managing Director, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled ''Modification of Definition of Deposits in Banks or Trust Companies,'' received on July 30, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–3597. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''National Flood Insurance Program,'' (RIN3067–AC26) received on July 30, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–3598. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Biological Warfare Experts Group Meeting: Implementation of Changes to Export Administration Regulations,'' (RIN0694–AB37) received on July 31, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–3599. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–3600. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–3601. A communication from the Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule concerning the groundfish of the Bering Sea and Aleutian Islands area; to the Committee on Commerce, Science, and Transportation.

EC–3602. A communication from the Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule concerning fisheries of the Exclusive Economic Zone off Alaska, (RIN0648–AH03) received on July 30, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3603. A communication from the Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of six rules including a rule relative to a scallop fishery off Alaska, (RIN0648–AF81) received on July 30, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3604. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, a report relative to domestic, interstate, and interexchange telephone services; to the Committee on Commerce, Science, and Transportation.

EC–3605. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a rule entitled ''Oil Pipelines Cost-of-Service Filing Requirements,'' received on July 26, 1996; to the Committee on Energy and Natural Resources.

EC–3606. A communication from the Director of the Office of Surface Mining, Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, a rule concerning the Wyoming Regulatory Program, (WY022FOR) received on July 30, 1996; to the Committee on Energy and Natural Resources.

EC–3607. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of three rules including a rule entitled ''Illinois: Final Authorization of Revisions to State Hazardous Waste Management,'' (FRL5544–9, 5540–6, 5545–2) received on July 31, 1996; to the Committee on Environment and Public Works.

EC–3608. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of three rules including a rule entitled ''Cypermethrin; Pesticide Tolerance,'' (FRL5544–8, 5389–6, 5387–5) received on July 26, 1996; to the Committee on Environment and Public Works.

EC–3609. A communication from the Director of the Office of Regulatory Management and Information, transmitting, pursuant to law, the report of eleven rules including a rule entitled ''Fenpropathrin; Pesticide Tolerance'' (FRL5388–1, 5372–6, 5388–2, 5387–2, 5385–3, 5386–8, 5543–7, 5539–9, 5543–6, 5535–3, 5535–2); to the Committee on Environment and Public Works.

EC–3610. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicaid Program'' (RIN0938–AH31), received on July 31, 1996; to the Committee on Finance.

EC–3611. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 96–40,'' received on July 30, 1996; to the Committee on Finance.

EC–3612. A communication from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Commerce in Explosives'' (RIN1512–AB61), received on July 25, 1996; to the Committee on Finance.

EC–3613. A communication from the Chief of the Regulations Unit, Internal Revenue

Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 96–38,'' received on July 29, 1996; to the Committee on Finance.

EC–3614. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report of the Treasury Bulletin for calendar year 1996; to the Committee on Finance.

EC–3615. A communication from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule concerning ammunition feeding devices (RIN1512–AB35), received on July 26, 1996; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled ''Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1996'' (Rept. No. 104–347).

By Mr. MCCAIN, from the Committee on Indian Affairs, without amendment:

H.R. 2464. A bill to amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes (Rept. No. 104–348).

S. 199. A bill to repeal certain provisions of law relating to trading with Indians (Rept. No. 104–349).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1952. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works:

Nils J. Diaz, of Florida, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2001.

Edward McGaffigan, Jr., of Virginia, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 2000.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. BREAUX:

S. 2009. A bill to amend the Oil Pollution Act of 1990, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mr. SANTORUM, Mr. GREGG, Mr. WARNER, Mr. SIMPSON, Mr. THURMOND, Mr. D'AMATO, and Mr. FAIRCLOTH):

S. 2010. A bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed firearms, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMPSON (by request):

S. 2011. A bill to ensure that appropriated funds are not used for operation of golf courses on real property controlled by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

S. 2012. A bill to redesignate the title of the National Cemetery System and the position of the Director of the National Cemetery System; to the Committee on Veterans Affairs.

By Mr. MCCAIN (for himself, Mr. COATS, Mr. STEVENS, Mrs. HUTCHISON, Mr. ABRAHAM, Mr. ASHCROFT, and Mr. LOTT):

S. 2013. A bill to amend title 31, United States Code, to provide for continuing appropriations in the absence of regular appropriations; to the Committee on Appropriations.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 2014. A bill to authorize the Secretary of the Interior to acquire property adjacent to the city of New Orleans, Orleans Parish, Louisiana, for inclusion in the Bayou Sauvage National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOMENICI:

S. 2015. A bill to convey certain real property located within the Carlsbad Project in New Mexico to the Carlsbad Irrigation District; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself, Mr. BYRD, Mr. HEFLIN, Mr. CAMPBELL, Mr. WELLSTONE, Mr. HOLLINGS, Mr. INOUYE, and Mr. D'AMATO):

S. 2016. A bill to assess the impact of the NAFTA, to require further negotiation of certain provisions of the NAFTA, and to provide for the withdrawal from the NAFTA unless certain conditions are met; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DODD (for himself, Mr. D'AMATO, Mr. LIEBERMAN, Mr. MOYNIHAN, Mr. WARNER, Mr. ROBB, Mr. BRADLEY, and Mr. LAUTENBERG):

S. Res. 286. Resolution to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX:

S. 2009. A bill to amend the Oil Pollution Act of 1990, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE OIL POLLUTION ACT AMENDMENTS OF 1996

• Mr. BREAUX. Mr. President, I introduce legislation to improve marine safety in the transportation of oil and petroleum products and to enhance the safety of our waterway navigational systems. It has been over 7 years since the Senate approved legislation addressing a comprehensive program regulating the transportation of oil and petroleum products, and mandating a system of responding to oilspills. Since the enactment of the Oil Pollution Act of 1990, there has been a marked improvement in the safety of maritime transportation of oil. According to a recent study, after 1990, the volume of oil pollution from maritime sources in U.S. waters dropped precipitously, and has been reduced by over 75 percent. In addition, there has been a decreasing number of large volume oilspills. For instance, in the 5-year period between 1986 and the end of 1990, there were an average of 25 major and medium oilspills per year, however, since 1990, the average number of large and medium spills decreased 33 percent to approximately 16 per year. Despite these increases in safety there are other steps that can be taken to improve safety, and the bill I am introducing today will continue the improvement of the safe transportation of oil and other petroleum products.

During consideration of the Oil Pollution Act, the Senate Commerce Committee held four hearings on the six different bills that were referred to the Commerce Committee. The end Senate legislative product incorporated the Commerce Committee's provisions on: The operations of oil tankers, enhanced Coast Guard authority to regulate the conduct of oil tankers and merchant marine personnel, requirements on Vessel Traffic Services [VTS] systems, marine oil transportation-related research, and oilspill contingency response plans as they pertain to vessels and offshore facilities. The Senate bill also included the Committee on Environment and Public Works provisions creating the Oil Spill Liability Trust Fund, increasing liability limits, and oilspill contingency response planning as it pertains to onshore facililities.

I am introducing this legislation today to build on the Commerce Committee marine safety improvements that were incorporated into the Oil Pollution Act of 1990. Title I of the bill would require the Coast Guard to finalize regulations on operational measures required for single-hull tankers, add certain new safety requirements for the tug-barge industry, and mandate a minimum underkeel clearance level for tank vessels. The bill also would create incentives to induce vessel operators to switch from single hulled vessels to double-hulled vessels in advance of their mandated phase out. The bill simplifies the procedures for resolution of oilspill claims, and allows vessel operators to consolidate all claims in one Federal proceeding.

Title II of the bill will provide the National Oceanic and Atmospheric Administration [NOAA] with the authority to allow emergency regulations for fishing grounds closures to respond to health emergencies and oilspills. The bill would also require NOAA to provide scientific support on oilspill information. Also included in title II are provisions which would authorize a grant program to establish a non-regulatory program for reducing the risk of oilspills, and authorize NOAA to use the Oil Spill Liability Trust Fund for nautical charting. We are facing a critical juncture in the modernization of nautical charts, the United States has a responsibility to provide marine nautical chart users with accurate charts, and this provision would help NOAA to provide the shipping public with the most up-to-date navigational information. This provision also includes the authority to utilize private contractors to accomplish nautical charting objectives, and transfers the aeronautical charting responsibilities to the Federal Aviation Administration.

Title III of the bill modernizes the regulations governing deepwater ports. When the Deepwater Port Act was enacted in 1974, it was projected that there would be numerous deepwater port facilities. In fact, there is only one deepwater port in existence today. The provisions of this title will help modernize the regulations, and conform the existing regulations to the realities of deepwater port operation.

Mr. President, I look forward to continuing the effort to upgrade the safety of marine operations in the navigable waterways of the United States, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2009

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 ''Oil Pollution Act Amendments of 1996''.

TITLE I—OIL POLLUTION ACT AMENDMENTS

SEC. 101. COMPLETION OF FINAL REGULATIONS UNDER SECTION 4115(b).

The Secretary of the department in which the Coast Guard is operating shall issue a final rule under Section 4115(b) of the Oil Pollution Act of 1990 (46 U.S.C. 3703a note) with respect to operations elements not later than September 30, 1996.

SEC. 102. TOWING VESSEL SAFETY.

(a) SINGLE HULL BARGE REQUIREMENTS.—

(1) PREVENTION MEASURES.—Subtitle I of title IV of the Oil Pollution Act of 1990 (46 U.S.C. 3703a note), as amended by adding at the end the following:

''SEC. 4119. SINGLE HULL BARGE REQUIREMENTS.

''The Secretary shall issue rules to require that a single hull barge over 5,000 gross tons operating in open ocean or coastal waters that is affected by this section have at least 1 of the following:

''(1) a crew member on board and an operable anchor;

''(2) an emergency system on board the vessel towing the barge to retrieve the barge if the tow line ruptures; or

''(3) any other measure that provides comparable protection against grounding of the barge as that provided by a measure described in paragraph (1) or (2).

''SEC. 4120. MINIMUM UNDER-KEEL CLEARANCES FOR TANK VESSELS.

''The captain of the port for each port in which any tank vessel operates shall establish, in consultation with local marine transportation industry officials, a minimum under-keel clearance for the vessel when entering the port or place of destination and when departing port, taking into account local navigational considerations.''.

(2) CLERICAL AMENDMENT.—Section 2 of the Oil Pollution Act of 1990 is amended by adding at the end of the table of sections for subtitle I of title IV the following items:

''Sec. 4119. Single hull barge requirements.
''Sec. 4220. Minimum under-keel clearances for tank vessels.''.

(b) REQUIREMENT FOR FIRE SUPPRESSION DEVICES.—Section 4102 of title 46, United States Code, is amended by adding at the end the following:

''(f)(1) The Secretary—

''(A) in consultation with the Towing Safety Advisory Committee; and

''(B) taking into consideration the characteristics, methods of operation, and nature of the service of towering vessels,

may require, to the extent appropriate, the installation, maintenance, and use of a fire suppression system or other equipment to provide adequate assurance that an onboard fire can be suppressed under reasonably foreseeable circumstances.''.

SEC. 103. REPORTS.

(a) STUDY ON LIGHTERING REGULATIONS.—Within 12 months after the date of enactment of this Act, the Secretary of Transportation shall review existing requirements for lightering operations in the United States Exclusive Economic Zone to ensure the safe transfer of oil at sea while imposing no undue economic burdens, as compared to accepted international standards, on tank vessels transporting oil to or from the United States and report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) STUDY ON TANKER LANES.—The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council on a study of how the designation of waters through which tank vessels transport oil, and the designation of shipping lanes for tank vessels, affect the risk of an oil spill. The Marine Board shall recommend to the Secretary any changes to designations of waters that would reduce the risk of oil spills to a minimum level of risk, and report its recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 104. CASUALTY REPORTING REQUIREMENTS.

(a) SUBMISSION OF PLAN.—Not later than one year after enactment of this Act, the Secretary of Transportation shall, in consultation with appropriate State agencies, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to increase reporting of vessel accidents to appropriate State law enforcement officials.

(b) PENALTIES FOR VIOLATING REPORTING REQUIREMENTS.—Section 6103(a) of title 46, United States Code, is amended by inserting ''or 6102'' after ''6101'' Code, is amended by inserting ''or 6102'' after ''6101'' the second place it appears.

SEC. 105. DOUBLE HULL INCENTIVES.

(a) SECURED LENDERS AND CERTAIN OWNERS.—Paragraph (26) of section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2710) is amended by striking ''the vessel,'' and inserting ''the vessel, but does not include (i) a person having a security interest in, or security title to, any vessel under a contract of conditional sale, equipment trust, chattel or corporate mortgage, or other instrument of similar nature, nor (ii) a lessor or charterer of any vessel under a bona fide lease or demise charter, unless such person, lessor, or charterer has actual possession or control, or participates in the management, of the vessel at the time of a discharge of oil,''.

(b) APPLICATION LIMITED TO SINGLE HULL TANKERS AND DOUBLE HULL TANK VESSELS MORE THAN 20 YEARS OLD.—Subsection (c) of section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704) is amended by adding at the end the following:

''(4) APPLICATION LIMITED.—Subparagraph (B) of paragraph (1) of this subsection applies only to—

''(A) single hull tank vessels; and

''(B) double hull tank vessels more than 20 years of age.''.

SEC 106. CONCURSUS.

Section 1017(c) of the Oil Pollution Act of 1990 (33 U.S.C. 2717(c)) is amended by striking subsection (c) and inserting the following:

''(c) PROCEDURE.—

''(1) The responsible party or guarantor may, within 6 months after a claimant shall have presented a claim under section 1013 for costs or damages under section 1002, file a petition in the appropriate United States District Court for limitation of, or exoneration from, liability pursuant to sections 1003 or 1004 of this Act. After an action is commenced under this paragraph in a court, that court shall retain jurisdiction over the actions without regard to whether the requested relief is granted. The responsible party or its guarantor shall demonstrate to the court evidence of financial responsibility approved by the Secretary, as required by section 1016.

''(2) Upon compliance with the requirements of paragraph (1), all claims and proceedings, other than claims presented to the responsible party under section 1013(a), shall cease, and, upon application of the responsible party, the District Court shall enjoin the further prosecution of any action or proceeding in any State or United States court against the vessel, responsible party, guarantor, or their property with respect to any claim arising under this Act. The court shall issue a notice to all persons asserting claims with respect to which the complaint seeks limitation or exoneration, requiring them to present their respective claims upon the responsible party pursuant to section 1013(a). If a claim is not settled by the responsible party or guarantor as provided in section 1013(c), then those persons may file their respective claims with the clerk of the court within such time and in such manner as the court may direct.

''(3) Nothing in this section shall preclude a person from filing a concurrent limitation action under section 4203 of the Revised Statutes of the United States (46 U.S.C. App. 183), commonly known as the Limited Liability Act.''.

SEC. 107. IN REM JURISDICTION.

Section 1002 of the Oil Pollution Act of 1990 (33 U.S.C. 2702) is amended by adding at the end the following:

''(e) IN REM JURISDICTION.—A vessel that discharges or poses a substantial threat of a discharge of oil, within the meaning of subsection (a) of this section, shall be liable for the removal costs and damages specified in subsection (b) that result from the incident. The costs and damages shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States for any district within which the vessel is found.''.

SEC. 108. LIMITED DOUBLE HULL EXEMPTIONS.

(a) IN GENERAL.—The double hull construction requirements of section 3703a of title 46, United States Code, do not apply to—

(1) a vessel documented under chapter 121 of title 46, United States Code, that was equipped with a double hull before August 12, 1992;

(2) a barge of less than 1,500 gross tons carrying refined petroleum product in bulk as cargo in or adjacent to waters of the Bering Sea, Chukchi Sea, and Arctic Ocean and waters tributary thereto and in the waters of the Aleutian Islands and the Alaskan Peninsula west of 155 degrees west longitude; or

(3) a vessel in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744).

(b) AUTHORITY OF THE SECRETARY OF TRANSPORTATION.—

(1) OPERATION OF BARGES IN OTHER WATERS.—The operation of barges described in subsection (a)(2) outside waters described in that subsection shall be on such conditions as the Secretary of Transportation may require.

(2) NO EFFECT ON OTHER AUTHORITY OF THE SECRETARY.—Except as provided in subsection (a), nothing in this section affects the authority of the Secretary of Transportation to regulate the construction, operation, or manning of barges and vessels in accordance with applicable laws and regulations.

(c) BARGE DEFINED.—For purposes of this section, the term ''barge'' has the meaning given that term in section 2101 of title 46, United States Code.

SEC. 109. OIL SPILL RESPONSE VESSELS.

(a) DESCRIPTION.—Section 2101 of title 46, United States Code, is amended—

(1) by redesignating paragraph (20a) as (20b); and

(2) by inserting after paragraph (20) the following new paragraph:

''(20a) 'oil spill response vessel' means a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material.''.

(b) EXEMPTION FROM LIQUID BULK CARRIAGE REQUIREMENTS.—Section 3702 of title 46, United States Code, is amended by adding at the end thereof the following:

''(f) This chapter does not apply to an oil spill response vessel if—

''(1) the vessel is used only in response-related activities; or

''(2) the vessel is—

''(A) not more than 500 gross tons;

''(B) designated in its certificate of inspection as an oil spill response vessel; and

''(C) engaged in response-related activities.''.

(c) MANNING.—Section 8104(p) of title 46, United States Code, is amended to read as follows:

''(p) The Secretary may prescribe the watchstanding and work hours requirements for an oil spill response vessel.''.

(d) MINIMUM NUMBER OF LICENSED INDIVIDUALS.—Section 8301(e) of title 46, United States Code, is amended to read as follows:

''(e) The Secretary may prescribe the minimum number of licensed individuals for an oil spill response vessel.''.

(e) MERCHANT MARINER DOCUMENT REQUIREMENTS.—Section 8701(a) of title 46, United States Code, is amended—

(1) by striking ''and'' after the semicolon at the end of paragraph (7),

(2) by striking the period at the end of paragraph (8) and inserting a semicolon and ''and''; and

(3) by adding at the end thereof the following new paragraph:

''(9) the Secretary may prescribe the individuals required to hold a merchant mariner's document serving onboard an oil spill response vessel.''.

(f) EXEMPTION FROM TOWING VESSEL REQUIREMENT.—Section 8905 of title 46, United States Code, is amended by adding at the end the following new subsection:

''(c) Section 8904 of this title does not apply to an oil spill response vessel while engaged in oil spill response or training activities.''.

(g) INSPECTION REQUIREMENT.—Section 3301 of title 46, United States Code, is amended by adding at the end the following new paragraph:

''(14) oil spill response vessels.''.

TITLE II—MARINE SCIENCE ENHANCEMENT FOR OIL SPILL PREVENTION AND RESPONSE

SEC. 201. OPENING AND CLOSING OF FISHING GROUNDS.

Section 305(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(c)) is amended by striking paragraph (3) and by inserting the following after paragraph (2):

''(3) Any emergency regulation which changes an existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection—

''(A) shall be published in the Federal Register together with the reasons therefor;

''(B) shall, except as provided in subparagraph (C), remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for an additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulation, and, in the case of a Council recommendation for emergency regulations, the Council is actively preparing a fishery management plan, amendment, or proposed regulations to address the emergency on a permanent basis;

''(C) that responds to a public health emergency or an oil spill may remain in effect until the circumstances that created the emergency no longer exist, provided that the public has an opportunity to comment after the regulation is published and, in the case of a public health emergency, the Secretary of Health and Human Services concurs with the Secretary's action; and

''(D) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the Council concerned.''.

SEC. 202. NOAA SCIENTIFIC SUPPORT.

Section 4202(b) of the Oil Pollution Act of 1990 (33 U.S.C. 1321 note) is amended by adding at the end the following:

''(5) SCIENTIFIC SUPPORT TEAM.—

''(A) ESTABLISHMENT.—Not later than 6 months after the date of enactment of the Oil Pollution Act Amendments of 1996, the Under Secretary of Commerce for Oceans and Atmosphere shall establish and maintain a scientific support team to respond, as required, to oil spills covered by this Act.

''(B) PURPOSE.—The purpose of the scientific support team shall be to provide useful or necessary scientific information and support to the Federal On-Scene Coordinator, primarily in coastal and navigable waters, and to recommend any measures that will serve to mitigate adverse ecological impact as a consequence of the spill.

''(C) PARTICIPATION BY SCIENTISTS WITH EXPERTISE.—The scientific support team—

''(i) shall be compromised of scientists who are experts in the trajectories of oil spills and hazardous material releases, oil and hazardous material behavior and transportation, environmental impacts, and recovery from spills, releases, and related removal actions, environmental trade-off analyses, environmental aspects of contingency planning, and association management tools; and

''(ii) may include local or regional scientists identified in the area contingency plan with expertise which would help ensure a more effective response.''.

SEC 203. ACCESS TO USEFUL AND NECESSARY INFORMATION.

(A) ESTABLISHMENT OF INFORMATION CLEARINGHOUSE.—Section 7001(a) the Oil Pollution Act of 1990 (33 U.S.C. 2761(a)) is amended—

(1) by striking ''may designate'' at the end of paragraph (3) and all that follows through ''representative'' and inserting ''may designate. A representative''; and

(2) by adding at the end the following:

''(4) DISSEMINATION OF INFORMATION.—The Interagency Committee shall disseminate and compile information regarding previous spills, including data from universities, research institutions, State governments, and other nations, as appropriate.''.

(b) REQUIREMENT THAT NATIONAL RESPONSE UNITS MAINTAIN INFORMATION ON ENVIRONMENTAL EFFECTS OF OIL SPILLS.—Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended by adding at the end the following:

''(9) The Under Secretary of Commerce and the Secretary of the Interior, through the United States Fish and Wildlife Service, in coordination with appropriate agencies, shall maintain and update a body of information on the environmental effects of various types of oil spills an how best to mitigate those effects, which shall be kept in a form that is readily transmittable to response teams responding to a spill under this Act;''.

SEC. 204. NOAA PROGRAM TO REDUCE OIL SPILL RISK AND IMPROVE NAVIGATION SAFETY.

(a) REDUCTION OF OIL SPILL RISK—

(1) IN GENERAL.—The Administrator of the National Oceanic and Atmospheric Administration shall establish a cost-effective, non-regulatory program to reduce the risk of oil spills through improving navigation safety, promote prompt and effective response and remediation when oil spills occur, enhance recovery and restoration efforts, and advance other purposes of this Act. Such a program shall—

(A) focus on particular geographic areas at risk from spills of oil or hazardous materials;

(B) collaborate closely with local maritime commerce and coastal management interests, including private industry, local, state, and federal agencies, and other appropriate institutions;

(C) include a matching grant program to provide initial funding for local forums comprised of maritime commerce and coastal management interests to advance navigation safety and other oil or hazardous materials spill prevention activities, to improve response and remediation, and to enhance the restoration of coastal zone resources. Grants made under this section shall be matched with 25 percent nonfederal funds in the first two years of the program, and 50 percent thereafter;

(D) promote efficiencies by involving, to the extent appropriate and practical, capabilities offered by National Oceanic and Atmospheric Administration and other federal and state programs that could further the purposes of this section; and

(E) meet multiple navigation or coastal management needs to the extent practicable.

(2) LOCAL OR REGIONAL ELEMENTS.—Local or regional elements for this program shall be developed in consultation with local maritime commerce and coastal management communities. Program elements may include, but are not limited to—

(A) local forums to promote safe navigation, effective oil spill or hazardous material spill response and remediation, restoration, and related coastal management activities;

(B) Physical Oceanographic Real Time Systems and other technologies that further safe navigation and oil and hazardous materials spill response and restoration, and other coastal management activities;

(C) research and development on means to improve the safety of oil transport, the efficacy of oil and hazardous materials spill response, remediation techniques, and restoration practices;

(D) activities to improve the delivery of navigation, weather, vessel traffic, and other information required for safe navigation;

(E) providing information collected pursuant to the National Oceanographic and Atmospheric Administration's navigation and positioning responsibilities in formats useful in oil spill response, remediation, and restoration activities; and

(F) other activities as appropriate consistent with the purposes of this Act, the Coastal Zone Management Act of 1972 and the National Ocean Service navigation and positioning and coastal management authorities.

(3) IMPLEMENTATION.—The Administrator shall phase the implementation of this program by region such that it is operating nationally within 5 years of the date of the enactment of this Act.

(4) AUTHORIZATION.—For purposes of this subsection, there is authorized to be appropriated $2,000,000 in the first year, $3,000,000 in the second year, and $5,000,000 for each succeeding fiscal year.

SEC. 205. NOAA MARINE SERVICES MODERNIZATION.

(a) IN GENERAL.—For the purposes of modernizing the Administration's services that support safe and efficient maritime navigation, and accelerating the public availability of improved navigation services and products, the Administrator is authorized to withdraw from the Oil Spill Liability Trust Fund established by the Oil Pollution Act of 1990 an amount not to exceed $15,000,000 per year to remain available until expended, for each of 10 fiscal years commencing with the first fiscal year after the enactment of this provision.

(b) USE OF FUNDS.—Funds available to the Administration pursuant to subsection (a) shall be used exclusively to pay the costs of enabling, modernizing, enhancing, or expanding the capabilities of the Administration to conduct, either directly or by contract, programs and activities related to commercial marine navigation, including—

(1) the nautical charting program;

(2) marine tides and circulation programs;

(3) charting survey ship support, including support provided by private contractors; and

(4) marine weather services applicable to commercial navigation safety in the waters of the United States.

(c) CHARTING SURVEY SHIP SUPPORT.—The Administration shall obtain charting survey ship support from private sector contractors to the maximum extent feasible consistent with—

(1) maintaining quality control over navigation products and services to protect the public interest in navigation safety and prevention of maritime accidents, and to protect the United States from liability for gaining to ensure such quality control; and

(2) maintaining within the Administration the scientific and technical capabilities necessary to perform, or oversee contractor performance of, all aspects of the development of marine navigation products and services.

(d) TRANSFER OF AERONAUTICAL CHARTING.—

(1) IN GENERAL.—The following functions are transferred from the National Oceanic and Atmospheric Administration to the Federal Aviation Administration:

(A) The functions vested in the Secretary of Commerce by sections 1 and 2 of the Act of August 6, 1947 (33 U.S.C. 883a and 883b) relating to aeronautical surveys for the purposes of aeronautical charting and the compilation, printing, and distribution of aeronautical charts.

(B) The functions vested in the Secretary of Commerce by section 1307 of title 44, United States Code, relating to establishment of prices at which aeronautical charts and related products may be sold.

(C) So much of the functions of the Secretary of Commerce and the Department of Commerce as is incidental to or necessary for the performance by, or under, the Administrator of the Federal Aviation Administration of the functions transferred by this subsection or that relate primarily to those functions.

(2) INCIDENTAL TRANSFERS.—

(A) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Administrator of the Federal Aviation Administration by this section as the Director of the Office of Management and Budget shall determine shall be transferred to the Federal Aviation Administration at such time as the Director shall direct.

(B) Such other measures as the Director of the Office of Management and Budget determines to be necessary in order to effectuate the transfers described in paragraph (1) of this subsection shall be carried out in such manner as the Director shall direct.

(3) EFFECTIVE DATE.—The transfers made by this subsection shall be completed not later than September 30, 1998.

TITLE III—DEEPWATER PORT MODERNIZATION

SEC. 301. SHORT TITLE.

This title may be cited as the ''Deepwater Port Modernization Act''.

SEC. 302. DECLARATIONS OF PURPOSE AND POLICY.

(a) PURPOSES.—The purposes of this title are to—

(1) update and improve the Deepwater Port Act of 1974;

(2) assure that the regulation of deepwater ports is not more burdensome or stringent than necessary in comparison to the regulation of other modes of importing or transporting oil;

(3) recognize that deepwater ports are generally subject to effective competition from alternative transportation modes and eliminate, for as long as a port remains subject to effective competition, unnecessary Federal regulatory oversight or involvement in the ports' business and economic decisions; and

(4) promote innovation, flexibility, and efficiency in the management and operation of deepwater ports by removing or reducing any duplicative, unnecessary, or overly burdensome Federal regulations or license provisions.

(b) POLICY.—Section 2(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1501(a)) is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting a semicolon; and

(3) by inserting at the end the following;

''(5) promote the construction and operation of deepwater ports as a safe and effective means of importing oil into the United States and transporting oil from the outer continental shelf while minimizing tanker traffic and the risks attendant thereto; and

''(6) promote oil production on the outer continental shelf by affording an economic and safe means of transportation of outer continental shelf oil to the United States mainland.''.

SEC. 303. DEFINITIONS.

(a) ANTITRUST LAWS.—Section 3 of the Deepwater Port Act of 1974 (33 U.S.C. 1502) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) through (19) as paragraphs (3) through (18), respectively.

(b) DEEPWATER PORT.—The first sentence of section 3(9) of such Act, as redesignated by subsection (a), is amended by striking ''such structures,'' and all that follows through ''section 23.'' and inserting the following; ''structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for the transportation, storage, and further handling of oil for transportation to any State, except as otherwise provided in section 23, and for other uses not inconsistent with the purposes of this Act, including transportation of oil from the United States, outer continental shelf.''.

SEC. 304. LICENSES.

(a) ELIMINATION OF UTILIZATION RESTRICTIONS.—Section 4(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(a)) is amended by striking the last sentence.

(b) ELIMINATION OF PRECONDITION TO LICENSING.—Section 4(c) of such Act (33 U.S.C. 1503(c)) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively.

(c) CONDITIONS PRESCRIBED BY SECRETARY.—Section 4(e)(1) of such Act (33 U.S.C. 1503(e)) is amended by striking the first sentence and inserting the following: ''In issuing a license for the ownership, construction, and operation of a deepwater port, the Secretary shall prescribe those conditions which the Secretary deems necessary to carry out the provisions and requirements of this Act or which are otherwise required by any Federal department or agency pursuant to the terms of this Act. To the extent practicable, conditions required to carry out the provisions and requirements of this Act shall be addressed in license conditions rather than by regulation and, to the extent practicable, the license shall allow a deepwater port's operating procedures to be stated in an operations manual, approved by the Coast Guard, in accordance with section 10(a) of this Act, rather than in detailed and specific license conditions or regulations; except that basic standards and conditions shall be addressed in regulations.''.

(d) ELIMINATION OF RESTRICTION ON TRANSFERS.—Section 4(e)(2) of such Act (33 U.S.C. 1503(e)(2)) is amended by striking ''application'' and inserting ''license''.

(e) FINDINGS REQUIRED FOR TRANSFERS.—Section 4(f) of such Act (33 U.S.C. 1503(f)) is amended to read as follows:

''(f) AMENDMENTS, TRANSFERS, AND REINSTATEMENTS.—The Secretary may amend, transfer, or reinstate a license issued under this Act if the Secretary finds that the amendment, transfer, or reinstatement is consistent with the requirements of this Act.''.

SEC. 305. INFORMATIONAL FILINGS.

Section 5(c) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(c)) is amended by adding the following:

''(3) Upon written request of any person subject to this subsection, the Secretary may make a determination in writing to exempt such person from any of the informational filing provisions enumerated in this subsection or the regulations implementing this section if the Secretary determines that such information is not necessary to facilitate the Secretary's determinations under section 4 of this Act and that such exemption will not limit public review and evaluation of the deepwater port project.''.

SEC. 306. ANTITRUST REVIEW.

Section 7 of the Deepwater Port Act of 1974 (33 U.S.C. 1506) is repealed.

SEC. 7. OPERATION.

(a) AS COMMON CARRIER.—Section 8(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1507(a)) is amended by inserting after ''subtitle IV of title 49, United States Code,'' the following: ''and shall accept, transport, or convey without discrimination all oil delivered to the deepwater port with respect to which its licensed is issued,''.

(b) CONFORMING AMENDMENT.—Section 8(b) of such Act is amended by striking the first sentence and the first 3 words of the second sentence and inserting the following: ''A licensee is not discriminating under this section and''.

SEC. 308. MARINE ENVIRONMENTAL PROTECTION AND NAVIGATIONAL SAFETY.

Section 10(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1509(a)) is amended—

(1) by inserting after ''international law'' the following: ''and the provision of adequate opportunities for public involvement''; and

(2) by striking ''shall prescribe by regulation and enforce procedures with respect to any deepwater port, including, but not limited to,'' and inserting the following: ''shall prescribe and enforce procedures, either by regulation (for basic standards and conditions) or by the licensee's operations manual, with respect to''.

By Mr. HATCH (for himself, Mr. SANTORUM, Mr. GREGG, Mr. WARNER, Mr. SIMPSON, Mr. THURMOND, Mr. D'AMATO, and Mr. FAIRCLOTH):

S. 2010. A bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed firearms, and for other purposes; to the Committee on the Judiciary.

THE COMMUNITY PROTECTION INITIATIVE OF 1996

Mr. HATCH. Mr. President, today I am introducing the community protection initiative of 1996. This bill will exempt current and former law enforcement officers from State and local laws prohibiting the carrying of concealed firearms. In so doing, this bill will adopt a clear, uniform rule in place of the various State and local laws that are on the books today.

This bill has the support of many law enforcement organizations and individuals, including the Law Enforcement Alliance of America, Fraternal Order of Police, National Association of Police Organizations, National Sheriffs Association, National Troopers Coalition, Southern Police Benevolent Association, National Law Enforcement Council, the Salt Lake City police chief, the Salt Lake County sheriff, and the Utah Highway Patrol Association.

This bill will prove to be a useful addition to our laws in several ways. This bill will enhance public safety. It will do so by potentially placing thousands of additional police officers on the streets of America—at no additional cost to the public. Law enforcement officers are highly trained professionals. Their classroom teaching, as well as their experience in the field, are the most valuable weapons that they possess. But all of that skill and experience will be of little benefit for a police officer if he cannot prevent A crime from occurring because he is unable to carry the firearm his community has authorized him to carry as part of his job. This bill puts more police on the street, at no cost to the taxpayer.

That result alone is a valuable one. But there is more. The bill will help law enforcement officers protect themselves and their families when they travel interstate. By itself, that is a valuable benefit. Any one police officer may make scores of arrests throughout his career, and an officer may not always remember the face of every suspect that he apprehends. Many criminals, however, remember. They remember the face of the judge, the face of the prosecutor, and, most importantly, the face of the arresting officer. This bill enables police to protect themselves and their families in the face of these long memories. Currently, police officers can protect themselves when they remain within their jurisdictions on-duty. If those jurisdictions permit, officers can carry their firearms off-duty. This bill would allow each qualified police officer to travel out of State without being at risk of criminal assault.

A firearm is an important tool in a battle with a criminal, especially an armed one. A firearm in the hands of a trained police officer, when off duty, will make our streets safer. For private citizens, a firearm is best compared to a fire extinguisher, because each one is a piece of emergency, lifesaving equipment. But for police officers, a firearm is a necessary tool of his profession.

We expect that police officers will intervene to prevent crimes from occurring. No, we demand that police officers carry out that responsibility. That is why we train them in law enforcement; and that is why we give them a badge; that is why we give them a gun. This bill will ensure that we do not disarm the police just because they have traveled interstate.

There are more than 600,000 State and local law enforcement officers in more than 17,000 police agencies. This bill would allow those officers, and many of their retired colleagues, to carry firearms when they travel out of State. That puts each of those officers on the streets in the service of law enforcement in this Nation.

To be sure, only some police officers will take advantage of this provision. But we know that there will be some officers who prevent some crimes and who prevent some people from becoming victims.

At the same time, this bill achieves those benefits in a careful manner. It does not allow unqualified officer to carry firearms interstate. Rather, it requires current police officers to be in good standing to take advantage of the benefits of this bill. The bill also does not allow all retired police officers to carry firearms. Before a retired police officer can carry a concealed firearm under this bill, the bill requires that the retired officer be authorized by his or her State of residence to carry a concealed firearm within that State. Finally, this bill does not authorize the carrying of firearms on aircraft.

I look forward to working with my colleagues on a bipartisan basis in moving this legislation. In the House, Representative CUNNINGHAM of California has introduced a similar measure.

Together, we can bring about passage of a bill that will protect the public, our Nation's law enforcement officers, and their families.

By Mr. SIMPSON (by request):

S. 2011. A bill to ensure that appropriated funds are not used for operation of golf courses on real property controlled by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

VETERANS AFFAIRS LEGISLATION

Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 2011, a bill relating to the use of appropriated funds for the operation and maintenance of golf courses on real property controlled by the Department of Veterans Affairs. The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated June 20, 1996.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and the enclosed analysis of the draft legislation.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 2011

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

SEC. 2. (a) The Secretary of Veterans Affairs shall ensure that no funds appropriated by Congress are used for the maintenance and operation of golf courses on real property within the control of the Department of Veterans Affairs.

(b) Notwithstanding any other provision of law, the Secretary may provide for the maintenance and operation of golf courses on real property within the control of the Department by—

(1) entering into leases or other arrangements for a period not to exceed 20 years with (i) Department of Veterans Affairs employee associations; (ii) other nonFederal nonprofit organizations; or (iii) private entities; or

(2) entering into enhanced use leases under section 8162 of the title 38, United States Code, without regard to sections 8163 and 8168 of title 38, United States Code.

(c) In making any arrangement under subsection (b), the Secretary shall, to the extent the Secretary considers appropriate, seek to provide for therapeutic work opportunities for VA patients and members participating in programs authorized by section 1718 of title 38, United States Code.

(d) Notwithstanding any other provision of law, funds generated in connection with the use of real property within the control of the Department of Veterans Affairs that is used for a golf course shall be retained by the Department for such uses as the Secretary deems appropriate.

(e) The Secretary of Veterans Affairs shall, before leasing a golf course on real property within the control of the Department, consider the option of excessing the golf course to the General Services Administration so that the property can be screened for redeployment by another Executive Agency.

ANALYSIS

The draft bill contains the enactment section, which is section one, and a section two which contains five subsections.

Subsection (a) prohibits the Secretary of Veterans Affairs from using funds appropriated by the Congress for the maintenance and operation of golf courses at VA health care facilities.

Subsection (b) would authorize the Secretary to provide for the maintenance and operation of golf courses at VA health care facilities by leasing the property to VA employee associations or other non-Federal nonprofit organizations. Examples of other nonprofit organizations are a local government, or a veterans service organization. Subsection (b) would also authorize the Secretary to enter into enhanced use leases of golf course properties without regard to limitations set forth in section 8163 and 8168 of title 38, United States Code. Section 8168 limits the number of enhanced use leases the Secretary may enter into, and could be a barrier to the leasing of the golf courses. Section 8163 establishes a process by which properties are designated for enhanced use leasing. It is unnecessary to follow that process for the golf courses as the bill itself designates the properties subject to such leasing.

Subsection (c) would provide that in exercising the authority in subsection (b) to make arrangements for the operation of golf courses, the Secretary may, if appropriate, seek to provide for therapeutic work opportunities for patients. Thus, for example, the Secretary might include in a lease, a provision calling for the lessor to enter into an arrangement with a VA compensated work therapy program to have patients perform golf course maintenance.

Subsection (d) would permit VA to retain any funds generated by VA real property used as a golf course.

Subsection (e) would require the Secretary, before leasing the property, to consider excessing the property for use by another Executive Agency.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, June 20, 1996.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To ensure that no appropriated funds are used for the operation and maintenance of golf courses on real property controlled by the Department of Veterans Affairs." We request that it be referred to the appropriate committee for prompt consideration and enactment.

For many years VA has operated golf courses at a number of its medical facilities to provide patient therapy and recreation. Generally, these golf courses were in existence at the hospital facilities at the time the Department acquired the facilities. The courses are often quite small with only 9-holes, and are located at facilities with large psychiatric patient populations. Currently 22 VA golf courses exist.

VA can no longer justify the expenditure of medical care appropriations for the operation of golf courses. Scarce resources used for maintenance and operation of the courses can be more appropriately used for the direct provision of medical care to veterans. In some instances opportunities may exist to use the property more appropriately. In other instances, continued operation of a golf course may be warranted, but a better mechanism may exist for maintaining and operating the course. Accordingly, the Department has determined that it will no longer directly operate golf courses using appropriated funds.

In the last several months, the Department has looked at various mechanisms for divesting itself of golf course operations. However, legal impediments exist to pursuing some options. The enclosed draft bill would statutorily authorize the Secretary to provide for the maintenance and operation of golf courses in various ways without using any appropriated funds.

The draft bill would prohibit the use of appropriated funds to operate golf courses, and would provide specific mechanisms for continuing golf course operations. The bill would permit the Secretary to lease or make other arrangements with VA employee associations or other non-federal nonprofit entities to have them operate the courses. Such a nonprofit entity might include the local community where the VA facility is located. The bill would also allow the Secretary to arrange for operation of a course by a private organization. Finally, it would also authorize VA to enter into enhanced use leases of golf course properties.

Another provision in the bill would provide that in making arrangements for operation of golf courses, the Secretary should, if appropriate, seek to provide for therapeutic work opportunities for VA patients. VA compensated work therapy programs are always searching for ways to provide certain patients with therapeutic work. In the lease of a golf course, it might be possible to require the lessee to make an arrangement with a VA work therapy program to use patient workers. Finally, the bill would require the Secretary to consider divesting golf courses altogether before entering into lease arrangements.

This bill would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB estimates that the pay-as-you-go effect of this proposal is zero.

The Office of Management and Budget advises that there is no objection to the submission of this draft bill from the standpoint of the Administration's program.

Sincerely yours,

JESSE BROWN.

By Mr. SIMPSON (by request):

S. 2012. A bill to redesignate the title of the National Cemetery System and the position of the Director of the National Cemetery System; to the Committee on Veterans' Affairs.

NATIONAL CEMETERY ADMINISTRATION LEGISLATION

Mr. SIMPSON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, at the request of the Secretary of Veterans Affairs, S. 2012, a bill to redesignate the National Cemetery System as the "National Cemetery Administration," and to redesignate the position of Director, National Cemetery System as "Assistant Secretary, Memorial Affairs." The Secretary of Veterans Affairs submitted this legislation to the President of the Senate by letter dated June 24, 1996.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 2012

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

SECTION 1. REDESIGNATION OF TITLE OF NATIONAL CEMETERY SYSTEM.

The title of the National Cemetery System of the Department of Veterans Affairs is hereby redesignated as the National Cemetery Administration.

SEC. 2. REDESIGNATION OF POSITION OF DIRECTOR OF THE NATIONAL CEMETERY SYSTEM.

The position of Director of the National Cemetery System of the Department of Veterans Affairs is hereby redesignated as Assistant Secretary for Memorial Affairs.

SEC. 3. ASSISTANT SECRETARIES.

Section 308(a) of title 38, United States Code, is amended by—

(a) in subsection (a) thereof, changing the period at the end of the first sentence of that subsection to a comma and adding the following at the end of that sentence: "in addition to the Assistant Secretary for Memorial Affairs";

(b) in subsection (b) thereof, by inserting "other than the Assistant Secretary for Memorial Affairs" after "Assistant Secretaries"; and

(c) in subsection (c) thereof, by inserting "pursuant to subsection (b)" after "Assistant Secretary".

SEC. 4. TITLE 38 CONFORMING AMENDMENTS.

(a) Title 38, United States Code, is amended by striking out "director of the National Cemetery System" each place it appears (including in headings and tables) and inserting in lieu thereof "Assistant Secretary for Memorial Affairs".

(b) Section 301(c) of title 38, United States Code, is amended by striking out "System" in subsection (c)(4) and inserting in lieu thereof "Administration".

(c) Section 307 of title 38, United States Code, is amended—

(1) by striking out "a" in the first sentence and inserting in lieu thereof "an";

(2) by striking out ''Director'' in the second sentence and inserting in lieu thereof ''Assistant Secretary for Memorial Affairs''; and

(3) by striking out ''System'' in the second sentence and inserting in lieu thereof ''Administration''.

(d)(1) Section 2306(d) of title 38, United States Code, is amended by striking out ''within the National Cemetery System'' in the first sentence of subsection (d)(1) and inserting in lieu thereof ''under the control of the National Cemetery Administration''.

(2) Section 2306(d) of title 38, United States Code, is amended by striking out ''within the National Cemetery System'' in subsection (d)(2) and inserting in lieu thereof ''under the control of the National Cemetery Administration''.

(e)(1) The table of sections at the beginning of chapter 24 of title 38, United States Code, is amended by striking out ''Establishment of National Cemetery System; composition of such system; appointment of director.'' and inserting in lieu thereof ''Establishment of National Cemetery Administration; authority of such administration; appointment of Assistant Secretary.''.

(2) The heading of section 2400 of title 38, United States Code, is amended by striking out ''Establishment of National Cemetery System; composition of such system; appointment of director'' and inserting in lieu thereof ''Establishment of National Cemetery Administration; authority of such administration; appointment of Assistant Secretary''.

(3) Section 2400(a) of title 38, United States Code, is amended by striking out ''shall be within the Department a National Cemetery System'' in the first sentence and inserting in lieu thereof ''is within the Department a National Cemetery Administration responsible'' in the first sentence and by striking out ''Such system'' in the second sentence and inserting in lieu thereof ''The National Cemetery Administration''.

(4) Section 2400(b) of title 38, United States Code, is amended by striking out ''The National Cemetery System'' and inserting ''National cemeteries and other facilities under the control of the National Cemetery Administration'' in lieu thereof.

(5) Section 2402 of title 38, United States Code, is amended by striking out ''in the National Cemetery System'' and inserting ''under the control of the National Cemetery Administration'' in lieu thereof.

(6) Section 2403(c) of title 38, United States Code, is amended by striking out ''in the National Cemetery System created by this chapter'' and inserting ''under the control of the National Cemetery Administration'' in lieu thereof.

(7) Section 2405(c) of title 38, United States Code, is amended by striking out ''within the National Cemetery System'' and inserting in lieu thereof ''under the control of the National Cemetery Administration'' and by striking out ''within such System'' and inserting in lieu thereof ''under the control such Administration''.

(8) Section 2408(c) of title 38, United States Code, is amended by striking out ''in the National Cemetery System'' in subsection (c)(1) and inserting ''under the control of the National Cemetery Administration'' in lieu thereof.

SEC. 5. EXECUTIVE SCHEDULE CONFORMING AMENDMENT.

Section 5315 of title 5. United States Code, is amended by striking out ''(6)'' following ''Assistant Secretaries, Department of Veterans Affairs'' and inserting in lieu thereof ''(7)'' and by striking out ''Director of the National Cemetery System.''

SEC. 6. REFERENCES IN OTHER LAWS.

(a) Any reference to the National Cemetery System in any Federal law, Executive order, rule, regulation, delegation of authority, or document of or pertaining to the Department of Veterans Affairs, which reference pertains to the organization within that Department which controls the Department's national cemeteries shall be deemed to refer to the National Cemetery Administration.

(b) Any reference to the Director of the National Cemetery System in any Federal law, Executive order, rule, regulation, delegation of authority, or document of or pertaining to the Department of Veterans Affairs shall be deemed to refer to the Assistant Secretary for Memorial Affairs.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, June 24, 1996.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Transmittal herewith is a draft bill to redesignate the National Cemetery System (NCS) as the ''National Cemetery Administration'' and the Director of the National Cemetery System as the ''Assistant Secretary for Memorial Affairs.'' The legislation would elevate the NCS to the same organizational status within the Department of Veterans Affairs (VA) as the Veterans Health Administration (VHA) and the Veterans Benefits Administration (VBA). I request that this draft bill be referred to the appropriate committee for prompt consideration and enactment.

On March 15, 1989, the Veterans' Administration was redesignated as the Department of Veterans Affairs and elevated to cabinet-level status as an executive department. At that time, two of the three VA components that administer veterans' programs were also redesignated. The Department of Medicine and Surgery was redesignated as the Veterans Health Services and Research Administration (now the Veterans Health Administration) and the Department of Veterans' Benefits was redesignated as the Veterans Benefits Administration. The designation of the third program component, the National Cemetery System, was not changed.

On October 9, 1992, the title of the Chief Medical Director, the head of the Veterans Health Administration, was redesignated as the Under Secretary for Health and the title of the Chief Benefits Director was redesignated as the Under Secretary for Benefits. The title of the Director of the National Cemetery System was not changed.

The NCS was established on June 18, 1973, in accordance with the National Cemeteries Act of 1973, Pub. L. No. 93–43, §2(a), 87 Stat. 75. The fourfold mission of the NCS is: (1) to provide for the interment in national cemeteries of the remains of deceased veterans, their spouses, and certain other dependents and to permanently maintain their graves; (2) to mark the graves of eligible persons buried in national, state, and private cemeteries; (3) to administer the State Cemetery Grants Program to aid states in establishing, expanding, or improving state veterans' cemeteries; and, (4) to administer the Presidential Memorial Certificate Program.

NCS is the only one of the three VA components responsible for delivering benefits to veterans and their dependents that is referred to as a ''System'' rather than an ''Administration.'' The proposed redesignation ''National Cemetery Administration'' would more accurately recognize NCS' status as a benefit-delivery administration.

Section 307 of title 38, United States Code, establishes the position of Director of the National Cemetery System. The present position title implies that the Director's responsibility is limited to management of the system of national cemeteries and does not adequately reflect the responsibilities associated with the fourfold mission of the NCS. The proposed redesignation ''Assistant Secretary for Memorial Affairs'' would assure that the position receives the status commensurate with its responsibilities. The redesignation would not affect the duties and responsibilities of the position, which would remain the same.

Section 308(a) of title 38, United States Code, provides that VA shall have no more than six Assistant Secretaries. Under the draft bill, the position of Assistant Secretary for Memorial Affairs, so designated in section 307, would not be counted as one of the six Assistant Secretary positions referred to in section 308(a).

Currently, the salary level for the NCS Director is set by statute at Executive Level IV. The salary level for the other VA Assistant Secretary positions is also set at Executive Level IV. The proposed redesignation of the NCS Director as the Assistant Secretary for Memorial Affairs would not affect the salary level of the position, which would remain at Executive Level IV.

Although the proposed redesignation would require changes in some forms and publications, we contemplate making these changes as the documents are reordered or revised. For this reason, and because the Director's salary level would not change, no costs or savings are associated with this proposal.

The Office of Management and Budget has advised that there is no objection to the submission of this draft bill from the standpoint of the Administration's program.

Sincerely yours,

JESSE BROWN.

By Mr. MCCAIN (for himself, Mr. COATS, Mr. STEVENS, Mrs. HUTCHISON, Mr. ABRAHAM, Mr. ASHCROFT, and Mr. LOTT):

S. 2013. A bill to amend title 31, United States Code, to provide for continuing appropriations in the absence of regular appropriations; to the Committee on Appropriations.

THE GOVERNMENT SHUTDOWN PREVENTION ACT

Mr. MCCAIN. Mr. President, today Senators COATS, STEVENS, HUTCHISON, ABRAHAM, ASHCROFT, and myself are introducing the Government Shutdown Prevention Act. This bill would statutorily create what is in essence a permanent backup CR. This special CR would govern if any appropriations acts do not become law.

We all saw the effects of gridlock last year. The Government shut down and millions of people were affected. We want to ensure that another Government shutdown does not occur.

Mr. President, this permanent backup CR would set spending at the lower of spending levels contained in:

First, the previous year's appropriated levels; second, the House passed appropriations bill; third, the Senate passed appropriations bill; fourth, the President's Budget request; or fifth, any levels established by an independent CR passed by the Congress subsequent to the passage of this Act.

The bill specifically notes that entitlements such as Social Security—as obligated by law—will be paid regardless of what appropriations bills are passed. I want to emphasize that entitlements are protected.

This legislation does not erode the power of the appropriators and gives them ample opportunity to do their job. As a matter of fact, we hope that Senators will realize that if they load up appropriations bills with nonrelated riders—which causes gridlock—that this permanent CR will kick in.

I want to especially note the support of my good friend Senator STEVENS. The Senator from Alaska is a senior member of the Appropriations Committee. His support of this bill is crucial and I thank him for it.

Mr. President, last year's Government shutdown hurt many. Many needed social services could not be offered. We must prevent that from occurring. Additionally, it cost the Government a considerable amount of money. We cannot and should not waste the taxpayers dollars in that fashion.

I want to raise one small example. During the last Government shutdown, I heard form people who work close to the Grand Canyon. These were not Government employees. They were independent small businessmen and women. They told me that the shutdown was costing them thousands of dollars because people couldn't go the park.

The shutdown was not fair to them—it was not fair to anyone. This legislation would prevent a similar shutdown in the future. This bill will prevent gridlock, save money, and preserve needed Government services. I hope the Senate will soon act on this matter.

I ask unanimous consent that the bill be printed in the RECORD.

S. 2013

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 ''Government Shutdown Prevention Act''.

SEC. 2. AMENDMENT TO TITLE 31.

(a) IN GENERAL.—Chapter 13 of title 31, United States Code, is amended by inserting after section 1310 the following new section:

''§ 1311. Continuing appropriations

''(a)(1) If any regular appropriation bill for a fiscal year does not become law prior to the beginning of such fiscal year or a joint resolution making continuing appropriations is not in effect, there is appropriated, out of any moneys in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, such sums as may be necessary to continue any project or activity for which funds were provided in the preceding fiscal year—

''(A) in the corresponding regular appropriation Act for such preceding fiscal year; or

''(B) if the corresponding regular appropriation bill for such preceding fiscal year did not become law, then in a joint resolution making continuing appropriations for such preceding fiscal year.

''(2) Appropriations and funds made available, and authority granted, for a project or activity for any fiscal year pursuant to this section shall be at a rate of operations not in excess of the lower of—

''(A) the rate of operations provided for in the regular appropriation Act providing for such project or activity for the preceding fiscal year,

''(B) in the absence of such an Act, the rate of operations provided for such project or activity pursuant to a joint resolution making continuing appropriations for such preceding fiscal year,

''(C) the rate of operations provided for in the House or Senate passed appropriation bill for the fiscal year in question, except that the lower of these two versions shall be ignored for any project or activity for which there is a budget request if no funding is provided for that project or activity in either version,

''(D) the rate provided in the budget submission of the President under section 1105(a) of title 31, United States Code, for the fiscal year in question, or

''(E) the annualized rate of operations provided for in the most recently enacted joint resolution making continuing appropriations for part of that fiscal year or any funding levels established under the provisions of this Act.

''(3) Appropriations and funds made available, and authority granted, for any fiscal year pursuant to this section for a project or activity shall be available for the period beginning with the first day of a lapse in appropriations and ending with the earlier of—

''(A) the date on which the applicable regular appropriation bill for such fiscal year becomes law (whether or not such law provides for such project or activity) or a continuing resolution making appropriations becomes law, as the case may be, or

''(B) the last day of such fiscal year.

''(b) An appropriation or funds made available, or authority granted, for a project or activity for any fiscal year pursuant to this section shall be subject to the terms and conditions imposed with respect to the appropriation made or funds made available for the preceding fiscal year, or authority granted for such project or activity under current law.

''(c) Appropriations and funds made available, and authority granted, for any project or activity for any fiscal year pursuant to this section shall cover all obligations or expenditures incurred for such project or activity during the portion of such fiscal year for which this section applies to such project or activity.

''(d) Expenditures made for a project or activity for any fiscal year pursuant to this section shall be charged to the applicable appropriation, fund, or authorization whenever a regular appropriation bill or a joint resolution making continuing appropriations until the end of a fiscal year providing for such project or activity for such period becomes law.

''(e) This section shall not apply to a project or activity during a fiscal year if any other provision of law (other than an authorization of appropriations)—

''(1) makes an appropriation, makes funds available, or grants authority for such project or activity to continue for such period, or

''(2) specifically provides that no appropriation shall be made, no funds shall be made available, or no authority shall be granted for such project or activity to continue for such period.

''(f) For purposes of this section, the term 'regular appropriation bill' means any annual appropriation bill making appropriations, otherwise making funds available, or granting authority, for any of the following categories of projects and activities:

''(1) Agriculture, rural development, and related agencies programs.

''(2) The Departments of Commerce, Justice, and State, the judiciary, and related agencies.

''(3) The Department of Defense.

''(4) The government of the District of Columbia and other activities chargeable in whole or in part against the revenues of the District.

''(5) The Departments of Labor, Health and Human Services, and Education, and related agencies.

''(6) The Department of Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices.

''(7) Energy and water development.

''(8) Foreign assistance and related programs.

''(9) The Department of the Interior and related agencies.

''(10) Military construction.

''(11) The Department of Transportation and related agencies.

''(12) The Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

''(13) The legislative branch.''.

(b) CLERICAL AMENDMENT.—The analysis of chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1310 the following new item:

''1311. Continuing appropriations.''.

(c) PROTECTION OF OTHER OBLIGATIONS.—Nothing in the amendments made by this section shall be construed to effect Government obligations mandated by other law, including obligations with respect to Social Security, Medicare, and Medicaid.

SEC. 3. EFFECTIVE DATE AND SUNSET.

(a) EFFECTIVE DATE.—The amendments made by this Act shall apply with respect to fiscal years beginning with fiscal year 1997.

(b) SUNSET.—The amendments made by this Act shall sunset and have no force or effect 6 years after the date of enactment of this Act.

Mr. COATS. Mr. President, I rise today with my colleague and friend, Senator JOHN MCCAIN, to introduce The Government Shutdown Prevention Act. This legislation will create a statutory continuing resolution [CR] that will ensure that the Government will not shut down again—ever.

The lessons from last year are clear. The public expects us to debate our differences vigorously but they don't want our differences to overwhelm our basic responsibility to govern. No one wins when the Government shuts down. Shutdowns only confirm the American people's suspicions that we are more interested in political gain than doing the Nation's business. People are tired of gridlock. They want the Government to work for them—not against them.

I believe the legislation we are introducing today will go a long way toward ensuring that we do not once again disappoint the American people. Last year, the Republican Congress tried to do the right thing. We passed fiscally sound appropriations bills and the first balanced Federal budget in a generation. Unfortunately, President Clinton was more interested in playing politics with the budget. President Clinton's irresponsible vetoes of numerous appropriations bills and a continuing resolution shut the Federal Government down. It is time to show the American people we can do better.

Now, we all know that the fiscal year ends on September 30 and we also know that day is approaching very quickly. Although the appropriators are working very diligently, the appropriations process is nowhere near complete. Not one of the appropriations bills has even been sent to the President. My fear is that we are rapidly approaching a politically sensitive deadline in a political year—a virtual invitation for more budget gamesmanship on the part of the President.

Our legislation preempts this gamesmanship by a safety net CR that will allow the Government to operate even if the appropriations process is not complete and even if negotiations on a larger CR are stalled.

Neither party can afford another break of faith with the American people. Our constituents are tired of constantly being disappointed by the actions of Congress and the President. They are tired of us not being prepared for what appears to be the inevitable. This is why Senator MCCAIN and I have introduced this legislation. We want the American people to know that there are some of us in Congress who are thinking ahead and who do not want a replay of last year.

Both Senator MCCAIN and myself have been vigilant in our fight against wasting the taxpayers dollars. The legislation will save taxpayer dollars because the Government programs will be funded at the lowest of the following spending levels:

The previous year's appropriation bill or CR;

The House-passed level;

The Senate-passed level;

The President's budget request; or

The level outlined in the most recent CR.

This legislation will restore the bias in appropriations negotiations toward saving the taxpayers money not spending it. It is worth noting that last year every time Congress went to the negotiating table the President demanded more money. Although Congress saved the taxpayer nearly $19 billion last year, without President Clinton's demands we could have saved $27 billion. Passage of this legislation will guarantee that we are not faced with a choice between a Government shut down and spending taxpayer dollars irresponsibly.

Finally, the hammer of very low funding levels will keep pressure on both ends of Pennsylvania Avenue and both parties to get the appropriations work done.

Again, this is a preventative measure to ensure that politics or stalled negotiations will not stop Government operations. The time has come to show the American people that we will not allow a Government shut down, or the threat of a Government shutdown, to be used for political gain.

Time is running out. September 30 will be here in just 2 short months. We must be prepared in case election year politics get in the way of funding the Government. Senator MCCAIN and I will be offering this legislation as an amendment to the first appropriations bill the Senate turns to following the recess. Let's not continue to disappoint an already disenchanted electorate. The time has come to take control and pass this legislation.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 2014. A bill to authorize the Secretary of the Interior to acquire property adjacent to the city of New Orleans, Orleans Parish, LA, for inclusion in the Bayou Sauvage National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

THE BAYOU SAUVAGE NATIONAL WILDLIFE REFUGE ACT OF 1996

• Mr. JOHNSTON. Mr. President, I introduce a measure that would be the culmination of many years of negotiation and effort on the part of a number of interested individuals in my State of Louisiana.

Mr. President, the State of Louisiana is rich in wildlife and wildlife habitat, the flora and fauna of legend. The State is also home to numerous wildlife refuges, including the Bayou Sauvage National Wildlife Refuge, which is the subject of my statement today.

Bayou Sauvage is located in east Orleans Parish, LA, almost entirely within the corporate limits of the city of New Orleans and approximately 18 miles east of the central business district. It has the distinction of being the largest expanse of coastal wetlands in the United States that is easily accessible to city dwellers.

The refuge was created in 1986 by legislation sponsored by then Congressman JOHN BREAUX and Representative Lindy Boggs. The measure authorized the refuge at 19,000 acres. In 1993, fee title had been acquired on 18,397 acres. An additional 4,373 acres was under management lease from the Conservation Fund and the city of New Orleans.

After discussions with the city, the Conservation Fund and private individuals with interests in the additional acreage, I am pleased to report that a critical stage of acquisition is now ready to go forward. The acreage which is the subject of this legislation is key to the ability of the managers of Bayou Sauvage to achieve specific goals, including enhancing the population of migratory, shore, and wading birds; encouraging natural diversity of fish and wildlife species; protecting endangered and threatened species; and providing opportunities for scientific research and environmental education on ecological and wetland values to the public.

Mr. President, this is an important milestone for Bayou Sauvage National Wildlife Refuge, and I urge this body to support the completion of this long effort to protect a wonderful treasure for the people of Louisiana, and the Nation.

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

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

S. 2014

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

SECTION 1. REFUGE EXPANSION.

Section 502 of the Emergency Wetlands Resources Act of 1986 (P.L. 99–645; 100 Stat. 3590), is amended by inserting following the first sentence in subsection (b)(1) the following sentence:

''In addition, the Secretary is authorized to acquire, within such period as may be necessary, an area of approximately 4,228 acres, consisting of approximately 3,928 acres located north of Interstate 10 between Little Woods and Pointe-aux-Herbes and approximately 300 acres south of Interstate 10 between the Maxent Canal and Michoud Boulevard that contains the Big Oak Island archeological site, as depicted upon a map entitled ''Bayou Sauvage National Wildlife Refuge Expansion'', dated August, 1996 and on file with the United States Fish and Wildlife Service.''

SEC. 2. NAME CHANGE.

Section 502 of the Emergency Wetlands Resources Act of 1986 (P.L. 99–645; 100 Stat. 3590), is further amended by deleting the word ''Urban'' wherever it appears in the section.•

By Mr. DOMENICI:

S. 2015. A bill to convey certain real property located within the Carlsbad project in New Mexico to the Carlsbad Irrigation District; to the Committee on Energy and Natural Resources.

CARLSBAD PROJECT LEGISLATION

Mr. DOMENICI. Mr. President, today I am introducing legislation that will convey tracts of land, referred to as ''acquired lands,'' to the Carlsbad Irrigation District in New Mexico.

This bill is a culmination of over a year's worth of work, addressing concerns that were raised over legislation that Senator CRAIG and I introduced early last year.

That legislation used a generic approach to direct the Secretary of the Interior to convey these acquired lands to the beneficiary districts, when those districts had completed their contractual obligations to the United States for project construction.

The administration is on record in support of the idea of transfer of facilities to the beneficiaries, ''where it makes sense,'' but it opposed that legislation, in part because of the generic nature in which it was drafted.

I hope that the legislation I am introducing today will address the administration's concerns with the earlier bill.

It is specific to the Carlsbad project in New Mexico, and directs the Carlsbad Irrigation District to continue to manage the lands as they have been in the past, for the purposes for which the project was constructed.

This bill also protects the interests that the State of New Mexico has in some of those lands, and a companion bill introduced in the House by Congressman JOE SKEEN has the full support of the Governor and the various Cabinet Secretaries who oversee those interests.

Finally, this legislation will return project lands, which were at one time held by the beneficiaries of the Carlsbad project and its predecessor, to the Carlsbad Irrigation District.

Mr. President, I encourage my colleagues to support this legislation, and ask unanimous consent the text of the bill be printed in the RECORD.

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

S. 2015

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

SECTION 1. CONVEYANCE.

(a) OPERATION OF LAW.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to the conditions set forth in subsection (c) and section 2(b), all right, title, and interest of the United States in and to the lands described in subsection (b) (in this Act referred to as the ''acquired lands'') in addition to all interests the United States holds in the irrigation and drainage system of the Carlsbad Project and all related lands including ditch rider houses, maintenance shop and buildings, and Pecos River Flume are hereby conveyed by operation of law to the Carlsbad Irrigation District (a quasi-municipal corporation formed under the laws of the State of New Mexico and referred to in this Act as the ''District'').

(2) LIMITATIONS.—

(A) In case of a tract of acquired land on which is located any dam, or reservoir diversion structure, conveyance to the District is limited to the right, title, and interest of the United States in and to the mineral estate.

(B) The United States shall retain storage and flow easements for any tracts located under the maximum spillway elevations of Avalon and Brantly Reservoirs.

(b) ACQUIRED LANDS DESCRIBED.—The lands referred to in subsection (a) are those lands (including the surface and mineral estate) in Eddy County, New Mexico, described as the acquired lands in section (7) of the ''Status of Lands and Title Report: Carlsbad Project'' as reported by the Bureau of Reclamation in 1978.

(c) TERMS AND CONDITIONS OF CONVEYANCE.—Any conveyance of the acquired lands under this Act shall be subject to the following terms and conditions:

(1) The acquired lands shall continue to be managed and used by the District for the purposes for which the Carlsbad Project was authorized, consistent with existing management of such lands.

(2) Except as provided in paragraph (3), the District shall assume all rights and obligations of the United States under—

(A) the agreement dated July 28, 1994, between the United States and the Director, New Mexico Department of Game and Fish (Document No. 2–LM–40–00640), relating to management of certain lands near Brantley Reservoir for fish and wildlife purposes,

(B) the agreement dated March 9, 1977, between the United States and the New Mexico Department of Energy, Minerals, and Natural Resources (Contract No. 7–07–57–X0888) for the management and operation of Brantley Lake State Park.

(3) EXCEPTIONS.—

(A) The District shall not be obligated for any financial support associated with either agreement under paragraph (2).

(B) The District shall not be entitled to any revenues generated by the operation of Brantley Lake State Park.

SEC. 2. LEASE MANAGEMENT AND PAST REVENUES COLLECTED FROM THE ACQUIRED LANDS.

(a) IDENTIFICATION AND NOTIFICATION OF LEASEHOLDERS.—Within 45 days after the date of enactment of this Act, the Secretary of the Interior shall provide to the District a written identification of all mineral and grazing leases in effect on the acquired lands on the date of enactment of this Act, and the Secretary of the Interior shall notify all leaseholders of the conveyance made by this Act.

(b) MANAGEMENT OF MINERAL AND GRAZING LEASES.—Upon conveyance, the District shall assume all rights and obligations of the United States for all mineral and grazing leases on the acquired lands, and shall be entitled to any revenues from such leases accruing after such date. The District shall continue to adhere to the current Bureau of Reclamation mineral leasing stipulations for the Carlsbad Project.

(c) AVAILABILITY OF AMOUNTS PAID INTO RECLAMATION FUND.—Receipts paid into the reclamation fund which now exist as credits to the Carlsbad Project under the Mineral Lands Leasing Act of 1920 (30 U.S.C. 181 et seq.), shall be made available to the District under the distribution scheme set forth in section (4)(I) of the Act of December 5, 1924 (43 U.S.C. 501; commonly referred to as the ''Fact Finders Act of 1924'').

By Mr. DORGAN (for himself, Mr. BYRD, Mr. HEFLIN, Mr. CAMPBELL, Mr. WELLSTONE, Mr. HOLLINGS, Mr. INOUYE and Mr. D'AMATO):

S. 2016. A bill to assess the impact of the NAFTA, to require further negotiation of certain provisions of the NAFTA, and to provide for the withdrawal from the NAFTA unless certain conditions are met; to the Committee on Finance.

THE NAFTA ACCOUNTABILITY ACT

Mr. DORGAN. Mr. President, the North American Free Trade Agreement has been a colossal failure. It epitomizes what is wrong with our nation's trade policies.

This Nation has focused practically all of its efforts on achieving some theoretical system of free trade, without giving any real attention to whether what is advanced also provides fair trade and fair competition. We open our borders and provide access to our markets, without ensuring that at the same time there will be reciprocal trading opportunities with our trading partners.

NAFTA has not produced the results that were projected. It has not lived up to its promises. Since NAFTA took effect our trade deficit with Canada and Mexico has ballooned by 368 percent.

Today, Canada and Mexico are the third and fourth largest trade deficits for the United States. Rather than stopping the flight of American jobs, it has accelerated the loss of jobs to our closest trading partners.

Today, I am reintroducing the NAFTA Accountability Act. This bill establishes benchmarks for measuring whether or not NAFTA has lived up to its promises. If it doesn't then the bill outlines the procedure for withdrawing from NAFTA.

In reintroducing this bill we are updating some of the information in the findings and we are adding a section on highway safety. In addition, we are adding a number of co-sponsors. Senators D'AMATO, INOUYE, HOLLINGS, and WELLSTONE are joining the list of original co-sponsors, including Senators BYRD, HEFLIN, and CAMPBELL.

The companion bill on the House side, sponsored by Representative MARCY KAPTUR now has 107 co-sponsors.

TRADE DEFICITS CONTINUE TO GROW

One of the untold stories of NAFTA is the growing trade deficit with Canada. Prior to NAFTA, the merchandise trade deficit was over $10 billion in 1993. In 1994 it grew to $14 billion, and last year it hit a record of almost $19 billion. In the first 5 months of this year, our trade deficit with Canada is already at almost $9 billion. At this pace the trade deficit this year can be expected to be over $21 billion.

The change in our trade position with Mexico is even more dramatic. Prior to NAFTA our trade surplus with Mexico peaked in 1992 at $5.4 billion. It then dropped to $1.6 billion in 1993. In the first year of NAFTA, the positive trade balance with Mexico dropped to $1.4 billion. In the second year of NAFTA, we ended up with a $15.4 billion trade deficit.

Much has been said about the role of the devaluation of the peso as the cause of this dramatic turn-around in trade flows with Mexico. The reality is that the problems of the overvalued Mexican peso were well known at the time of the passage of NAFTA.

Yet, there was nothing in NAFTA that provided any means to address the question of rapid changes in currency values. Our bill would require the opportunity for renegotiation in such circumstances.

This year the trade deficit with Mexico has already reached almost $7 billion during the first 5 months. At this pace, it will be very close to last year's record level of $15 billion.

Since NAFTA took effect, the United States has recorded a $42 billion trade deficit with Canada in the 2 years and 5 months for which we have statistics. During that time we have recorded a $20 billion deficit with Mexico.

We have accumulated a total trade deficit of $62 billion with these trading partners since NAFTA started regulating these trade relationships. In other words our trade deficit with our NAFTA partners is draining over $2 billion a month from our national economy. These trade deficits have serious consequences for our country.

U.S. JOB LOSSES DUE TO NAFTA

Today a study by Rob Scott on the relationship between NAFTA and jobs was released by the Economic Policy Institute. This study reveals that the trade deficits we have had during the first 2 years of NAFTA has meant a loss of almost a half-million jobs and job opportunities for American workers.

The study shows that as a result of our trade imbalance with Canada, we have lost 200,026 jobs during the past 2 years. In the same period the trade deficit with Mexico has meant a loss of 283,607 jobs. The total loss of jobs and job opportunities is 483,633.

When NAFTA was being debated, the predictions were that the United

States would gain something between 120,000 and 220,000 jobs. Now 2 years later, the reality is that our trade relationships under NAFTA have cost this country 484,000 jobs.

JOBS MOVING TO MEXICO

One week ago I co-chaired the Families First Forum here in the Nation's Capitol. At that forum, a union worker in North Carolina told us about the upcoming closing of his plant. That plant closing was to be completed today and the jobs moved to Mexico.

This is a plant that produces electrical transformers. These are the transformers that hang from electrical poles, sit on pads on the ground, and even some units that are made for use underground.

They have been producing transformers at that plant for 40 years, and have been a profitable operation for most of those years. There are 343 hourly workers and 250 salaried workers who today no longer have a job.

These workers will no longer be able to be employed using the skills they have learned and developed in building electrical transformers. Their jobs our moving to Monterrey, Mexico, to a facility that pays workers less than a $1 per hour.

There is another small industry in this country. It's scattered around in rural communities in the heart of the corn belt. This industry is dominated by small family business operations which make the brooms that we use to sweep out our houses. The future of this industry is in doubt.

Stan Koschnick, manager of the France Broom Co., told a news reporter, ''I don't want to worry my employees too much when they open their newspapers, but I would guess if it was left unchecked, within 10 years there wouldn't be any brooms made in the United States.''

Kenneth Quinn, the retired president of the Quinn Broom Works, states, ''It's hard to say you can compete with somebody when they're paying 30 or 40 cents per hour. We can do everything better except for wages. We can't compete on wages.''

Since NAFTA became reality, more than 200 jobs have been lost in this industry. These companies are paying in the neighborhood of $8 per hour to their workers. They are competing with Mexican workers who will be lucky to be paid $8 per day.

The question is whether such wage competition is good for our country. There are those who would say we are raising our standard of living by being able to buy a couple of cheaper brooms every year. However, what are we gaining if at the same time our wages are being lowered and our jobs are being lost?

This industry may get a second chance, because last Friday the International Trade Commission recommended restoring a tariff on Mexican brooms. Earlier this month, the ITC determined that unfair competition from Mexican factories posed a serious threat to the domestic broom industry.

The reason they are getting a second chance is that hidden away in the fine print of the NAFTA agreement was a provision that allowed tariffs to be restored if the U.S. broom industry got hurt. Other industries are not so lucky, and don't have such provisions. They are being swept under.

INDUSTRIES EXPERIENCING JOB LOSSES

Let's take a closer look at the industries in which we are losing jobs and job opportunities under NAFTA. The study released today by the Economic Policy Institute provides some estimates of where we are losing jobs.

Our exports to Mexico have been mostly capital goods and intermediate inputs which are used to build and supply factories that assemble final products for export back to the United States.

With Mexico, we have lost over 85,000 jobs and job opportunities in auto, auto parts, and vehicles. Another 60,000 jobs were lost in electrical equipment, such as televisions and other electronic equipment. Over 26,000 jobs in nonelectrical machinery and 20,000 jobs in scientific and professional equipment were lost to Mexico.

In our trade with Canada, we have lost over 53,000 jobs and job opportunities in the paper and allied products industry. We have also lost jobs in autos, auto parts, and vehicles to Canada. This accounts for some 38,000 jobs. Another industry where we have lost jobs and job opportunities to Canada has been in the production of primary metal products. That is a loss of 26,000 jobs.

Now, these are not what is normally considered unskilled jobs. These are jobs that traditionally have paid good salaries and provided an industrial base for our country.

The fact is that manufacturing jobs have been the hardest hit within the trade framework established by NAFTA. According to the Economic Policy Institute, 73 percent of the jobs lost to our NAFTA trading partners have been lost in the manufacturing sector.

That should be of great concern to this country. Our manufacturing base has been what has provided good paying jobs for the bulk of American families. As we shift to buying more and more of our manufactured goods from beyond our own borders, we are also experiencing both a shift in jobs and an overall loss in jobs.

According to the EPI study, the United States has had a net loss of 483,633 jobs to our NAFTA trading partners since NAFTA took effect. That reflects an total job loss of 883,717 jobs, while our trade with Canada and Mexico created 400,085 jobs. Since almost three-quarters of the net job losses were in the manufacturing sector, this further underscores that we are losing our better paying jobs.

NAFTA BENCHMARKS

As a nation we need to begin systematically measuring how our trade agreements are doing. Are they living up to their promises?

Are they providing mutually beneficial reciprocal opportunities that strengthen the economies of the participating countries? Are they helping to improve the standard of living in each of the countries or are they pitting one nation against another down to the lowest common denominator?

Those are the type of questions we are asking within the NAFTA Accountability Act. We are asking these questions in nine specific areas. In three areas we are requiring some renegotiation of NAFTA so it can deal with issues of significant trade deficits, currency exchange rates, and agricultural trade distortions.

The other six areas are matters of ensuring that the results are measured and certified. These include certifications in maintaining our manufacturing base; highway safety; health and environmental standards; jobs, wages, and living standards; rights and freedoms; and, controlling drug trafficking.

We need to make NAFTA accountable. If it doesn't measure up then we need to withdraw from it. We need trade agreements that work. America can no longer afford trade agreements that work against our long-term economic interests.

That is why I am pleased to be reintroducing this bill. I am also pleased that my colleagues, Senators BYRD, HEFLIN, CAMPBELL, WELLSTONE, HOLLINGS, INOUYE, and D'AMATO are joining in this effort to make NAFTA accountable.

ADDITIONAL COSPONSORS

S. 1014

At the request of Mr. NICKLES, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1014, a bill to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

S. 1317

At the request of Mr. D'AMATO, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1317, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1995, and for other purposes.

S. 1493

At the request of Mr. LAUTENBERG, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 1493, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1540

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 1540, a bill to amend chapter 14 of title 35, United States Code, to preserve the full term of patents.

S. 1735

At the request of Mr. PRESSLER, the name of the Senator from Vermont

[Mr. JEFFORDS] was added as a cosponsor of S. 1735, a bill to establish the United States Tourism Organization as a nongovernmental entity for the purpose of promoting tourism in the United States.

S. 1737

At the request of Mr. BUMPERS, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1737, a bill to protect Yellowstone National Park, the Clarks Fork of the Yellowstone National Wild and Scenic River and the Absaroka-Beartooth Wilderness Area, and for other purposes.

S. 1908

At the request of Mrs. FEINSTEIN, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1908, a bill to amend title 18, United States Code, to prohibit the sale of personal information about children without their parents' consent, and for other purposes.

S. 1954

At the request of Mr. HATCH, the name of the Senator from Kansas [Mrs. FRAHM] was added as a cosponsor of S. 1954, a bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

S. 1984

At the request of Mr. GRAHAM, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1984, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to require a 10 percent reduction in certain assistance to a State under such title unless public safety officers who retire as a result of injuries sustained in the line of duty continue to receive health insurance benefits.

S. 1999

At the request of Mr. NICKLES, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 1999, a bill to define and protect the institution of marriage.

S. 2008

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2008, a bill to amend title 38, United States Code, to provide benefits for certain children of Vietnam veterans who are born with spina bifida, and for other purposes.

AMENDMENT NO. 5119

At the request of Mr. CHAFEE the names of the Senator from South Dakota [Mr. PRESSLER] and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of amendment No. 5119 proposed to H.R. 3754, a bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1997, and for other purposes.

SENATE RESOLUTION 286—TO COMMEND OPERATION SAIL

Mr. DODD (for himself, Mr. D'AMATO, Mr. LIEBERMAN, Mr. MOYNIHAN, Mr. WARNER, Mr. ROBB, Mr. BRADLEY, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 286

Whereas Operation Sail is a nonprofit corporation dedicated to building good will among nations and encouraging international camaraderie;

Whereas Operation Sail has represented and promoted the United States of America in the international tall ship community since 1964, organizing and participating in numerous tall ship events across the United States and around the world;

Whereas Operation Sail has worked in partnership with every American President since President John F. Kennedy;

Whereas Operation Sail has established a great tradition of celebrating major events and milestones in United States history with a gathering of the world's tall ships, and will continue this great tradition with a gathering of ships in New York Harbor on July 3 through July 8, 2000, called OpSail 2000, to mark the 224th birthday of the United States of America and to welcome the new millennium;

Whereas President Clinton has endorsed OpSail 2000, as Presidents Kennedy, Carter, Reagan, and Bush have endorsed Operation Sail in previous endeavors;

Whereas OpSail 2000 promises to be the largest gathering in history of tall ships and other majestic vessels like those that have sailed the ocean for centuries;

Whereas in conjunction with OpSail 2000, the United States Navy will conduct an International Naval Review; and

Whereas the International Naval Review will include a naval aircraft carrier as a symbol of the international good will of the United States of America: Now, therefore, be it

Resolved, That the Senate—

(1) commends Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship;

(2) encourages all Americans and citizens of nations around the world to join in the celebration of the 224th birthday of the United States of America and the international camaraderie that Operation Sail and the International Naval Review will foster; and

(3) encourages Operation Sail to continue into the next millennium to represent and promote the United States of America in the international tall ship community, and to continue organizing and participating in tall ship events across the United States and around the world.

Mr. DODD. Mr. President, it is my pleasure to rise today to submit a very special resolution in anticipation of OpSail 2000 and in recognition of the Operation Sail organization that has made events such as OpSail 2000 possible.

Mr. President, I am sure that many of my colleagues remember the glorious New York Harbor gatherings of the world's tall ships to mark several milestones in America's history: OpSail '76 celebrated the bicentennial of the Nation; OpSail '86 marked the centennial of the Statue of Liberty; and OpSail '92 commemorated the 500th anniversary of Columbus' discovery of the "new world."

In 2000, this grand tradition will continue. America, and indeed the entire world, will again be treated to the spectacular display of international friendship that is OpSail. OpSail 2000 will take place July 3–July 8, 2000 in New York Harbor to mark the 224th birthday of the United States of America and to welcome the new millennium. It is expected to be the largest gathering in history of the tall ships and other majestic vessels like those that have sailed the ocean for centuries.

As a symbol of good will of the United States of America, the U.S. Navy will conduct an International Naval Review, which will include a naval aircraft carrier. OpSail 2000 is endorsed by President Clinton, just as Presidents Kennedy, Carter, Reagan and Bush endorsed Operation Sail's previous endeavors.

Much like the Olympic games our country is currently hosting, OpSail events and Operation Sail are dedicated to building good will among nations, encouraging international camaraderie, and nurturing the leadership and athleticism of young people through training in seamanship. Furthermore, OpSail events and Operation Sail continually commemorate major events in the history of the United States, working in partnership with every American President since John F. Kennedy and representing and promoting the United States of America in the international tall ship community.

Mr. President, this resolution honors the tradition of the OpSail events—the advancement of international friendship and the celebration of milestones in U.S. history—and I urge my colleagues to embrace that tradition by supporting this resolution.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a field hearing has been scheduled before the Committee on Energy and Natural Resources to receive testimony on the issue of competitive change in the electric power industry. The hearing will focus on regional issues associated with competitive change.

The hearing will take place on Monday, September 9, beginning at 9 a.m. at the Champlain College Alumni Auditorium, on Maple Street in Burlington, Vermont 05401.

Those wishing to testify or submit written statements should write to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510. For further information, please contact Shawn Taylor or Howard Useem.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, August 1, 1996, in open session, to receive an update on United States participation in implementation force mission in Bosnia.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Thursday, August 1, 1996, session of the Senate for the purpose of conducting a hearing on aviation security challenges.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, August 1, 1996, for purposes of conducting a full committee hearing which is scheduled to begin at 2 p.m. The purpose of this oversight hearing is to receive testimony on the implementation of section 2001 of Public Law 104–19, the Emergency Timber Salvage Amendment.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be granted permission to meet Thursday, August 1, immediately following the first vote in The President's Room, S–216, The Capitol, to consider the nominations of Nils J. Diaz and Edward McGaffigan, Jr., each nominated by the President to be a Member of the Nuclear Regulatory Commission and a committee resolution on a GSA public building proposal.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 1, 1996, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, August 1, 1996, at 10 a.m. to hold an executive business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BURNS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, August 1, 1996 at 9:30 a.m. to hold an open hearing on Intelligence Matters.

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

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. BURNS. Mr. President, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, August 1, 1996 for purposes of conducting a Subcommittee hearing which is scheduled to begin at 9:00 a.m. The purpose of the oversight hearing is to consider the propriety of a commercial lease by the Bureau of Land Management at Lake Havasu, AZ, including its consistency with the Federal Land Policy and Management Act and Department of the Interior land use policies.

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

ADDITIONAL STATEMENTS

COMMEMORATING THE BRAVERY OF THE 168th ENGINEER COMBAT BATTALION

• Ms. SNOWE. Mr. President, I rise today to pay tribute to the valor and courage of the 168th Engineer Combat Battalion, which celebrates the unveiling of its commemorative monument at Fort Devens, MA, later this month. During World War II, the 168th Engineer Combat Battalion was composed entirely of New Englanders, many of them residents of the State I have the good fortune to represent in this body: the great State of Maine. This brave group of soldiers defended freedom and democracy from the will of tyranny in the darkest days of World War II and the Vietnam conflict. As they reunite to remember their success and pay homage to their fallen comrades, I'd like to take a moment today to remember the unit's heroism.

Mr. President, any retelling of the pivotal events of the Second World War in Europe must include the deeds of the 168th. They were there with General Patton in July 1944 when the Allies landed on the beaches of Normandy as part of the D-day Invasion. For 10 hard but glorious months thereafter, the 168th provided the American ground forces in Europe with invaluable logistic support and an iron will that was crucial in turning back the ruthless advance of the Nazis across Europe.

Perhaps no single mission depicts the heroism, bravery, and grit of the 168th more clearly than its performance in the Ardennes offensive, also known as the Battle of the Bulge. When the forces of Hitler launched their desperate, last-ditch offensive into the heart of the Allied line during the winter of 1944, the 168th displayed the resiliency and courage for which it has come to be known. In hopes of fracturing the Allied line into its American and British components, the Nazi Army focused all of its lethal energy on breaking through the Allied line in Belgium. However, in doing so, the Nazis ran into the 168th, and the 168th stood fast. With their defiant stand at St. Vith, Belgium, the 168th was able to slow the Nazi assault and then provide the larger American force with the logistical support necessary to repel the Nazi war machine once and for all.

In remaining at St. Vith, the 168th endured the loss of half its personnel to casualty or Nazi apprehension. Yet, with the loss of every comrade, the depleted 168th exhibited even firmer resolve to drive the Nazis back across the line. They did so for each other, and they did so for America. But most of all, they refused to succumb to the Nazis because at that moment, the cause of freedom depended upon them. For its valor in battle and efficiency in duty, the 168th was deservingly awarded the Distinguished Unit Citation by the U.S. Army. The 168th was also awarded the Belgian Croix de Guerre, which was given to foreign forces by the Belgian Government for the defense of its nation during World War II.

As if the heroics of the 168th in World War II were not enough, it also served with distinction during the Vietnam conflict, 20 years later. Faced with the daunting task of establishing logistical lines of support in the harrowing jungles of Southeast Asia, the 168th again performed its tasks masterfully under heavy fire. For its repeated acts of bravery, the 168th received the Valorous Unit Citation and the Meritorious Unit Citation, and in doing so, reaffirmed its status as an elite unit of the U.S. Army Corps of Engineers.

Mr. President, as the remaining members of the 168th gather to unveil their monument at Fort Devens, I think it is appropriate that we all remember the intrepid nature displayed again and again by the members of the 168th when they were most needed. Whether they were ordered to forge roadways and cross rivers in the snowy countryside of Western Europe, or devise ways to destroy the vast tunnel systems underneath the steamy jungles of Southeast Asia, the 168th has performed its duties with honor and distinction. It is due to the heroism and sacrifice of people like the members of the 168th Engineer Combat Battalion that Americans enjoy the fruits of freedom today, and for that, we all owe them a deep and heartfelt debt of gratitude.

In honor of the contributions made by the 168th in the defense of freedom, I ask that the declarations honoring the 168th Engineer Combat Battalion made by the Governors of Maine and Massachusetts, as well as the Corps of Engineers poem be placed in the

RECORD in their entirety to commemorate the unveiling of the 168th Engineer Combat Battalion later this month.

The material follows:

PROCLAMATION—STATE OF MAINE

Whereas, the 168th Engineer Combat Battalion was activated in 1943, consisting of a large number of New England residents, many from Maine and Massachusetts; and

Whereas, since 1943, the 168th Engineer Combat Battalion has served with distinction in both World War II and the Vietnam War, earning five distinguished battle honors; and

Whereas, during the Battle of the Bulge, the 168th Engineer Combat Battalion held its position at St. Vith, Belgium from December 16 through December 23, 1944, and stopped the German thrust through the Ardennes; and

Whereas, following the Battle of the Bulge, the 168th Engineer Combat Battalion was awarded the Distinguished Unit Citation for extraordinary heroism against an armed enemy, and the Belgian Croix de Guerre for outstanding gallantry, heroic action, and bravery in the face of enemy action; and

Whereas, during the Vietnam War, the 168th Engineer Combat Battalion again served with distinction and was awarded the Valorous Unit Citation for heroic combat action on or after August 3, 1963, the Meritorious Unit Citation for outstanding service during a period of combat, and the Republic of Vietnam Civil Award for meritorious service and outstanding accomplishments over and above the call of duty; and

Whereas, it is appropriate that all Maine citizens recognize and honor the outstanding dedication, sacrifice, and tradition of the 168th Engineer Combat Battalion,

Now, therefore, I, Angus S. King, Jr., Governor of the State of Maine, do hereby proclaim the week of December 16–23, 1995 as the 168th Engineer Combat Battalion Days of Honor, throughout the State of Maine, and urge all citizens to recognize the many accomplishments of the 168th Engineer Combat Battalion.

PROCLAMATION—COMMONWEALTH OF MASSACHUSETTS

Whereas, the 168th Engineer Combat Battalion was activated in 1943, consisting of a large number of New England residents, many from Maine and Massachusetts; and

Whereas, since 1943, the 168th Engineer Combat Battalion has served with distinction in both World War II and the Vietnam War, earning five distinguished battle honors; and

Whereas, during the Battle of the Bulge, the 168th Engineer Combat Battalion held its position at St. Vith, Belgium from December 16 through December 23, 1944, and stopped the German thrust through the Ardennes; and

Whereas, following the Battle of the Bulge, the 168th Engineer Combat Battalion was awarded the Distinguished Unit Citation for extraordinary heroism against an armed enemy, and the Belgian Croix de Guerre for outstanding gallantry, heroic action, and bravery in the face of enemy action; and

Whereas, during the Vietnam War, the 168th Engineer Combat Battalion again served with distinction and was awarded the Valorous Unit Citation for heroic combat action on or after August 3, 1963, the Meritorious Unit Citation for outstanding service during a period of combat, and the Republic of Vietnam Civil Award for meritorious service and outstanding accomplishments over and above the call of duty; and

Whereas, 1994 marks the fiftieth anniversary of the 168th Engineer Combat Battalion's distinguished service during the Battle of the Bulge; and

Whereas, it is appropriate that all Massachusetts citizens recognize and honor the outstanding dedication, sacrifice, and tradition of the 168th Engineer Combat Battalion;

Now, therefore, I, William F. Weld, Governor of the Commonwealth of Massachusetts, do hereby proclaim December 16th through December 23rd, 1994, as the 168th Engineer Combat Battalion Days of Honor, and urge all the citizens of the Commonwealth to take cognizance of this event and participate fittingly in its observance.

CORPS OF ENGINEERS

(Author unknown, Korea, 1951)

They have a song about the Army, the Navy, and the Marines
They've got one for the Air Force, in fact the whole darn works, it seems
But they have never taken the trouble, though we have served them for years
To every write a poem, for the Corps of Engineers
We build the roads and airfields, their pipe lines and their camps
From underground munition dumps to concrete landing ramps
Railroads, dams and bridges, electric power lines
Canals, docks and harbors, even coal and iron mines
But the engineers aren't kicking, for when the Army is moving in:
We know it's just another place where we've already been
Before the Army got there, we had to break the ground
And build it all to suit their needs, solid safe, and sound
If the Army and Navy ever look on heavens scenes
They will find the streets guarded by the United States Marines
Who will guard the streets up there, we aren't disposed to say
But we offer this suggestion, if they look at a thing that way
When the Marines have taken over on the land that has no years
They will find it was designed by the Corps of Engineers.

RETIREMENT OF JOHN J. SHEEHAN

• Mr. DODD. Mr. President, I rise today to pay tribute to an outstanding labor leader and an outstanding American. John J. ''Jack'' Sheehan is retiring after 29 years as legislative director of the Steelworkers of America and a total of 45 years of service to his union and all working people. He has served as an assistant to three presidents of the Steelworkers: Lloyd McBride, Lynn Williams, and George Becker.

During his 10 years in the Steelworkers' Washington office, Jack Sheehan has been at the forefront of some of the most important legislative battles in our history, including the creation of the Occupational Safety and Health Act [OSHA], the Mine Safety and Health Act, the Employee Retirement Income Security Act [ERISA], the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and much more.

Jack Sheehan was born and raised in the Bronx. He was the son of Irish immigrants. His father drove a truck for the New York City Sanitation Department. Jack learned early in his life about the daily struggles of working men and women who worked hard, who toiled through the Great Depression of the 1930s, and who fought and won World War II in the 1940s.

He saw the destructive effects of discrimination in our society and became a champion of the cause of civil rights and equal opportunity.

He saw how poverty deprived people of their dignity and became an advocate for social and economic development programs that promised millions of Americans a better life.

He knew how important a clean and healthy environment is to the lives and well-being of all Americans and became an environmental advocate.

He understood that the labor movement is a progressive force for social and economic change that could better the lives of millions of Americans.

Upon graduating from St. Joseph's College in 1951, he joined the administrative staff of the United Steelworkers of America. In 1952, he was appointed auditor under the secretary-treasurer's office and traveled extensively throughout the United States on behalf of the union. In 1959, Jack came to the Steelworkers' Washington, DC, legislative office and launched a career as a labor lobbyist that has been nothing short of spectacular.

Jack worked to ensure the passage of the Manpower Training and Development Act and the Area Redevelopment Act. He was one of the first labor leaders to stand with the environmental movement for clean air and clean water. He continues to serve as a board member of the Natural Resources Defense Council. He is also one of the founding members of the Consumer Federation of America.

Perhaps the single most important fight of Jack's long and distinguished career was the fight to save the lives and health of workers on the job. Jack committed himself totally to securing the passage of OSHA, despite strong business opposition and even some opposition within the ranks of the labor movement. OSHA recently marked its 25th anniversary. It has been estimated that since the passage of OSHA, more than 150,000 workers' lives have been saved because of this law. There probably would not have been an OSHA law passed in 1970 had it not been for the steadfast leadership and determination of Jack Sheehan.

ERISA was written in 1974 because thousands of American workers were losing their pensions and their right to retire with financial security when their employers went out of business. Jack worked tirelessly to see that Congress passed ERISA. America's working men and women are better off today because Jack Sheehan was here in the halls of Congress on their behalf.

Mr. President, Jack Sheehan's career is a tribute to his intelligence and determination. I know that my colleagues in the Senate join me in extending to Jack our very best wishes upon his retirement from the Steelworkers. Jack Sheehan has truly been a ''Man of Steel'' for the Steelworkers and all American workers.●

S. 1729, THE INTERSTATE STALKING PUNISHMENT AND PREVENTION ACT OF 1996

Mr. FAIRCLOTH. Mr. President, I rise today in support of the Interstate Stalking Punishment and Prevention Act of 1996. For far too long, the victims of stalkers have lived in fear and insecurity. This legislation, introduced by Senator HUTCHISON, will give them the protection they need and deserve. At this time, this bill is awaiting action in the Judiciary Committee. I urge my fellow Senators on both sides of the isle to support bringing it to the floor as quickly as possible. The safety of stalking victims can not be delayed.

Experts estimate that there are close to 200,000 people who are currently stalking someone, and approximately 400,000 protective or restraining orders are issued each year. Currently, stalkers can follow their victims when they cross State lines, knowing full well that any restraining orders pertaining to them are rendered useless upon leaving the State that they were issued in. Common sense demands that this situation needs to be fixed.

This bill will make it a felony for a person to cross State lines in order to harass or injure their victim. We are not decreasing the power or role of the State authorities by making stalking a Federal crime. Stalking will remain a State crime. This legislation will allow local and State authorities to work with the Justice Department and apply all of their resources in the apprehension and conviction of these criminals. A stalker convicted under this law will be subject to one of several penalties: 5 years if State lines are crossed, 10 years if the victim is seriously harmed, 20 years if the victim is permanently scarred, and life imprisonment if the victim is killed. I have and always will be an advocate of matching the punishment to the crime. The strong penalties within this bill are steps in the right direction in the war against crime.

The Violence Against Women Act of 1993 defined a stalking victim as an ''intimate partner or spouse.'' This bill will change that term to ''victim,'' allowing protection for all people who are stalked, whether by strangers or otherwise. Again, common sense will prevail. Of course the protection of stalking victims should be universal and apply to all victims, whether they are a wife, a girlfriend, a coworker, or a total stranger.

Mr. President, this is a law that will protect stalking victims and allow them to travel, without fear, as all citizens should, throughout our country. With respect to family members, this bill will help ease their worries. I can only imagine the terror that families feel when one of their own is being stalked. With this thought, I urge my colleagues to stand with me in support of this bill and in support of all the victims who have suffered at the hands of stalkers.

MUTUAL AID AGREEMENT

● Mr. ROBB. Mr. President, I rise today to speak about House Joint Resolution 166, a bill we passed late last night, to grant the consent of Congress to the Mutual Aid Agreement between the city of Bristol, VA, and the city of Bristol, TN. Specifically, this bill would allow law enforcement officers in the cities of Bristol, VA, and Bristol, TN, when requested by the adjoining city, to cross State lines in the performance of their duties and operate with full authorization in the adjoining city once there.

Last May, I met with members of the Bristol Chamber of Commerce and discussed the need to alleviate Federal hurdles that keep the two cities from working together to address a host of municipal issues. The Virginia-Tennessee State line cuts across State Street in Bristol, which is the cities' main thoroughfare. Often, jurisdictional confusion and restrictions on law enforcement personnel caused by the location of the State line complicate anticrime activities on the bustling street. Under current law, the cities are prohibited from assisting each other in law enforcement efforts. To address the problem, the two cities adopted a mutual aid agreement to allow each city to provide law enforcement and emergency assistance to one another. Under the terms of the agreement, the responding city could provide a maximum of 50 percent of available personnel and resources to the requesting city.

The mutual aid agreement has been fashioned according to the cities' respective State statutory requirements. Because the mutual aid agreement is an interstate compact, it requires congressional approval. Additionally, section 15.1–131 of the 1950 Code of Virginia, as amended, also requires congressional approval for multi-state agreements to which Virginia or one of its localities is a party.

I am pleased that the Senate was able to move this bill quickly. This could not have happened without the full cooperation of the Senators from both States. Representatives BOUCHER and QUILLEN should also be recognized for introducing this legislation and sheparding it through the House.

The two cities of Bristol share common interests and common problems, and now with passage of this bill, the two cities will be able to work more cooperatively for the betterment of all the citizens of Bristol.●

NEW HAMPSHIRE OLYMPIAN LYNN JENNINGS

● Mr. SMITH. Mr. President, I rise today to pay tribute to Lynn Jennings of Newmarket, NH, for her competition in the 1996 Summer Olympic Games in Atlanta. Lynn competed in the 5,000-meter run Friday July 26 and was the first American to cross the finish line. New Hampshire is proud of her dedication and commitment to training for such a competitive sport.

At age 36, this is Lynn's third time to compete with the U.S. Olympic track team. Lynn's long career exemplifies marks of distinction and excellence. She competed in the 1988 Olympics in Seoul and in the 1992 Barcelona Olympics she became the only American woman to earn a distance medal when she took home the bronze in the 10,000-meter run. Previously, the greatest distance in which an American woman had medaled was 800-meters and Lynn broke that record. Lynn has also been the World Cross Country Champion three times, holding the title from 1990–1992. She is an eight time National Cross Country Champion and holds American records in the 10,000-meter, indoor 3,000-meter, and the 8- and 10-kilometer road courses.

Lynn's distinguished record is the mark of an Olympian and a champion. She has pursued her sport with determination, followed her dream, and embodied the Olympic spirit. New Hampshire has followed her career and she has made the Granite State proud. Many people from New Hampshire watched Lynn compete last Friday and join me in saluting her for representing them at the 1996 Summer Olympic Games. I commend her for her efforts in Atlanta and wish her other running successes at future competitions. Congratulations Lynn.●

THE 90TH ANNIVERSARY OF THE MUTUO CLUB OF BARRE, VT

● Mr. LEAHY. Mutuo Soccorso. In Italian, it means society of mutual aid. But for my Italian immigrant grandfather who worked in the granite quarries of Barre and South Ryegate, VT, it meant much, much more.

It meant financial security in the days before Social Security and Medicare. It meant affordable health care when they could not afford health insurance. It meant they had a second family when their families were thousands of miles away in their homeland. To Peter and Vincenza Zambon, my grandparents, Mutuo Soccorso meant the Mutuo Club of Barre, VT.

Mr. President, I am proud to celebrate the 90th birthday of the Mutuo Club, the Italian-American club of central Vermont. Since 1906, the Mutuo Club has represented the finest values of our immigrant heritage—a special sense of community and friendship.

The Mutuo Club was first established as an offspring of the old society clubs in Italy during the 19th century. Members of the Mutuo paid so much a week into a common fund to help when they and their families got sick. The Mutuo fund helped pay the doctor and hospital bills. Members of the Mutuo pulled together to help each other. Each member was in effect his brother's keeper.

When my grandfather came to Vermont from Italy, he went to the granite quarries to earn a modest living. Life was not easy—tough work, low pay, and health hazards. But in this foreign land, he had the Mutuo Club as a special community to share friendships in good times and a helping hand in bad times.

I remember as a small child walking with my grandfather down the streets of downtown Barre. He would often stop in the street to visit with fellow Mutuo Club members. They would tell stories, plan to help each other, or just learn the latest joke. I remember sensing a special bond of community and friendship between my grandfather and the other Italian-Americans of the Mutuo Club.

Now, the Mutuo Club is open to Americans of all nationalities. And that same special bond of community and friendship enjoyed by my grandfather is still shared by members of the Mutuo Club today.

Mr. President, the Mutuo Club is a living tribute to that special bond. In celebrating the Mutuo Club's 90th birthday, we celebrate that special sense of community and friendship shared by the Mutuo Club members of yesterday, today, and tomorrow.●

STEPHEN NORTH, NEW HAMPSHIRE'S SECONDARY SCHOOL PRINCIPAL OF THE YEAR

● Mr. SMITH. Mr. President, I rise today to pay tribute to Stephen North for being named New Hampshire's Secondary School Principal of the Year. Steve is the principal of Profile Junior and Senior High School in Bethlehem, NH, a position he has held since 1977. As a former teacher and school board chairman myself, I congratulate him for receiving this prestigious award.

Steve celebrates a long and distinguished career in education. He has been a teacher at Hanover High School, Curriculum Coordinator for the Dresden-Hanover School Districts, and both principal and assistant principal at Frances C. Richmond Middle School in Hanover. Steve's 18 years in education have been marked with success and leadership in this regional school district. He has built a reputation for excellence and achievement in many areas, from teacher to administrator. An example of Steve's achievement is the completion of much needed additions and renovations for Profile Junior and Senior School. This project, under his leadership, was completed in just 5 years.

Steve's achievements can be seen in more than new buildings, he has earned the respect and admiration of his colleagues for his efforts. He is an excellent role model for his peers because of his professional activities, leadership abilities, and commitment to community. Steve is involved in various educational organizations including the New England Association of Schools and Colleges, the New Hampshire Association of School Principals, and the North Country Principals Association.

Teachers and students alike admire Steve for what he has done for the school. He is known as someone who mentors new teachers, encourages innovation, promotes professionalism, and creates a sound educational environment. Under his supervision, Profile Junior and Senior High won the 1995 Sportsmanship Banner for exemplifying the positive tenets of good sportsmanship. This type of achievement reflects the type of motivation Steve provides for his school.

Our children are very important to our future and I am proud to see that they are in such capable hands. New Hampshire is fortunate to have such a talented educator and administrator like Steve North. I commend Steve for his outstanding career in the field of education.●

WEST VIRGINIAN RECEIVES VA 1996 EXCELLENCE IN NURSING AWARD

● Mr. ROCKEFELLER. Mr. President, on June 6 of this year, the Department of Veterans Affairs presented four very prestigious awards recognizing excellence in nursing. I am proud to congratulate all of these nurses, but I am especially proud of a fellow West Virginian, Sharon Shade, the recipient of VA's 1996 LPN of the year award. Sharon's performance in the nursing home care unit of the Martinsburg, VA Medical Center is truly outstanding. As a member of the Martinsburg community, she has made a great difference.

Sharon has made many changes, both big and small, that have improved the lives of her patients. Because she works with the patients on a one-on-one basis, she learns about their interests while determining their needs. For example, she found out that a reclusive patient had an interest in music. With her help and encouragement, he began to DJ at the noon meals and is now a thriving member of the high-level communication group. A bedridden patient now joins the noon dining group with the help of a walker, due to Sharon's special attention. These are just a few examples of the changes Sharon has made in the lives of individual patients.

Sharon is truly creative and original in her approach to care, with ideas that benefit the entire program. One of her more innovative techniques includes an Adopt-A-Plant program. Here patients can adopt a plant to take care of, giving them a sense of hope. Another program includes a reminiscence group in which the patients talk about days gone by. Sharon also arranged to move wheelchair-bound patients nearer to the windows in the dining hall where they can get a better view of the outdoors. These simple, yet thoughtful acts have made an enormous difference in the overall morale of both the residents and staff.

Sharon is known for her dedication to her profession. She is constantly working to make things better for her patients and for the staff. In addition to attending meetings and training seminars, she took initiative in developing her own survey to evaluate the program. To lend support to her co-workers, she has implemented a monthly restorative LPN meeting where she shares ideas and literature. She is praised by fellow members of the staff, her patients, and their families for her tireless efforts. The human spirit needs support and encouragement, both of which Sharon has generously given.

I am proud to recognize Sharon Shade and her remarkable talent for making the lives of the veterans at Martinsburg better. It is clear that Sharon is a valuable asset to her staff, her profession, her patients, and our State of West Virginia. Her commitment to her profession and her community makes me enormously proud to say that she is a fellow West Virginian.●

MICHAEL TOCCI, NEW HAMPSHIRE'S ELEMENTARY SCHOOL PRINCIPAL OF THE YEAR

● Mr. SMITH. Mr. President, I rise today to pay tribute to Michael Tocci for being named New Hampshire's Secondary School Principal of the Year. Mike is the principal of Gilford Elementary School in Gilford, NH, a position he has held since 1964. As a former teacher and school board chairman in the Lakes Region myself, I congratulate him for receiving this prestigious award.

Mike celebrates a long and distinguished career in education. He received his bachelors in education in 1967 his masters in public school administration and Supervision in 1973 from Plymouth State University. Mike has served as teaching principal at Danbury Elementary and supervising elementary principal for Newfound Area School District in Bristol. In his 30-year career, he has built a reputation for excellence and achievement in many areas, from teacher to administrator.

Mike is known among his colleagues for his leadership, enthusiasm, dedication, and contribution to children's education. His honest and caring spirit is reflected in the school's positive atmosphere. As an individual of distinction, Mike provides an excellent role model for his students and his teachers. He is admired by his school and his community for his concern and his commitment to community development.

Granite State children are fortunate to have such a talented educator and administrator committed to their education. Gilford Elementary School's success and achievement is reflective of the outstanding leadership Mike has provided. Our children are very important to our future and I am pleased to know that they are in such capable hands. I commend Mike for his outstanding career in the field of education and congratulate him for his dedication.●

SMITHSONIAN INSTITUTION NATIONAL AIR AND SPACE MUSEUM EXTENSION

● Mr. ROBB. Mr. President, I rise today to celebrate the Senate's passage last night of S. 1995, legislation I cosponsored to authorize construction of a Smithsonian Institution National Air and Space Museum extension at Washington Dulles International Airport. This Dulles center, which will be built without any Federal funds, will provide crucial additional exhibit space for displaying national aviation treasures to the public.

The current Air and Space Museum on the Mall is filled to capacity. There is no room to store any more of our large, invaluable aviation artifacts. These artifacts are currently stored in warehouses, hidden from the public, and some even stored outside, where they are exposed to the elements. The passage of S. 1995 places us on track to provide a safe and secure facility to house and preserve, for the public, these historical aircraft and spacecraft such as the B–29 *Enola Gay*, the Space Shuttle *Enterprise*, and the SR–71 *Blackbird*. This bill seeks to save these irreplaceable artifacts for our children and our future generations.

Mr. President, in 1946, President Truman, believing in the importance of preserving our historical aircraft, signed Public Law 722 establishing the National Air Museum. Twenty years later, in 1966, President Johnson understood the importance of this museum and signed the law authorizing construction of a National Air and Space Museum, which expanded the museum's collection efforts to include spacecraft and lunar artifacts. This museum was built on the National Mall here in Washington, opening its doors in 1976 and becoming the world's most visited museum, averaging over 8 million visitors per year.

In keeping with this tradition of preservation and planning for the future, the Senate has passed S. 1995. When it becomes law, we will be able to house historical air and spacecraft, underscoring the major advances we have developed and the contributions to history we have made. Construction efforts for the Air and Space extension at Dulles, estimated to cost $200 million, represents exemplary coordination between public funds from the Commonwealth of Virginia and private sources. It is expected that the Smithsonian Institution National Air and Space Museum Dulles Center could be completed by 2003, in time for the 100 year anniversary of the Wright Brothers' first flight. This Dulles Center is an incredible, historical effort that will be a benefit to us now and for generations to come.●

NEW HAMPSHIRE OLYMPIAN, BARBARA MAROIS

● Mr. SMITH. Mr. President, I rise today to pay tribute to Barbara Marois of Dover, NH for her competition in the 1996 summer Olympic games in Atlanta. Barb captained the women's field hockey team in their impressive series of games. This year's Olympic hockey team is the best team the United States has ever fielded. New Hampshire is proud of Barb's dedication and commitment to training for such a competitive sport.

Barb competed with the 1988 U.S. Olympic field hockey team in Seoul and this year she led the team into competition on home turf. Her long sports career, beginning 10 years ago, bears the marks of distinction and excellence. Barb has competed in 119 international contests and her team placed third in the 1994 World Cup. Field hockey has been gaining popularity over recent years, largely because of outstanding athletes in the sport like her.

The women's field hockey team gave an outstanding performance at this year's Olympic games. They defeated the No. 2 ranked South Korean team with a 3–2 victory and tied the well-respected Dutch team with a score of 1–1. Incidentally, the final point in the game with South Korea was scored by Barb from one of the penalty corners. She is known as a steady defensive force and a powerful weapon on penalty corners by her teammates. During the games she scored one goal and had 38 interceptions and 3 steals.

Barb is arguably one of the keys to the field hockey team's improvement over the last few years. This national team captain is the team mentor and maker of history in field hockey. She is a three time U.S. Field Hockey Association Female Athlete of the Year and has been an assistant coach at her alma mater, the University of New Hampshire.

Barb's distinguished record is the mark of an Olympian and a champion. Her driving sprit has enabled her to pursue her sport with determination and follow her dream. New Hampshire has followed her career and she has made the Granite State proud. Many people watched Barb lead the women's field hockey team. I join them in saluting her for representing them at the 1996 summer Olympic games and I commend her for her efforts in Atlanta. Congratulations Barb.●

NATIONAL SCHOOL NURSE OF THE YEAR

● Mr. ROCKEFELLER. Mr. President, I rise today to pay tribute to a West Virginian who serves as a model and inspiration for the entire Nation. On June 26, 1996, Denice Reese, of Hendricks, WV, was named ''National School Nurse of the Year'' by the National Association of School Nurses. Along with all the people of West Virginia, I am proud of the accomplishments of Denice Reese. She is an example of dedicated and skilled school nurses everywhere, and especially of the 127 school nurses of West Virginia. I join her colleagues in recognition and praise for her service to the children and families of the Tucker County, WV, school system.

Denice Reese is the first—and only—school nurse for the 4 schools and 1,400 students of Tucker County, whom she has served for the past 8 years. By naming her the ''National School Nurse of the Year,'' her peers have recognized her outstanding work in this rural school district with many needs but few resources.

Among her professional accomplishments, she helped get the Tucker County system designated as a pilot area for the Healthy Schools project. She has been an innovative leader, and has created model student and faculty health education programs. She has collaborated with other professionals to optimize the use of school system resources for health promotion and disease prevention.

At a time when health, nutrition, and education programs for our Nation's children are in jeopardy, the work of the country's school nurses stands as an inspiration and reminder that our children are our future. On behalf of all Americans who are working to ensure that the Nation maintains its investment in the health and well-being of its children, I express gratitude for the partnership of our school nurses. Mr. President, I congratulate Denice Reese on her accomplishments, and wish her all the best as she continues her important work on behalf of the people of Tucker County.●

BARRY ALBERT, NEW HAMPSHIRE'S MIDDLE SCHOOL PRINCIPAL OF THE YEAR

● Mr. SMITH. Mr. President, I rise today to pay tribute to Barry Albert for receiving New Hampshire's Middle School Principal of the Year award. Barry is principal of Franklin Middle School, a position he has held since 1990. As a former teacher and school board chairman myself, I congratulate him for receiving this prestigious recognition.

Barry has had a long and distinguished career in education. He graduated from Plymouth State College in 1970 with a bachelors degree in secondary education and earned a master's in learning disabilities and special education from Rivier College in 1977. In addition, Barry was a teacher at Merrimack High School and the coordinator of Raymond Middle School. For over 20 years he has been serving the students of New Hampshire and pursuing excellence in education. He has built a reputation for achievement among his colleagues in many areas, from teaching to administration.

Barry is known in his school for his leadership, initiative, and dedication to education. Among other achievements, Barry re-started and re-organized the Student Congress at Franklin Middle School. His first concern is always for the students and he is unfailing in his commitment to support school activities while constantly seeking to ensure that students are receiving the best possible education. Barry also created a positive action program at Franklin Middle School, just another of the many ways he serves his school and community.

Barry is the personification of an excellent middle school principal and the community can be certain that Barry is dedicated to his students. Franklin Middle School's success and development attests to Barry's outstanding leadership. The Granite State is fortunate to have such a talented educator and administrator devoted to the education of our children. I commend Barry for his exemplary career in education and congratulate him for his dedication.●

S. 1130—THE FEDERAL FINANCIAL IMPROVEMENT ACT OF 1996

● Mr. GRASSLEY. Mr. President, I rise today to support the Federal Financial Improvement Act. I want to thank Senator BROWN, and our 11 cosponsors, for their individual efforts. I believe that the business of the people should be done as efficiently and effectively as possible. Finding a uniform standard of accounting for the executive branch agencies will be an important element of that efficiency and effectiveness. This bill will lead us to that uniform standard.

It is impossible to measure the efficiency and effectiveness of the many Federal agencies when each may use a different accounting standard for making their records or books. For each to use a different standard is as if each speaks and writes in a different language that is foreign to the next. They cannot understand each other, and the story of their work cannot be written.

Therefore, the legislative branch cannot measure their efficiency and effectiveness. We cannot reconcile the consolidated Federal books. We cannot determine the presence of the relative financial failures or financial successes.

This is why this legislation is so important to the American people. The Federal Financial Management Improvement Act is crucial to efficiently and effectively doing the people's work, and it has my solid support.●

MAKING UP FOR LOST TIME

● Mr. SIMON. Mr. President, a former staff member of mine, Alice Johnson, now with the National Institute for Literacy sent me a copy of an article by Richard Wolkomir that appeared in the Smithsonian magazine.

It tells the story of Richard Wolkomir and another person teaching Ken Adams how to read at the age of 64.

In some ways it is a sad story, looking at his background and looking at all the years that could have been enriched.

But it is a story that ought to inspire all of us to do better.

We ought to have a national effort on literacy.

Mr. President, I ask that this article from the Smithsonian be printed in the RECORD.

The article follows:

[From the Smithsonian, August, 1996]

MAKING UP FOR LOST TIME: THE REWARDS OF READING AT LAST

(By Richard Wolkomir)

I decide simply to blurt out, ''Ken?'' I ask. ''Why didn't you learn to read?''Through the Marshfield community center's window, I see snowy fields and the Vermont village's clapboard houses. Beyond, mountains bulge. ''I was a slow learner,'' Ken says. ''In school they just passed me along, and my folks told me I wasn't worth anything and wouldn't amount to anything.

Ken Adams is 64, his hair white. He speaks Vermontese, turning ''I'' into ''Oy,'' and ''ice'' into ''oyce.'' His green Buckeye Feeds cap is blackened with engine grease from fixing his truck's transmission, and pitch from chain-sawing pine logs. It is 2 degrees below zero outside on this December afternoon; he wears a green flannel shirt over a purple flannel shirt. He is unshaven, weather reddened. He is not a tall man, but a lifetime of hoisting hay bales has thickened his shoulders.

Through bifocals, Ken frowns at a children's picture book, Pole Dog. He is studying a drawing: an old dog waits patiently by a telephone pole, where its owners abandoned it. He glares at the next pictures. Cars whizzing by. Cruel people tormenting the dog. ''Looks like they're shootin' at him, to me!'' he announces. ''Nobody wants an old dog,'' he says.

Ken turns the page. ''He is still by the pole,'' he says. ''But there's that red car that went by with those kids, ain't it?'' He turns the page again. The red car has stopped to take the old dog in, to take him home. ''Somebody wants an old dog!'' Ken says. ''Look at that!''

This is my first meeting with Ken. It is also my first meeting with an adult who cannot read.

I decided to volunteer as a tutor after a librarian told me that every day, on the sidewalks of our prim little Vermont town. I walk by illiterate men and women. We are unaware of them because they can be clever at hiding their inability to read. At a post office counter, for instance, when given forms to fill out, they say, ''Could you help me with this? I left my glasses home.''

Ken Adams is not alone in his plight. A 1993 U.S. Department of Education report on illiteracy said 21–23 percent of U.S. adults—about 40 million—read minimally, enough to decipher an uncomplicated meeting announcement. Another 25–28 percent read and write only slightly better. For instance, they can fill out a simple form. That means about half of all U.S. adults read haltingly. Millions, like Ken Adams, hardly read at all.

I wanted to meet nonreaders because I could not imagine being unable to decipher a street sign, or words printed on supermarket jars, or stories in a book. In fact, my own earliest memory is about reading. In this memory, in our little Hudson River town, my father is home for the evening from the wartime lifeboat factory where he is a foreman. And he has opened a book.

''Do you want to hear from Peter Churchmouse?'' my father asks. Of course! It is my favorite, from the little library down the street. My father reads me stories about children lost in forests. Cabbage-stealing hares. A fisherman who catches a talking perch. Buy my favorite is Peter Churchmouse, a small but plucky cheese addict who befriends the rectory cat. Peter is also a poet, given to reciting original verse to his feline friend during their escapades. I cannot hear it enough.

My father begins to read. I settle back. I am taking a first step toward becoming literate—I am being read to. And although I am only 2, I know that words can be woven into tales.

Now, helping Ken Adams learn to read, I am re-entering that child's land of chatty dogs and spats-wearing frogs. Children's books—simply worded, the sentences short—are perfect primers, even for 60-year-olds who turn the pages with labor-thickened fingers and who never had such books read to them when they were children.

''Do you remember what happened from last time?'' asks Sherry Olson, of Central Vermont Adult Basic Education, who tutors Ken and hour and a half each week.

I have volunteered as Sherry's aide. My work requires too much travel for me to be a full-fledged tutor. But I am actually relieved, not having sole responsibility for teaching an adult to read. That is because—when I think about it—I don't know how I read myself. I scan a printed page; the letters magically reveal meaning. It is effortless. I don't know how I do it. As for teaching a man to read from scratch, how would I ever begin?

Sherry, a former third-grade teacher, gives me hints, like helping Ken to learn words by sight so that he doesn't have to sound out each letter. Also, we read stories so Ken can pick out words in context. Ken reads Dr. Seuss rhyming books and tales about young hippopotamuses helping on the family farm. At the moment, we are reading a picture book about Central American farmers who experience disaster when a volcano erupts.

''The people had to move out, and put handkerchiefs over their noses!'' Ken says, staring at the pages. He starts to read: ''They . . . prayed? . . . for the . . . fire? . . .'' ''Yes, that's right, fire,'' Sherry says. ''They prayed for the fire to . . . go out?'' ''That word is 'stop,''' Sherry says.

I listen carefully. A few sessions ahead, it will be my turn to try teaching. ''They prayed for the fire to stop,'' Ken says, placing a thick forefinger under each word. ''They watched from the s . . .'' ''Remember we talked about those?'' Sherry says. ''When a word ends in a silent e, what does that silent e do to the vowel?'' ''It makes it say itself,'' Ken says. ''So what's the vowel in s-i-d-e?'' she asks. ''It's i, and it would say its own name, i,'' Ken says, pronouncing it ''oy.'' ''So that would be 'side.''' ''Good,'' Sherry says.

Ken reads the sentence: ''They watched from the side of the hill!'' He sounds quietly triumphant. ''They-un,'' he says, in backcountry Vermontese. ''That's done it.''

After the session, I stand a few minutes with Ken in the frozen driveway. He has one foot on the running board of his ancient truck, which he somehow keeps going. He tells me he was born in 1931 into a family eking out an existence on a hardscrabble farm. His trouble in school with reading is puzzling, because Ken is intelligent.

For instance, he says he was late today because he had to fix his truck. And now he launches into a detailed analysis of the transmission mechanisms of various species of trucks. Also, during the tutoring session, we played a game that required strewing word cards upside down on a table and remembering their locations. Ken easily outscored both Sherry and me in this exercise.

Ken described himself as a ''slow learner,'' but clearly he is not slow. Sherry had told me he probably suffers from a learning disability. People with these perceptual disorders experience difficulties such as seeing letters reversed. Although their intelligence may actually be above average, learning to read is difficult for them. they need individual tutoring.

''It was a one-room school, with eight grades, so I didn't get much attention there,'' Ken tells me. ''It was just the same as the folks at home were doing when they kicked me along through the grades, and when you got to be 16, that's when they kicked you out.''

After he left school, he left home. ''Then you knock around, one farm to another,'' he says. ''I'd get $15 a week, and room and board.'' Besides farming, he worked in bobbins mills and sawmills and granite quarries. ''Then I was at a veneer mill in Bradford,'' he says. '' After that I was caretaker at a farm for six years until I had to give it up because I had heart attacks.''

Now he subsists on a $400-a month Social Security disability pension plus $90 a month in food stamps. He lives alone in a farmhouse he built himself more than 25 years ago, five miles up a mountain dirt road. He earns money for his medicines by cutting firewood, haying, digging postholes with his tractor, snowplowing an cutting brush. ''I'm doing odds-and-ends jobs where you can take your time, because the doctor told me I have to stop whenever I fell I need to rest,'' he says.

He cannot afford electricity from the power company, but he gets what current he needs, mostly for lights by—ingeniously—drawing it from car batteries. To recharge the batteries, he hooks them up in his truck for a day. He also can charge them with a diesel generator. He waits until prices dip to buy fuel for his generator and tractor. ''I've got a few maples around my house,'' he tells me. ''I'll find a rustedout evaporator, fix it up and make syrup—there's always a few things I can do, I guess.''

I ask how he's managed all these years, not reading. He says his bosses did the reading for him. And now a Marshfield couple, lifelong friends, help him read his mail and bills and notices. But they are entering their 80s. ''Now I've got to learn to read myself, as a backup,'' Ken says.

To find out more about what illiteracy does to people like Ken, I telephoned the U.S. Department of Education and spoke with the Deputy Secretary, Madeleine Kunin. She told me that only 3–5 percent of adult Americans cannot read at all. ''But literacy is a moving target,'' she said. ''We figure the 40 million who do read, but at the lowest proficiency levels, have difficulty handling some of the tasks they need hold a job today.'' Kunin, a former Vermont governor, cited that state's snowplow drivers: ''Now they have computers attached, and they need a high school degree just to drive a snowplow.''

Ken arrives for his next session in a dark mood. It turns out his tape recorder, used for vocabulary practice, is broken, ''I can't fix it because the money's all gone for this month,'' he says. ''I had to go to the doctor, and that's $30, and it was $80 for the pills, and they keep going up.'' He says one of his prescriptions jumped from $6.99 to $13 in two months. ''I don't know if I'll keep taking them,'' he says. Illiteracy has condemned Ken to a lifetime of minimum-wage poverty.

He brightens reading a story. It is about a dog, John Brown, who deeply resents his mistress's new cat. Ken stumbles over a word. ''Milk?'' Sherry and I nod. ''Go and give her some milk,'' Ken reads, then pauses to give us a dispatch from the literacy front: ''I was trying to figure that out, and then I see it has an i,'' he says.

My own first attempt at solo tutoring finally comes, and I am edgy. Sherry has wryly admonished Ken, ''You help Richard out.'' I show him file cards, each imprinted with a word for Ken to learn by sight. He is supposed to decipher each word, then incorporate it in a sentence. I write his sentence on the card to help him when he reviews at home. Ken peers at the first word.''All,'' he says getting it easily. He makes up a sentence: ''We all went away.''

''That's right,'' I say. Maybe this won't be so hard after all. I write Ken's sentence on the card for him. Then I flip another card. Ken peers at it, his face working as he struggles with the sounds. ''As,'' he says.

During our last session, he confused ''as'' and ''at.'' Now he has it right. So he has been doing his homework.

''As we went down the road, we saw a moose,'' Ken says, composing a sentence. That reminds him that the state recently allowed moose hunting, game officials arguing that moose have become so plentiful they cause highway accidents. ''Yesterday, I come around a turn and there was ten moose, a big male and female and young ones,'' Ken says. ''They shouldn't be shooting those moose—they ain't hurting anyone, and it ain't the moose's fault if people don't use their brakes.''

I flip another card. ''At!'' Ken says, triumphing over another of our last session's troublemakers. ''We are at the school.'' But the next word stumps him, It is ''be.'' I put my finger under the first letter. ''What's that sound?'' I ask. When he stares in consternation, I make the sound ''buh.'' But Ken is blocked. He can't sound out the next letter, even though he has often done it before. ''Eeeee,'' I say, trying to help. ''Now put the two sounds together.''

Ken stares helplessly at the word. I am beginning to understand the deep patience needed to tutor a man like Ken, who began these sessions a year before, knowing the alphabet but able to sound out only a few words. ''Buh . . . eeee,'' I say, enunciating as carefully as I can. ''Buh . . . eeee,'' Ken repeats. Abruptly, his forehead unfurrows. ''Oh, that's 'be,''' he says. ''Be—We should be splitting wood!''

''Was that what you were doing before the tutoring session?'' I ask, to give us both a break. ''Nope, plowing snow with my tractor for my friend who broke off his ankle,'' Ken says.

That is arresting information. When I ask what happened, Ken says his octogenarian friend was chain-sawing cherry trees when a bent-back branch lashed out, smashing his lower leg. Ken, haying a field, saw his friend ease his tractor down from the mountainside woodlot, grimacing in agony, working the tractor's pedals with his one good foot.

Ken himself once lost his grip on a hay bale he was hoisting. A twig poking from the bale blinded his right eye. Now learning to read is doubly difficult because his remaining eye often tires and blurs. These grim country stories of Ken's make my worries—delayed flights, missed appointments—seem trivial. I flip another card: ''But.'' ''Bat,'' Ken says, cautiously. ''Buh . . . uh . . . tuh,'' I prompt. ''But,'' he finally says. ''I would do it, but I have to go somewhere else.''

I write Ken's sentence on the card and he reads it back. But he stumbles over his own words, unable to sound out ''would.'' I push down rising impatience by remembering the old man in the woods, crawling toward his tractor, dragging that smashed leg.

Finally, I put away the cards, glad to be done with them. Tutoring can be frustrating. Why are even easy words sometimes so hard to get? Now we look at a puzzle. On one side it has pictures of various automobile parts. On the other side are printed the parts' names. The idea is to match the pictures and the names. Before I can start asking Ken to try sounding out big terms like ''connecting rod,'' he points to one of the drawings. It looks to me like deer antlers. ''Carburetor?'' I guess. ''Exhaust manifold,'' Ken says.

''What's this one?'' I inquire. For all I know, it might be something Han Solo is piloting through hyperspace. ''Starter,'' Ken says. It seems to me he is gloating a little. He points again. ''Camshaft?'' I ask. Ken corrects me. ''Crankshaft,'' he says, dryly.

It is a standoff. I know the printed words. Ken knows the actual objects to which the words refer. ''When I was a kid,'' he tells me, ''I bought an old '35 truck. Sometimes it had brakes and sometimes it didn't. I was probably 17. It made lots of smoke, so mosquitos never bothered me. But one day I got sick of it. I put it under a pine tree and I hoisted the engine up into the tree to look at it. The pressure plate weren't no good. And the fellow showed me how to fix it.

That reminds Ken of a later episode. ''One time we had to get the hay in, but the baler was jammed. We had the guys from the tractor place, but they could not fix it. Finally I asked the old guy for some wrenches and I adjusted it, and I kept on adjusting, and after that it worked perfectly. I just kept adjusting it a hair until I had it. And then we were baling hay!'' No wonder Ken's bosses were happy to do his reading for him. Even so, in our late 20th-century wordscape, illiteracy stymies people like him. And working with Ken has me puzzled: Why do so many people fail to learn to read?

I telephoned an expert, Bob Caswell, head of Laubach Literacy International, a nonprofit organization that trains tutors worldwide. He told me many nonreaders, like Ken Adams, suffer from perceptual reading disorders. But there are other reasons for illiteracy, and it is by no means confined to any one part of the population.

''People think adult nonreaders are mainly poor, urban minorities, but 41 percent are English-speaking whites,'' Caswell said, adding that 22 percent are English-speaking blacks, 22 percent are Spanish-speaking, and 15 percent are other non-English speakers. More than half of nonreading adults live in small towns and suburbs. Caswell cited U.S. Department of Labor figures that put illiteracy's annual national cost at $225 billion in workplace accidents, lost productivity, unrealized tax revenues, welfare and crime. One big reason for this whopping problem is parents who read poorly.

Well over a third of all kids now entering public schools have parents who read inadequately, he said. ''Everywhere we find parents who want to read to their kids, but can't,'' he added. ''And a child with functionally illiterate parents is twice as likely to grow up to be functionally illiterate.''

But as I met some of Ken Adams' fellow students, I discovered all sorts of causes for being unable to decipher an English sentence. For instance, I met a woman who had escaped from Laos to Connecticut knowing only Laotian. She learned enough English watching Sesame Street (''Big Bird and all that,'' she told me), and later from being tutored, to become a citizen.

I also met a man in his 30s who worked on a newspaper's printing press. He could not spell the simplest words. He said it was because, at age 10, he had begun bringing alcohol to school in peanut-butter jars. After his son was born, he turned to Alcoholics Anonymous and mustered the courage to seek tutoring.

I met another man who had dropped out of school in frustration. Not until he tried to enlist in the military did he discover he was nearly deaf. The operator of a creamery's cheese-cutting machine told me he never learned to read because his family had been in a perpetual uproar, his mother leaving his father seven times in one year. And I met a farm wife, 59, who rarely left her mountaintop. But now, with tutoring, she was finally learning to read, devouring novels—''enjoyment books,'' she called them.

In central Vermont, these struggling readers receive free tutoring from nonprofit Adult Basic Education offices, each employing a few professionals, like Sherry Olson, but relying heavily on armies of volunteers, like me. Other states have their own systems. Usually, the funding is a combination of federal and state money, sometimes augmented with donations. Mostly, budgets are bare bones.

Many states also rely on nonprofit national organizations, like Laubach Literacy Action (Laubach International's U.S. division) and Literacy Volunteers of America, both headquartered in Syracuse, New York, to train volunteers. Laubach's Bob Caswell told me that, nationwide, literacy services reach only 10 percent of adult nonreaders. ''Any effort is a help,'' he said.

Help has come late for Ken Adams. Reviewing his portfolio, I found the goals he set for himself when he began: ''To read and write better. And to get out and meet people and develop more trust.'' Asked by Sherry to cite things that he does well, he had mentioned ''fixing equipment, going to school and learning to read, trying new things, telling stories, farming.'' He remembered being in a Christmas play in second grade and feeling good about that. And he remembered playing football in school: ''They would pass it to me and I'd run across the goal to make a score.'' He mentioned no fond family memories. But he had some good moments. ''I remember the first time I learned to drive a tractor,'' he had said. ''We were working in the cornfields. I was proud of that.'' And a later notation, after he had several months of tutoring, made me think of Ken living alone in his hand-built farmhouse on ten acres atop the mountain. ''I like to use recipes,'' he said. ''I use them more as I learn to read and write better. I made Jell-O with fruit, and I make bean salad. I feel good I can do that.''

In our tutoring sessions, between bouts with the vocabulary cards, Ken tells me he was the oldest of four children. When he was small, his father forced him to come along to roadside bars, and then made Ken sit alone in the car for hours. Ken remembers shivering on subzero nights. ''He always said I'd never amount to nothing,'' Ken says.

I ask Ken, one day, if his inability to read has made life difficult. He tells me, ''My father said I'd never get a driver's license, and he said nobody would ever help me.'' Ken had to walk five miles down his mountain and then miles along highways to get to work. ''And,'' he recalls, ''I was five years in the quarries in Graniteville—that was a long way.'' Sometimes he paid neighbors to drive him down the mountain. ''They said the same as my father, that I'd never get a license,'' he says. ''They wanted the money.''

It was not until he was 40 years old that he applied for a license. He had memorized sign shapes and driving rules, and he passed easily. ''After I got my license I'd give people a ride down myself,'' he says. ''And they'd ask, 'How much?' And I'd always say, 'Nothing, not a danged thing!' ''

To review the words he has learned, Ken maintains a notebook. On each page, in large block letters, he writes the new word, along with a sentence using the word. He also tapes to each page a picture illustrating the sentence, as a memory aid. To keep him supplied with pictures to snip, I bring him my old magazines. He is partial to animals. He points to one photograph, a black bear cub standing upright and looking back winsomely over its shoulder. ''That one there's my favorite,'' Ken says. And then he tells me, glowering, that he has seen drivers swerve to intentionally hit animals crossing the road. ''That rabbit or raccoon ain't hurting anyone,'' he says.

We start a new book, The Strawberry Dog. Ken picks out the word ''dog'' in the title. ''That dog must eat strawberries,'' he says. ''I used to have a dog like that. I was picking blackberries. Hey, where were those berries going? Into my dog!''

We read these books to help Ken learn words by sight and context. But it seems odd, a white-haired man mesmerized by stories about talkative beavers and foppish toads. Yet, I find myself mesmerized, too. The sessions are reteaching me the exhilaration I found in narrative as a child, listening to my father read about Peter Churchmouse. Our classes glide by, a succession of vocabulary words—''house,'' ''would,'' ''see''—interwoven with stories about agrarian hippopotamuses and lost dogs befriended.

One afternoon it is my last session with Ken. We have wrestled with words through a Christmas and a March sugaring, a midsummer haying, an October when Ken's flannel shirts were specked with sawdust from chain-sawing stove logs. Now the fields outside are snowy; it is Christmas again.

My wife and I give Ken a present that she picked out. It is bottles of jam and honey and watermelon pickles, nicely wrapped. Ken quickly slides the package into his canvas tote bag with his homework. ''Aren't you going to open it?'' Sherry asks. ''I'll open it Christmas day,'' Ken says. ''It's the only present I'll get.'' ''No it isn't,'' she says, and she hands him a present she has brought.

And so we begin our last session with Ken looking pleased. I start with a vocabulary review. ''Ignition coil,'' Ken says, getting the first card right off. He gets ''oil filter,'' too. He peers at the next card. ''Have,'' he says. And he reads the review sentence: ''Have you gone away?''

He is cruising today. When I flip the next card, he says, ''There's that 'for.' '' It is a word that used to stump him. I turn another card. He gets it instantly. ''But.'' He gets ''at,'' then another old nemesis, ''are.'' I ask him to read the card's review sentence. ''Are we going down . . . street?'' he says. He catches himself. ''Nope. That's downtown!''

I am amazed at Ken's proficiency. A while ago, I had complained to my wife that Ken's progress seemed slow. She did some math: one and a half hours of tutoring a week, with time off for vacations and snowstorms and truck breakdowns, comes to about 70 hours a year. ''That's like sending a first grader to school for only 12 days a year,'' she said. And so I am doubly amazed at how well Ken is reading today. Besides, Sherry Olson has told me that he now sounds out—or just knows—words that he never could have deciphered when he began. And this reticent man has recently read his own poems to a group of fellow tutees—his new friends—and their neighbors at a library get-together.

But now we try something new, a real-world test: reading the supermarket advertising inserts from a local newspaper. Each insert is a hodge-podge of food pictures, product names and prices. I point to a word and Ken ponders. ''C'' he says finally. ''And it's got those two e's—so that would be 'coffee'!'' I point again. He gets ''Pepsi.'' Silently, he sounds out the letters on a can's label. ''So that's 'corn,' '' he announces. He picks out ''brownies.'' This is great. And then, even better he successfully sounds out the modifier: ''Fudge,'' he says. ''They-uh!''

We're on a roll. But not I point to the page's most tortuous word. Ken starts in the middle again. ''ta?'' I point my finger at the first letters. ''Po,'' he says, unsure. As always when he reads, Ken seems like a beginning swimmer. He goes a few strokes. Flounders.

''Po-ta . . .,'' Ken says. He's swum another stroke. ''To,'' he says, sounding out the last syllable. ''Po-ta-to, po-ta-to—Hey, that's potato!'' He's crossed the pond. ''Ken!'' I say. ''Terrific!'' He sticks out his chin. He almost smiles. ''Well, I done better this time,'' he says. ''Yup, I did good.''●

THE PASSING OF MR. KENNETH KOHLI

● Mr. KEMPTHORNE. Mr. President, I am deeply saddened at the tragic death of Ken Kohli, an outstanding individual with whom I have had the pleasure of working and knowing for years. Last Friday, the plane in which he and two others were flying crashed in the Cabinet Mountains of Montana, claiming all three lives.

It is a tragedy when one so talented, and with such a bright future, is lost at such a young age. Ken was only 35, and yet he had established himself as a leader in our State. He grew up in Coeur d'Alene, ID and attended Northern Idaho College, serving as NIC student body president. He then went on to complete his education at Colorado College and Rutger's University in New Jersey.

When Ken returned to Coeur d'Alene, he put his passion for public policy to work for the Intermountain Forest Industry Association as its communication director. Ken's colleagues and friends will always remember him for the intelligence, energy, and positive attitude with which he approached his work and his life. Ken understood the basic nature of Idahoans and their love for the land, and he recognized the important of our State's natural resources to jobs and families.

He had an appreciation for and a unique ability to work toward consensus and find that balance so that we were protecting our resources while at the same time making wise use of them for the benefit of all. Ken was a strong voice at the table, but he was always a reasonable voice.

My thoughts and prayers are with his family, in particular with his wife, Susan, and their three children, Kyle, Lauren, and Luke.●

RECOGNIZING OUR FOREIGN SERVICE OFFICERS

● Mr. AKAKA. Mr. President, I rise today to recognize two fine and outstanding foreign service officers stationed in our Beijing, China, embassy who went beyond the call of duty to help an American citizen in time of need. Ms. Stephanie Fossan and Mr. Kai Ryssdale exemplify the ''can do'' spirit that all our foreign service officers provide for many of our overseas citizens.

In a letter I received from a Hawaii constituent doing business in China, he describes an incident where he lost his passport a day before his departure from Beijing. Without his passport he knew he would most certainly have to miss his scheduled flight. Because this was peak travel season for many Asians and the airlines were solidly booked, it would also mean an indefinite stay in China. This delay would become very difficult for this person because of health concerns and the lack of his daily medication.

Ms. Fossan and Mr. Ryssdale worked beyond normal working hours to ensure that this Hawaii resident could secure a temporary passport. With temporary passport in hand, my constituent went to the Chinese Security Office to get his visa stamped, and he was able to board his plane to Honolulu the next morning as scheduled.

All too often the hard work and dedication of our foreign service officers go overlooked. Many of these people live and work in very difficult conditions. The Secretary of State has testified before a committee of the Senate about ''sewer gases'' leaking into the embassy building in Beijing and the difficult living conditions under which the Americans who work there must endure.

Ms. Fossan and Mr. Ryssdale represent the best in foreign service personnel who serve and protect our citizens abroad. To all personnel serving in our embassies abroad and to the Honorable James Sasser, Ambassador to the Peoples Republic of China, and his staff, I say thank you for your dedicated work for our country.●

THE PASSING OF MR. ALFRED HALL

● Mr. KEMPTHORNE. Mr. President, among those tragically killed last Friday in a plane crash on Crowell Mountain southeast of Libby, MT, was Mr. Alfred (Al) Hall.

Al Hall worked as the pilot for Idaho Forest Industries [IFI], and flew with his son Cody, as his co-pilot. I speak from personal experience that Al was a fine pilot, as I was able to fly with him several times. I have to tell you that I enjoyed flying with Al and his son Cody because of the enthusiasm they shared for their work. I remember one particular flight during which Al commented that he was the luckiest man he knew. When I asked him why, he responded that it was because his co-pilot was his best friend, and also happened to be his son.

His supervisors at IFI were recently quoted as saying that Al ''probably had every rating that an aviator could have.'' He was known as an experienced and safe pilot, gained from years of experience beginning with his time as a Navy pilot, then as a pilot for the Forest Service, and for Empire Airlines before he went on to work for IFI.

Al leaves behind him his wife, Mary Mac Hall, and two adult children, his son, Cody, and his daughter, Laura. The thoughts and prayers of myself and my staff are with them all.●

TRIBUTE TO PAUL DENSEN

● Mr. LAUTENBERG. Mr. President, I rise today to recognize Paul Densen on his 80th birthday, which is on August 8. I want to honor Paul not simply because he has reached a milestone, but because his life has been a model of public service and philanthropy.

After fighting for his country in World War II, he headed a major packaging corporation until the 1970's. His philosophy has always been that success obligates us to give something back to the society that enabled us to succeed. When we succeed, we owe something to our community and to those who may be less fortunate. Densen's record of philanthropy and community service confirms that attitude.

He is associate governor of the international board of governors of the Hebrew University of Jerusalem, and a member of the board of directors and a vice-president of the American Friends of Hebrew University. He also serves as a board member of the Suburban Community Music Center in Madison, NJ.

Paul has been a member of the board of directors of the National Conference of Christians and Jews, a member of the dialog committee on interreligious affairs at Seton Hall University, and a budget committee member for the Jewish Education Association. He was also president of the West Orange Charter Association and a member of the West Orange Economic Development Committee.

Given this record, it's probably not surprising that it was public service which initially brought Paul and I together. Our first meeting took place decades ago, when we met to discuss the Lautenberg Center for General and Tumor Immunology at the Hebrew University of Jerusalem-Hadassah Medical School.

Since 1976, Paul has been chairman of the center's endowment committee, and he has been a driving force in its development and volunteer recruitment efforts. Without Paul's dedication and leadership, the Lautenberg Center could not have achieved the remarkable history of success of which we are all so proud.

Mr. President, many people have benefited from Paul Densen's work, and I have certainly benefited from our friendship. I congratulate Paul on his 80th birthday. Reaching this milestone is a cause for celebration. However, through his work, his public service and his civic involvement, Paul definitely proves that what's important isn't simply the years in our life, but the life in our years.●

DEPARTMENT OF TRANSPORTATION APPROPRIATIONS BILL

● Mr. MCCAIN. Mr. President, last night I voted against the Department of Transportation appropriations bill. I would like to take a minute of the Senate's time to explain my reasons for my vote. I had intended to give the following remarks on the Senate floor last night. However, due to the late hour, I chose not to keep the Senate any longer than necessary and instead therefore ask unanimous consent that my statement appear in the RECORD at this time.

First, Mr. President, let me commend the chairman and the ranking member of the subcommittee for all their hard work on this important bill. Their diligence in bringing this bill up and passing it so quickly is ample evidence of their abilities.

I wish I were able to state that I could support their bill—unfortunately, I am not. As with other appropriations bills which I have voted against, I believe that we must begin to stop the practice of earmarking funds. Earmarking is not fair and disproportionately effects where the taxpayer's money is being spent.

For example, Mr. President, the discretionary grants account of the highway trust fund earmarks hundreds of millions of dollars for fixed quideway systems. The bill goes on to list where the money should be spent. To no one's surprise, the motherload of the funds goes to States represented by appropriators.

I am also very concerned that the proviso noting that funds are available for fixed guideway modernization notes that such funds will be available notwithstanding any provision of law. This language was added as a Senate amendment. I would inquire why the Senate felt this proviso was necessary?

I would hope that there was no intention here to insulate items from the line item veto or any other budget cutting tools. I would hope the managers of the bill assure me that such a result was not their intention.

Mr. President, I want to return to the subject of developing a system to determine national priorities. I have discussed this issue before and would like to return to it now. In the area of military construction, Senator GLENN and I have worked with the Department of Defense to develop a system where the Pentagon prioritizes their construction needs.

At the insistence of my good friends, Senator SHELBY, the courts have done the same. I want to point out that until Senator SHELBY took over the Treasury-Postal Subcommittee, courthouse construction in the country was based on no rational plan and hundreds of millions of dollars were wasted. Thanks to Senator SHELBY, the courts—against their will—now prioritize which courthouses should be built. This enables the Congress to spend the taxpayer's money in a more responsible manner.

I would hope we could institute a similar process for the Department of Transportation and the many projects and other earmarks funded by this bill.

Mr. President, such a system not only gives Members of Congress the information needed to make better choices about how to spend appropriated dollars, but will hopefully take some of the politics out of the spending process. I hope we will move in this direction in the future.

Again, although I intend to vote against this bill, I want to thank the bill's managers, especially the chairman of the subcommittee, Senator HATFIELD.●

PRIVATE GAMBLING AND PUBLIC MORALITY

● Mr. SIMON. Mr. President, Prof. George Anastaplo of Loyola University School of Law in Chicago recently spoke at a convention in Las Vegas, commenting about legalized gambling and where we are going as a nation.

It is a thoughtful presentation that I am appending at the end of these remarks. I have condensed his original paper somewhat.

What is interesting to me particularly is to read a quotation from an 1850 U.S. Supreme Court decision, Phelan versus Virginia, in which the Court comments on lotteries as compared to private gambling. The Court said:

> The suppression of nuisances injurious to public health or morality is among the most important duties of government. Experience has shown common forms of gambling are comparatively innocuous when placed in contrast with the widespread pestilence of lotteries. The former are confined to a few persons and places, but the latter infests the whole community: it enters every dwelling; it reaches every class; it preys upon the hard earnings of the poor; it plunders the ignorant and simple.

Mr. President, I ask that the condensed version of Mr. Anastaplo's remarks be printed in the RECORD.

The condensed version follows:

"PRIVATE" GAMBLING AND PUBLIC MORALITY

(By George Anastaplo)

Gambling is in evidence all around us. For example, Texas bingo halls took in $63,000,000 in 1994. The pervasiveness of gambling is evident to anyone who follows sports: the "point spread" helps make each encounter of even mismatched opponents "interesting" and hence the occasion for wagering. Officials of professional leagues used to worry about the influence of gambling. For example, it was once argued, "The values of football are hard work, disappointment, and honest competition, which must exist in an honest environment." Gambling, it was feared, would "accentuate" the pressures on football players beyond a tolerable point, and change a sporting event into a gambling spectacle. Now, the officials of professional leagues cooperate with the gambling industry to make sure that games are not "fixed."

But, it can be noticed, the sports contests that are gambled upon may often be intrinsically interesting—and can attract attention without any organized wagering. But lotteries, slot machines, and the like are far less interesting in themselves. Even so, they can be quite entertaining, even thrilling, for participants. Thus, it has been observed, "Unlike narcotics, which creates droves of criminals who prey on the generally poor black community, the numbers game seems to many people to be just a potent, daily titillation for poor people seeking a rainbow's end." The head of an off track betting corporation, upon being accused of taking money from the poor, asked rather rhetorically, "Who's to say what's gambling and what's entertainment?" But then, nicotine, too, can be engaging for the addict, however deadly cigarette-smoking may be.

We tend to be much more relaxed, as a community, about the damage done by gambling than were some of the earlier generations in this country. Tolerance for lotteries, in the first quarter of the Nineteenth Century gave way, because of growing abuses, to efforts by state governments to put lotteries out of business. In 1895 Congress provided support for these states with its own legislation, "An Act for the Suppression of Lottery Traffic through National and Interstate Commerce and Postal Service, Subject to the Jurisdiction and Laws of the United States."

A constitutional inquiry into what was indeed "subject to the jurisdiction and laws of the United States" elicited this question from the United States Supreme Court in Champion v. Ames: (The Lottery Case), 188 U.S. 121, at 356 (1903):

"If a state, when considering legislation for the suppression of lotteries within its own limits, may properly take into view the evils that inhere in the raising of money, in that mode, why may not Congress, invested with the power to regulate commerce among the several states, provide that such commerce shall not be polluted by the carrying of lottery tickets from one state to another?"

Further on the Court argued (ibid., at 357–58):

"[B]ut surely it will not be said to be a part of anyone's liberty, as recognized by the supreme law of the land, that he shall be allowed to introduce into commerce among the states an element that will be confessedly injurious to the public morals. . . . We should hesitate long before adjudging that an evil of such appalling character, carried on through interstate commerce, cannot be met and crushed by the only power competent to that end."

It is evident how people in authority in the first decade of this century were expected to speak about such gambling as the lottery. The dissenting opinion in Champion v. Ames made no defense of lotteries, arguing instead that the power to suppress such "a harmful business" belong to the states, not to the national government.

The majority of the Supreme Court in Champion v. Ames insisted that Congress should be able to act:

". . . to protect the country at large against a species of interstate commerce which, although in general use and somewhat favored in both national and state legislation in the early history of the country, has grown into disrepute, and has become offensive to the entire people of the nation. It is a kind of traffic that no one can be entitled to pursue as a right."

I mention in passing the likelihood that the current indulgences in lotteries and the like will, because of emerging abuses and harmful consequences, eventually be subjected once again to severe restrictions, In fact, it is already likely that lotteries would not be approved in many of the states where they now operate, if put to a popular vote by referendum.

No one on the 1903 Court doubted that state governments could try to suppress lotteries if they wished. Phelan v. Virginia, 8 Howard (49 U.S.) 162 (1850) was cited to this effect. The opinion in that case, upholding an 1834 act of Virginia forbidding the sale of lottery tickets, includes this reminder of how lotteries were once regarded in this country:

"The suppression of nuisances injurious to public health or morality is among the most important duties of government. Experience has shown that the common forms of gambling are comparatively innocuous when placed in contrast with the widespread pestilence of lotteries. The former are confined to a few persons and places, but the latter infests the whole community: it enters every dwelling; it reaches every class; it preys upon the hard earnings of the poor; it plunders the ignorant and simple."

This, then, is the sort of public opinion, running back to 1850 and earlier, that the Supreme Court could invoke in the opening years of this century. Now, at the end of the same century, not only are lotteries no longer spoken of in this fashion by officials, but the states of this Union are themselves in the business of running and vigorously promoting lotteries with ever-growing prizes. In Illinois, for example, the gambling industry contributed more than a million dollars to political candidates in 1995. Furthermore, it has been able to hire a former governor of the state and other former Illinois officials as paid lobbyists.

This is not just an American phenomenon, of course. State lotteries are very much in evidence in Europe and elsewhere. The "pools" have long been a feature of British life. And something is to be said for legalizing (or at least decriminalizing) what is likely to be done anyway, thereby permitting both regulation and taxation. But is not the state's doing it, and promoting it, something significantly different from toleration, taxation and regulation? Is it as if the state had gotten into the business of producing and selling firearms, prostitutes, alcoholic beverages, cigarettes, and other narcotics?

The newest gambling rage in this country, however, is not lotteries but rather casinos. These are licensed by states which count on a hefty cut of the revenues. Respectable newspapers prod their legislatures to take measures to counter the competition from the casinos in neighboring states. Consider, for example, the opening and closing sentences of a recent Chicago Sun-Times editorial ("Casino Shutdown in East Dubuque, Illinois Forces Gambling Issue," December 7, 1995):

"Two Illinois riverboat casino got no satisfaction from the Legislature last month when they asked for help in competing with Iowa boats across the Mississippi River. . . . While the Legislature fiddles, Illinois gaming revenue floats across the Mississippi to lucky Iowa."

It is the practice of the gambling industry, by the way, to refer to the "entertainment" it offers as "gaming," not as "gambling."

A recent Chicago Tribune editorial, supporting an effort to exact more revenues from riverboat casinos, begins with these observations ("Bet on Edgar's casino tax plan," March 8, 1996):

"Who says gambling doesn't pay?

"Last year the Empress Casino in Joliet hauled in $200 million, after paying off bettors. For Harrah's, also in Joliet, the figure was more than $190 million.

"Gov. Jim Edgar's proposed 1997 state budget would impose on those and other high-rolling casinos a graduated tax to tap some of the windfall for the state's schools—and rightly so.

"Under current law, all casinos are taxed a flat 20 percent of their adjusted gross receipts (that's what they have left after they've paid out winnings), regardless of how much money they're making.

"For a struggling operation (and there are some), 20 percent is too much; for the widely successful ones, it's a bargain, and for the state it's an inefficient approach to taxation of this protected industry."

Immediately following this Tribune editorial about how the state should take further advantage of "this protected industry" is an editorial, ''No more cosying up to gangsters,'' commenting upon the conviction of eight members of a gang for distributing narcotics in Chicago and the suburbs. There is much to be said, of course, for the decriminalization of drug sales in this country, just as there has been for the decriminalization of gambling. But ''cosying up'' to, and relying upon, such activities, and even promoting them for their revenues pose questions that we seem to have lost sight of about the role of law in sustaining morality.

Far from encouraging morality, we find ourselves catering to vices and trying to exploit them. To some extent, as we have noticed, gambling is a form of self-chosen entertainment less harmful in many ways than some other forms of entertainment. It tends to be for most of the ''players'' more self-correcting than several other forms of self-abuse, such as alcohol and drug addiction.

But this sort of entertainment is not intrinsically satisfying, requiring as it does constant intensification in order to maintain its interest for participants. Thus, it has been noticed by a Haverhill, Massachusetts newspaper (''Opinionline,'' USA-Today, November 13, 1995, p. 13A):

''We've gone from the Sweepstakes era, with a once-a-week, 50-cents-per-ticket drawing, to state-run and fostered gambling industry which is worth millions. The state government is addicted to gambling, as government finds ways to avoid dealing with the issues of how much money it should spend and what tax it ought to levy. But something is drastically wrong when government becomes increasingly dependent on the misfortunes of its people to finance its operations.''

There is something ''realistic'' in recognizing that people will gamble, however much government attempts to suppress it. The considerable lure of gambling, sometimes with catastrophic consequences, has long been known. But what seems to be forgotten from time to time is the price paid, even in economic terms, for widespread gambling. The next decade should see the publication of more and more studies which expose to public view the hidden costs of the revenues that are derived from the gambling industry. These include the effects upon small businesses as large sums of money are siphoned out of the community by casinos. These hidden costs include, as well, the social services that have to be provided the families that are victims of gambling addictions. (The University of Chicago library has extensive entries under the catalogue heading: ''Addictive disorders update: alcoholism, drug abuse, gambling.'')

Even more important than the economic and social costs of intensified addiction is what has been happening (but not only because of the gambling industry) to the authoritative opinions of the community. Hedonism is encouraged along with the notion of getting ''something for nothing.'' Self-centeredness is thereby legitimated, as may be seen in the growing scandal of the level of compensation these days for the chief executive officers of our major corporations (especially when their compensation is compared to that of their equally successful European and Japanese counterparts). It sometimes seems that shamelessness has become the order of the day. . . . A billboard recently on display in Chicago invited us to a Wisconsin Dells casino with the slogan, ''Come to the Land of Milk and Money.'' (This advertisement was illustrated by the drawing of a slot-machine showing three cows lined up: a real winner!) That, we are thus told, is the new Promised Land.

The public should be encouraged in these matters to face up to two sets of delusions. This can help us face up in turn to what we are doing and how best to accommodate ourselves to the vices that human beings are bound to have.

The first set of delusions has to do with what organized gambling depends upon: the systematic fleecing of the ignorant by the informed. Professional gamblers do not believe in gambling any more than professional panderers believe in love: gambling magnates are no more gamblers than casino riverboats are boats. The huge outlays that casino operators are willing to devote to securing licenses reveal what a treasure-trove the well-placed casino must be. The sooner that casino customers recognize that they are suckers, the sooner most of them are likely to entertain themselves some other way.

The second set of delusions has to do with the notion that revenues derived from the gambling industry are a painless substitute for the taxation required for schools and other essential community services. Thus, it can be said that ''money raised through legalized gambling is one of the few forms of taxation that people voluntarily and cheerfully pay.'' (Geis, Not the Law's Business?, p. 237) But for an action to be truly voluntary a minimum of understanding is required. Consider, for example, these observations (''Take a Hard Look at Costs of Gambling,'' Chicago Sun-Times, September 28, 1955:

''Some $330 billion was wagered legally in 1992, up 1,800 percent from 1976. In Mississippi last year, gamblers wagered $29.7 billion, whole total retail sales were only $27.6 billion. Since casinos opened in Atlantic City in 1978, 100 of the 250 restaurants have closed, as have all the movie theaters.''

''Despite evidence that gambling may not be the panacea once thought, legislators continue to legalize gambling as a way to bring money into state coffers. But what are its costs long-term?''

The need for reliable information here, to which I have already referred, may well be served by the current efforts in Congress, by Senator Paul Simon and others, to investigate gambling in this country. The thesis to be tested is that offered last year by a syndicated columnist (William Safire, ''New Evil Empire,'' New York Times, September 28, 1995, p. A17):

''Gambling is a [massive] industry that is inherently immoral, corrupting public officials, enriching criminals, addicting and impoverishing the young and vulnerable.

''But the gambling racket—whether in state-licensed casino, state-sponsored lotteries or on glitzy reservations of phony Indian tribes—has been promoted by public officials as a great way of painlessly raising revenues, with state voters acting as suckers. As a result officially endorsed and government-advertised gambling now has America by the throat.''

A report from Deadwood, South Dakota sums up the suicidal course we have followed in our delusions. A woman who has supported the effort to legalize casinos in 1989 is now appalled upon seeing that the casinos ''have all but wiped out [her] town's retailers'' (James Sterngold, ''Spread of Gambling Prompts Calls for Federal Study of It,'' New York Times, November 24, 1995, emphasis added):

''Strolling past storefront casinos that have replaced everything from the state social services office to the insurance broker and department store, [she] commented, 'I'm homesick all the time and I never left home. We were completely unrealistic.' ''

Perhaps the most troublesome feature of all this may be that we have drifted into a much-changed way of life without much serious study or deliberate choice.

This paper was prepared for the Law Panels at the American Culture Association Convention, Las Vegas, Nevada, March 25, 1996. George Anastaplo is Professor of Law at Loyola University of Chicago.●

THE FORMATION OF THE FINANCIAL INSTITUTION MODERNIZATION WORKING GROUP

● Mr. GRAMS. Mr. President, I rise today to discuss something that probably has not been debated much in the Senate since this body considered the FDIC Improvement Act back in 1991. I want to talk about the need to modernize the outdated laws that govern America's financial services industry.

The vital role that financial services play in our daily lives cannot be understated. We take out loans to go to college, to buy a car, and to purchase a home. We buy insurance to provide greater security to ourselves and our families. We make investments throughout our life so that we may retire in comfort and dignity.

Today, technological advancements and increased innovation in the delivery of financial services make it easier than ever for consumers to get loans, purchase insurance, and invest their earnings. Unfortunately, our archaic and burdensome laws governing financial institutions continue to discourage, rather than encourage, such advancement and innovation.

The laws to which I am referring are not those governing the safety and soundness of financial institutions, such as setting minimum capital requirements or requiring periodic oversight by Federal or State regulators. Safety and soundness laws and regulations are beneficial and necessary, as they enhance the security of the consumer whenever he or she deposits money in a bank or purchases an insurance policy.

The outdated laws that I am referring to are the laws that create barriers to competition by artificially compartmentalizing the three major sectors of financial services—banking, securities, and insurance. For example, under the Banking Act of 1933, more commonly known as the Glass-Steagall Act, banks are generally barred from directly investing in corporate securities, underwriting new corporate issues, or sponsoring mutual funds. Under the Bank Holding Company Act of 1956, securities underwriters, insurance underwriters, and nonfinancial companies are generally prohibited from owning banks or being owned by a bank holding company.

These outdated financial institution laws hurt consumers by artificially increasing the costs of financial services, reducing the availability of financial products, and reducing the level of convenience in the delivery of financial services. These outdated laws hurt small businesses—an engine of job growth in the American economy—by artificially limiting the amount of equity capital available for expanded activity. And finally, these outdated laws weaken the international competitiveness of America's financial institutions by prohibiting them from offering the range of financial services that foreign financial institutions may offer.

It should be noted that the Glass-Steagall Act—which created the compartmentalized structure of financial services that we have today—was based upon the false premise that the massive amount of bank failures that occurred during the Great Depression was caused by the securities activities that these banks conducted. However, just the opposite is true: Diversification in financial services actually increased the safety and soundness of the banks. Between 1929 and 1933, 26.3 percent of all national banks failed. However, the failure rate for those banks that conducted securities activities was lower. Of the national banks in 1929 that either had securities affiliates or had internal bond departments, only 7.2 percent had failed by 1933. The message from these statistics is clear: We should encourage competition and diversification, not discourage it.

Earlier this year, Congress passed a bipartisan and comprehensive legislative initiative to reform the Telecommunications Act and stimulate competition and innovation in the telecommunications industry. Similar action is needed to stimulate the growth and global competitiveness of our financial services industry.

There are currently three financial institution modernization bills that have been proposed: S. 337, the Depository Institution Affiliation Act, sponsored by Senator D'AMATO, Chairman of the Senate Banking Committee; H.R. 2520, the Financial Services Competitiveness and Regulatory Relief Act, sponsored by Representative LEACH, Chairman of the House Banking Committee; and finally, a proposal submitted at the beginning of this year by the Alliance for Financial Modernization, which consists of various financial services industry organizations.

It appears likely that next year, the Senate Banking Committee will consider the issue of financial institution modernization. So that Members of the Senate may have more information about the current compartmentalized structure of America's financial institutions, the three proposals for reforming this structure, and the issues that arise from these proposals, I am announcing the formation of the Financial Institution Modernization Working Group.

The purpose of the Financial Institution Modernization Working Group is not to endorse any one of the currently proposed bills. Rather, it will engage in analyzing the merits of the current proposals and the current controversies surrounding these proposals.

The Working Group will, however, endorse five principles that should be met by any financial institution modernization legislation package that is presented to the Senate:

First, the legislation should lower the costs to consumers for financial services by increasing competition in the provision of these services.

Second, the legislation should maintain the safety and soundness of the Federal deposit insurance system.

Third, the legislation should not create a new structure that prevents current financial institutions from conducting any activities that they currently conduct.

Fourth, the legislation should create a Financial Services Holding Company structure to increase competitive equality among all financial service providers.

And fifth, the legislation should definitively resolve the current concerns about the future of the Savings Association Insurance Fund by merging the bank and thrift deposit insurance funds, unifying the bank and thrift charters, and consolidating the bank and thrift regulators.

It is my hope that these five principles will provide a solid foundation for the Financial Institution Modernization Working Group's discussions in the coming months.

In closing, I look forward to working with Senators who are both on and off of the Banking Committee to make the Financial Institution Modernization Working Group a useful source of information and ideas. It is my hope that 1997 will be the year that we join together and create a bipartisan bill that will reform our financial institution laws so that America's financial institutions will be able to compete, innovate and grow to meet the challenges of the 21st century.●

THE 120TH ANNIVERSARY OF COLORADO STATEHOOD

● Mr. CAMPBELL. Mr. President, I take this opportunity to recognize the 120th anniversary of Colorado statehood. My home State has a rich and colorful history, having sustained itself as a mecca of cultural diversity, a geographic wonder, and the birthplace of numerous great men and women.

Colorado made several attempts at statehood, one in 1863 and another in 1866, before a convention was held in December 1875 to draft a third constitution for the people's ratification. On August 1, 1876, Colorado was finally admitted to the Union as the 38th State. It was titled the Centennial State for gaining admittance during the centenary of our Nation's independence.

Colorado was a progressive young State, leading the race to erect institutions of higher education, develop advances in mining and agriculture, and most notably, politics. In 1893, less than a generation after its admittance, Colorado became the second State to grant suffrage to women. Since its inception, the State of Colorado has continued to welcome people of all origins and serve as a source of progress and equality.

Colorado is home to two American Indian tribes, the Southern Ute and the Ute Mountain Tribes. The Ute Indians are Colorado's chief representatives of Shoshonean ancestry, and are the only tribe indigenous to Colorado. The Southern Ute reservation, of more than 300,000 acres, has spanned the southwestern corner of Colorado since 1868. The Ute Mountain Reservation occupies just under 600,000 acres in the far southwestern corner of the State, overlapping its borders with Utah and New Mexico.

Both tribes have laid their economic foundation on the land they inhabit, honoring it with memorials and symbolic events. While these tangible signs of reverence are a treasured part of Colorado's identity, the traditions of trust, respect, and honor are the true gift of these tribes to Colorado.

The geographic splendors of Colorado are simply breathtaking. I will never tire of the raw beauty of my State. From the mountains to the Grand Canyon to the massive expanse of virgin forests, Colorado may well be one of the most beautiful places on Earth. I know my sense of pride is shared by Coloradans and others alike.

While there is greatness in the history, culture, and land of Colorado, there is a shared greatness in many individuals hailing from the State. One woman is particular proved herself to be truly heroic to Colorado and the rest of the Nation. As a teacher, scientist, and humanitarian, Dr. Florence Rena Sabin was a pioneer for all women in the field of medicine, playing a critical role in the drafting and implementation of the Sabin Health Laws in the State. Her ground-breaking accomplishments earned her one of Colorado's two places in Statuary Hall in the U.S. Capitol, one of the Nation's highest honors.

Just this summer, the Colorado General Assembly designated that a statue of the Honorable John L. ''Jack'' Swigert, Jr., join Dr. Sabin in Statuary Hall. As a patriot to his country and a leader in the State, Jack Swigert is considered one of Colorado's most courageous and renowned citizens. As command module pilot of the Apollo 13 Mission, Jack Swigert carried out a heroic maneuver and saved the lives of his crew as he piloted the damaged spacecraft safely to Earth. The work of Jack Swigert has made a staggering contribution of Colorado's 120 years of excellence, setting the State apart in space operations and planetary environmental technology.

Aviation has been a field of continued outstanding achievement for the State of Colorado. Six years ago, the Colorado Aviation Hall of Fame welcomed another inductee, George ''Gib'' Nesbitt, for his remarkable contribution to improving aviation in Colorado and nationwide. His dedication to teaching people to fly safely spanned two decades and today serves as a benchmark by which all other flight instructors are measured. Having begun his flying career as a teenager, he went on to serve as flight commander in World War II, where teaching young

Army and Air Force cadets soon became his focus. He personally transformed two primitive air strips in rural Colorado into functional airports capable of opening vast segments of the State to air travel. The residents, businesses and visitors of Colorado will continue to benefit from his contributions.

The philanthropic efforts of one individual and his family have also left a lasting impression on Colorado's business and arts communities, children, and troubled populations. Bill Coors, chairman and president of Adolph Coors Co., is the senior employee at Coors with over 57 years of service. His contributions to the industry range from the introduction of now widely consumed products, to innovations in the technology and production of numerous industry standards. Bill Coors has been touted as a visionary in the areas of employee wellness and health care. Businesses, organizations and communities within the State and across the Nation have looked to the work of Bill Coors as a model to follow, a standard to meet.

Mr. Coors has lent his support in the areas of higher education, providing his expertise in business and community cooperatives. He has actively cultivated youth groups and associations accessed by children from across the country. His support of the arts, in a climate where the riches of our history and culture are considered an expense, has been instrumental to Colorado's continued recognition of its proud heritage. Bill Coors' tremendous success makes his consistent contributions to the State of Colorado that much more honorable. He is truly a man of integrity, whose devotion to the citizens of Colorado will continue to serve the State for generations.

I would be remiss if I did not mention the timely accomplishments of our Colorado Olympians. Although the games are still underway, there are two notable Colorado women who have touched our hearts and made us swell with pride. Amy Van Dyken will go down in the Olympic history books with her four gold medals in swimming. Susan DeMattei, competing in mountain biking, an event offered for the first time, won bronze after a grueling 22-mile trek.

Mr. President, I have just skimmed the surface of the incredible achievements made by Coloradans and their State. Even after 120 years, Colorado has not slowed in its accomplishments nor tarnished in its beauty.

I want to thank you for allowing me to speak for my fellow Coloradans in celebrating our 120th anniversary.●

THE PASSING OF SETH DIAMOND

● Mr. KEMPTHORNE. Mr. President, today I note the loss of a talented young man who's contributions to timber, wildlife, and natural resource management will be sorely missed in may home State of Idaho.

Mr. Seth Diamond was not from Idaho, but he was a strong advocate for balanced management of our natural resources, and the people of my State benefited from his thoughtful contributions to the debate over land and wildlife resource management.

Mr. Diamond was a skilled, experienced wildlife biologist. He studied at Duke University and Virginia Polytechnic Institute & State University before putting his interests in biology and wildlife management to work for the Forest Service. His later work with innovative management programs on the Lewis and Clark National Forest earned him recognition from the U.S. Department of Agriculture.

The people of Idaho were among those who were lucky that Seth chose to apply his skills help us find the solutions that will protect wildlife and ensure sustainable timber harvest into the future on Federal lands. His energy and dedication will be missed.●

UNANIMOUS-CONSENT REQUESTS

Mr. LOTT. Mr. President, I have a series of noncontroversial unanimous-consent requests that I thought maybe we could get done. One would be to name a post office in Chicago for Roger P. McAuliffe.

Mr. FORD. Could the Senator do those tomorrow night or tomorrow sometime?

Mr. LOTT. I did not think there was any controversy. There is one here that I thought the Senator might really be interested in. It is Senate Concurrent Resolution 554, which recognizes and encourages the convening of a ''National Silver Haired Congress.''

Mr. FORD. Well, I will have to object to that because the Senator could not attend.

Mr. LOTT. The Senator would be constrained to object to these?

Mr. FORD. I would be constrained.

The PRESIDING OFFICER. Objection is heard.

Mr. FORD. Not restrained but constrained.

ORDERS FOR FRIDAY, AUGUST 2, 1996

Mr. LOTT. Mr. President, I ask unanimous consent then that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m. on Friday, August 2; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day.

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

PROGRAM

Mr. LOTT. For the information of all Senators, there are still a number of important matters the Senate will complete action on before the August recess—the health insurance reform package, the safe drinking water conference report, the small business tax relief package, minimum wage. We are hopeful to have all those packages over in the morning so we can take them up early on Friday or Friday afternoon as well as the appropriations conference reports that are completed.

Senators can expect the Senate to consider any of the following matters as they are ready for consideration: appropriations conference reports—military construction appropriations conference report, D.C. appropriations conference report, the issues I already named, as well as an effort to go back to the Veterans and Housing and Urban Development appropriations bill, or any other legislative and Executive Calendar items that can be cleared for action.

Senators can expect a busy session on Friday with rollcall votes throughout the day as we attempt to complete the Senate's business.

Just one further note. I have been reminding Senators and urging Senators—I know the whip has been doing it on the other side—that Friday, August 2, is a red letter day and that we should all plan on being here and being here until we get our work done.

So I hope there will not be any panting and hoping to leave at 4:30 tomorrow afternoon unless we have gotten these conference reports done as we have listed here.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. LOTT. If there is no further business to come before the Senate tonight, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:13 p.m., adjourned until Friday, August 2, 1996, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 1, 1996:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

KEVIN L. THURM, OF NEW YORK, TO BE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES, VICE WALTER D. BROADNAX, RESIGNED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARTHUR I. BLAUSTEIN, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2002, VICE JON N. MOLINE, TERM EXPIRED.

DEPARTMENT OF LABOR

IDA L. CASTRO, OF NEW YORK, TO BE DIRECTOR OF THE WOMEN'S BUREAU, DEPARTMENT OF LABOR, VICE KAREN BETH NUSSBAUM, RESIGNED.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DONNAL HOLT CUNNINGHAME, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE. (NEW POSITION)

FEDERAL COMMUNICATIONS COMMISSION

REGINA MARKEY KEENEY, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF 5 YEARS FROM JULY 1, 1995, VICE ANDREW CAMP BARRETT, RESIGNED.

MISSISSIPPI RIVER COMMISSION

BRIGADIER GENERAL ROBERT BERNARD FLOWERS, U.S. ARMY, TO BE A MEMBER AND PRESIDENT OF THE

MISSISSIPPI RIVER COMMISSION, UNDER THE PROVISIONS OF SECTION 2 OF AN ACT OF CONGRESS, APPROVED JUNE 1879 (21 STAT. 37) (33 U.S.C. 642).

DEPARTMENT OF JUSTICE

ROSE OCHI, OF CALIFORNIA, TO BE DIRECTOR, COMMUNITY RELATIONS SERVICE, FOR A TERM OF 4 YEARS, VICE GRACE FLORES-HUGHES, TERM EXPIRED.

WITHDRAWAL

Executive message transmitted by the President to the Senate on August 1, 1996, withdrawing from further Senate consideration the following nomination.

DEPARTMENT OF LABOR

JOAQUIN F. OTERO, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE MARTIN JOHN MANLEY, RESIGNED WHICH WAS SENT TO THE SENATE ON FEBRUARY 20, 1996.

EXTENSIONS OF REMARKS

WATER RESOURCES DEVELOPMENT ACT OF 1996

SPEECH OF

HON. JOE SCARBOROUGH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 30, 1996

Mr. SCARBOROUGH. Mr. Speaker, I rise today in support of the Water Resources Development Act of 1996 which is being considered under suspension of the rules. It is my hope that my colleagues will support this bill and that it will be conferenced soon and sent to the President for his prompt signature.

I would like to take this opportunity to commend Chairman SHUSTER and his staff for their work on behalf of a very important project in my district. As my colleagues are aware, last year's hurricane season was especially rough on the beaches of the Florida Panhandle. We took direct hits from two major storms, Hurricanes Opal and Erin. Major damage was inflicted on northwest Florida with the most severe destruction appearing along the beautiful beaches of the Gulf of Mexico.

Panama City Beach sustained a considerable amount of damage to structures along the beach as well as to the beach itself. Since before 1970, Panama City Beach has suffered damage due to storms and erosion, a significant portion due to federally sponsored activities. In October 1995, Hurricane Opal aggravated the deterioration of the beach significantly by washing away millions of cubic yards of sand and destroying over 1,000 homes and exposing upland development to damage from future storms.

The community has been seeking Federal help since 1970 but has yet to see a single dollar. It has, however, received the commitment of over $10 million from the State of Florida as well as the commitment of local funds. Unfortunately, as of yet, the Federal share has not been appropriated even though the project meets all the criteria for Federal assistance.

However, through this bill, we were able to make this project eligible for Federal reimbursement through project modification language. This will give the community a much-needed opportunity to proceed with the project without waiting any longer for the Federal share. The residents of this coastal community cannot afford to wait another year to begin this essential beach protection project. However, it is my sincerest wish that the Panama City Beach project will receive its Federal share as soon as possible to help the community's efforts.

On behalf of the people of Panama City and its surrounding communities, I would like to thank the chairman for his work on this very important piece of legislation.

SPEAKING IN THE AFFIRMATIVE

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mrs. COLLINS of Illinois. Mr. Speaker, according to a recent report prepared by the American Council on Education [ACE], ''Students of color have posted significant gains in college enrollment and the number of degrees they earned in recent years.'' However, the report warns that ''this progress is threatened by attacks on the use of affirmative action policies in higher education.''

Clearly, affirmative action policies that increase the opportunities to obtain secondary education for those who without them will remain unprepared to meet out Nation's challenges must continue to play a key and significant role. Now there are those affirmative action opponents who take delight in pointing out the most inconsequential problems with such policies; but shamefully close their eyes to the great strides they have made toward better educating our national populace.

Recalling for a moment may reference to the ACE report on affirmative action, we see that denying educational opportunities to the neediest is wrong. It is wrong morally. It is ethically wrong. It is the wrong path for this country to take if America is serious about remaining one of the most enlightened and better educated societies on the planet Earth.

Perhaps an economic illustration will better serve my arguments for affirmative action. It is empirically factual that denying educational opportunities negates potential economic benefits for the country. According to findings prepared by Dr. Andrew Sum, Northeastern University, Center for Labor Market Studies, and the McIntosh Commission, personal economic benefits from obtaining a 4-year college degree has increased substantially over the past two decades.

The fundamental shifts in the earnings capacity of workers with varying years of formal schooling can be seen most starkly in the earnings experiences of young adult males 20 to 29 years old in the United States over the 1973–92 period.

The year 1973 is an important year because it marks the great economic divide in the American post-World War II era. During that year the real, or the inflation-adjusted mean annual earnings of all 20 to 29-year-old men in the United States were equivalent to earnings totalling $23,522 in 1992; but, by the year 1992, the mean earnings of men in this age group had declined to $16,715—a reduction of nearly 29 percent.

While young men in each educational attainment subgroup, without diplomas, with diplomas, and the college graduates, experienced a deterioration in their real earnings position over this time period, the relative size of these declines varied widely by years of completed formal schooling, and cognate opportunities available for growth.

When we look at the real annual earnings we see this more clearly: those who failed to obtain a high school diploma fell nearly 42 percent; for high school graduates by 32 percent, and by holders of a bachelor's degree by just 5 percent. While the mean annual earnings advantage of young male college graduates over that of high school graduates was 15 percent in 1973, the relative size of this earnings advantage had risen to nearly 62 percent by 1992. This is significant on several levels, the least of which illustrates just how deeply divided economically the country has become when an imbalance of opportunities prevails.

Both young black and white men with only high school diplomas have lost considerable economic ground during the past two decades. As a consequence, the earnings advantages of young male college graduates widened to a substantial degree, increasing from 15 percent in 1973 to 62 percent in 1992.

This is precisely what must be understood. Denying individuals an opportunity to attend college or graduate school in the 1990's has considerably greater personal economic consequences that it would have had two decades ago. This is the threat alluded to by the American Council on Education. It is a real treat. It is a threat we should not treat likely.

Now you may ask, ''just who are the beneficiaries of Affirmative Action?'' I believe they are America's poor, its forgotten, its disadvantaged. I believe that it is America's mosaic melting pot of people all linked by opportunities denied.

Therefore, instead of wasting our time undermining educational programs that have worked, we should be seeking ways in which to enhance them and thus grant greater opportunities for educationally and economically disadvantaged Americans. My Republican colleagues need to understand that the lack of educational opportunity, entrepreneurial and business growth, heavily contributes to the problems of crime, drug trafficking, hopelessness, and overall poverty.

It is ironic that at the same time the Republicans in Congress are moving forward with their attack an affirmative action, they are also madly swinging their budget axe to chop down all of the programs that work to alleviate these crises, programs such as those for Head Start, child nutrition and school lunch, job training initiatives, student loans, COPS funding, public housing assistance, and so on. This is shortsightedness at its highest level.

CONTINUATION OF TRIBUTE TO HAMILTON FISH

SPEECH OF

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1996

Mrs. MALONEY. Mr. Speaker, I rise today to honor the memory of a beloved Congressman from New York, Hamilton Fish. Congressman Fish's death is an extraordinary loss to a community he faithfully served for over 25 years, and to all of us in this House and around the world who knew him well.

Although I only had the privilege of serving with Rep. Fish in the 103d Congress, I quickly saw his impact on this institution, and on me. His warmth and openness made a junior Member feel welcome and confident in an organization that can be overwhelming. Even though Rep. Fish worked hard as one of the busiest members of Congress, he always had time to serve as a teacher and mentor to other Members. I will always remember him as the example of how to serve New York State and how to serve our country in a truly bipartisan manner.

Hamilton Fish died on July 23d, but his service to the mid-Hudson Valley constituency will ensure that he has an everlasting memory to all. During the years he lived among us, Congressman Fish was a pioneer and supporter of Civil Rights legislation. He was the principal Republican sponsor of the Civil Rights Act of 1991, and also worked with Democrats to sponsor amendments to the Fair Housing Act and the Americans with Disabilities Act.

However, his concern for others was not limited to the borders of this country. He was an outspoken advocate for human rights around the globe and worked on behalf of Soviet Jews who for years were battling to emigrate from tyranny to freedom. As a member of the House Judiciary Committee, Representative Fish worked to expand refugee assistance programs. He wanted to ensure that all people, no matter from what background, had an opportunity to fulfill the American dream.

Rep. Fish was born to a family whose political legacy dates back to the Revolutionary War. One of his ancestors Nicholas Fish fought with George Washington during the birth of our nation. His great-grandfather, Hamilton fish, served as governor of New York before serving in the Senate and as Secretary of State to Ulysses S. Grant.

His grandfather, of the same name, served in the 61st Congress after a long career in the New York Assembly. Congressman Fish's father, Hamilton Fish, Sr. served in Congress from 1920 to 1945. Thus, Congressman Fish brought a legacy that was 200 years old the first day he sat in his seat in 1968.

He received his B.A. from Harvard, and his LL.B. from the New York University School of Law. His college career was interrupted twice. Once in 1944 by World War II, and the second time by Fish's enlistment to the Foreign Service. Despite these interruptions, Fish was admitted to the New York Bar in 1958.

Hamilton Fish's dedication to seeking the truth can never be questioned. As a member of the Judiciary Committee during Watergate, Fish was one of the first Republicans to vote in favor of impeaching the President. His action went against the beliefs of many in his party, including his father, but Fish recognized that the need for truth and justice was greater than party and individual loyalties.

This is the legacy of Hamilton Fish. The legacy of a man who carried the responsibility of representation with grace and dignity. He was a kind and gentle mentor I am proud to have served with in Congress. Always seeking the truth and compassion for those who were less fortunate, he will truly be missed.

TRIBUTE TO LEONA BRADY WATSON

HON. VICTOR O. FRAZER

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mr. FRAZER. Mr. Speaker, Leona Brady Watson was born on the north side of the island of St. Croix in Estate Two Friends. At the tender age of 3, she began her education, which involved walking from Estate Two Friends to Frederikdsted town where she attended St. Patrick's School. After finishing the third grade, she journeyed to the United States, and completed her formal education there.

Upon returning to St. Croix in the late 50's, Mrs. Watson came home with a special yearning for her culture. She spent many years learning about what was a dying art in the Virgin Islands—the art of cariso. From the elders, particularly the ones on the north side of the island and the Frederiksted area. Leona was able to attain and maintain our delicate culture through their stories, soups, and music of days gone by. Leona continues to be honored by various cultural organizations as a tradition bearer for her untiring contribution to the cultural growth of the Virgin Islands, and the knowledge of the history of our beloved homeland.

Some of Leona's famed works include: Quoted in three published books; actress in the film ''The Story of Cariso'' nationally acclaimed; performance in numerous stage shows, on island and abroad; participated in the 24th Annual Festival of American Folklife—the Virgin Islands; program sponsored by the Smithsonian Institution and the Virgin Islands Government.

Leona is also a highly respected herbologist who has been asked most recently to participate in cultural exchange between Africa (Senegal), China and Switzerland.

Mrs. Leona Watson resides at Estate Grove Place, St. Croix.

GORDON GUYER RETIRES—AGAIN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mr. BARCIA. Mr. Speaker, few people are synonymous with the experiences we have in life, but there exists a rare and pleasant exception: Dr. Gordon Guyer, who has announced his resignation as director of the Michigan Department of Agriculture, and, at long last, another in a series of retirements.

For those who know Gordon, they know that he bleeds green for Michigan State University, where over his distinguished career he served as professor of entomology, director of the cooperative extension service, vice president for government affairs at Michigan State University, and finally interim president of the University. He lives and breathes Michigan. He has served as a member of the commission on natural resources, director of the Michigan Department of Natural Resources under Governor Blanchard, and most recently director of the Michigan Department of Agriculture. His mind is always working like a combine, separating the less useful from the most useful, but always looking for ways to make what is left behind even more useful.

Gordon has served as a skilled motivator. There is not a person he has ever touched that hasn't come away feeling like the most important and most valuable person in the world. He has marshalled resources like no other individual, turning everyone around him into his informed advocates. Just ask any of our staff who have been privileged to participate in one of the legislative staff agricultural seminars that he created. Or ask any current or recent member of our delegation who has always felt politely challenged an strongly invigorated by his careful encouragement. I can speak most directly to this point from my experiences of having worked with him while I served as chairman of the Senate agriculture committee during my days in the Michigan State Senate.

And to top all of this Gordon has a wonderful family which he always promotes and compliments with equal vigor. His wife, Norma is both blessed to be with Gordon, and perplexed to always keep up with his new ideas. His daughter, Dawn, learned the value of a caring father, and his son, Dan, has the challenge in following in his father's image as an assistant professor of MSU.

Mr. Speaker, Gordon's blood is green. He does live and breath Michigan. He dreams fishing, and he thrives on retirement parties. That's why after retiring from extension, and DNR, and MSU—twice, he now will retire from the formal position of director of agriculture, not from his continuing and devout interest in making our State the best one of all. I urge you and all of our colleagues to join me in wishing Gordon a long and happy retirement.

LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS BILL

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mrs. MINK of Hawaii. Mr. Speaker, I rise to express my opposition to the Labor, Health and Human Services, and Education appropriations bill. It is disheartening to come to the well today to oppose a bill that funds the most important investment our Federal Government makes in the basic human needs of our Nation—health care, education, employment and training, and support services for families.

Unfortunately, this bill falls far short of fulfilling our responsibility to the American people and reflects the majority's continued policy to reduce Federal resources in some of the most significant aspects of our lives.

Nothing should take precedence over the health and economic security of our people. Yet this bill makes clear that these goals are not a priority for the current congressional majority.

Sadly, education has been the area hardest hit, denying school districts around the country of desperately needed funds to improve or maintain the quality of education in their local schools.

This bill sustains the $2.2 billion cuts in education made by the Republican majority last year. In addition, it targets several important areas of education for additional cuts, including the elimination of Goals 2000 and a $24 million cut in title I for disadvantaged children. The Eisenhower Professional Development Program which has a proven record of success in improving math and science education is eliminated under this bill. Safe and Drug Free Schools is cut by $25 million, bilingual support services and professional development are eliminated.

No funds were provided in the original committee bill for the Women's Educational Equity Act which is the only program dedicated to promoting equity for women and girls in education. However, we were able to restore $2 million for this program in a floor amendment.

The following is a more detailed chart which shows the deep cuts in education over the last 2 years:

EDUCATION APPROPRIATIONS FY95–FY97

MAJOR ELEMENTARY AND SECONDARY PROGRAMS

Program	FY95	FY96	FY97 President budget	FY97 House bill	Difference FY95/FY97
Title I (State Grants)	$6.7 billion	$6.7 billion	$7.2 billion	$6.7 billion	−24 million.
Total Compensatory Education	$7.2 billion	$7.2 billion	$7.6 billion	$7.2 billion	−14 million.
Goals 2000	$361.8 million	$350 million	$491 million	0	−361.8 million.
School-to-Work	$122.5 million	$180 million	$200 million	$175 million	+52.5 million.
Safe and Drug Free Schools	$466 million	$466 million	$540 million	$441 million	−25 million.
Bilingual Education	$157 million	$128 million	$157 million	$117 million	−40 million.
Immigrant Education	$50 million	$50 million	$100 million	$50 million	0.
Vocational Education	$1.1 billion	$1.1 billion	$1.1 billion	$1.0 billion	−27 million.
Headstart	$3.5 billion	$3.5 billion	$4.0 billion	$3.6 billion	+65.5 million.
Special Education	$3.2 billion	$3.2 billion	$3.5 billion	$3.2 billion	−6.5 thousand.
Eisenhower Professional Development	$251 million	$275 million	$610 million	0	−251 million.
Impact Aid	$728 million	$693 million	$617 million	$728 million	0.
Women's Education Equity Act (WEEA)	$5 million	0	$4 million	0	−5 million.
Native Hawaiian Education Act	$9 million	$12 million	$6 million	$4 million	−5 million.

MAJOR HIGHER EDUCATION PROGRAMS

Program	FY95	FY96	FY97 Presidential budget	FY97 House bill	Difference FY95/FY97
Work Study	$616.5 million	$616.5 million	$679 million	$685 million	+68.5 million.
Pell Grants	$6.2 billion	$4.9 billion	$5.9 billion	$5.3 billion	−900 million.
Perkins Loans:					
Capital Contributions	$158 million	$93 million	$158 million	0	−158 million.
Loan Forgiveness	$18 million	$20 million	$20 million	$20 million	+2 million.
State Student Incentive Grants	$63.4 million	$31.4 million	0	0	−63.4 million.
Stafford Loan Administration	$62.1 million	$30.0 million	$46.5 million	$29.9 million	
Loan volume [1]	$85.2 billion	$71.4 billion	$71.4 billion	$71.4 billion	−32.2 million.
Direct Loan Administration	$283 million	$435 million	$595 million	$420 million	
Loan volume [1]	$5.3 billion	$12.2 billion	$12.2 billion	$12.2 billion	+137 million.
Supplemental Educational Opportunity Grants	$583.4 million	$583.4 million	$583.4 million	$583.4 million	0.

[1] Represents current loan volume. Stafford and Direct student loans are entitlements and not dependent on annual appropriations.

TOTAL EDUCATION SPENDING

	FY95	FY96	FY97 Presidential budget	FY97 House bill	Difference FY95/FY97
Total Education Department	$27.4 billion	$25.2 billion	$28.0 billion	$25.2 billion	$2.2 billion.

While many health programs have been spared the drastic cuts made to education, one area which continues to be devastated is our efforts on substance abuse prevention and treatment. As the drug epidemic in our country continues to hurt families and communities all across this Nation, the Republicans have decided to dramatically cut our investment in prevention and treatment efforts. Last year substance abuse prevention programs were cut an unbelievable 60 percent, treatment program cut 57 percent.

As a result many programs around the country must now close. One in my district that I just visited last week has been cut off of Federal funding just as it was getting started. Hui Ho'ola O Na Nahulu O Hawaii was to be a 3-year project focusing on substance abuse intervention, treatment and recovery services in Puna, HI, a rural area that has been struggling with the influence of drugs. This unique program brought together a variety of sectors within the community to develop a holistic approach to healing substance abusers, concentrating not only on their abuse problem, but other related problems such as unemployment, lack of education, domestic violence, and other problems.

This bill does nothing to restore the resources needed for communities to deal with the burgeoning problem of substance abuse, but continues the 1996 policy of gutting our Federal programs in this important area.

H.R. 3577 also eliminates all funding for title IV of the Older Americans Act, which is dedicated to research, training and special projects dedicated to understanding and addressing the needs of our elderly population. Funds under this program have been critical to the Asian Pacific Community and to support the work of The National Asian Pacific Center on Aging [NAPCA], the only organization dedicated to enhancing the quality of life of the 700,000 Asian Pacific American elders in our society.

The NAPCA serves as an important link between the Asian Pacific senior population and service providers and organizations at the local, State, and Federal levels. This Seattle-based organization performs an important function in helping to assure that Asian Pacific American seniors have access to critical services provided by all sectors of our community, and that the service providers and are sensitive to the specific needs of this culturally diverse and rapidly growing population.

The elimination of title IV funding will severely limit the ability of the NAPCA to serve the Asian Pacific American senior community. It will mean the end of critical research, demonstration and training activities, and innovative approaches to improve access for this special population.

This bill also utilizes the appropriations process to enact legislative policies that the majority has not achieved through the normal legislative process. These policies will result in endangering the lives of children by weakening child labor laws to allow minors to load and unload dangerous compacting equipment in grocery and retails stores. The original committee bill also would have prevented millions of workers from being protected from ergonomic-related illnesses by prohibiting the promulgation of OSHA's rule on ergonomic standards. However, the Pelosi amendment adopted on the House floor eliminated this prohibition from the bill.

Finally, Mr. Speaker I want to express my deep concern about the committee's recommendation regarding the Hansens' disease program in Hawaii. While providing $2 million for Hansen's disease patients in Hawaii—(the same as fiscal year 1996), the committee report suggests that the Hansen's disease patients in Hawaii can be supported through insurance or Medicaid, and that they should be encouraged to move from the current settlement at Kalaupapa, Molokai, and provided a stipend to live elsewhere.

This proposal lacks a clear understanding of the history of Hansen's disease patients in Hawaii and the commitment made to the Hansen's disease patients by the Congress.

The Hansen's disease program in Hawaii supports slightly over 400 individuals with Hansen's disease. Most are served through the Hale Mohalu Hospital in Honolulu and through an outpatient service. However, 66 individuals reside at Kalaupapa, a remote peninsula on the island of Molokai which was designated in the mid-1800's as a place of banishment for individuals with Hansen's disease. Until 1969 individuals with Hansen's disease were forced to this isolated area, accessible only by boat, plane, or hiking its treacherous cliffs.

Since 1954 the Federal Government has provided payments for health care and other support services for the Hansen's disease patients and Kalaupapa and additional outpatient services at other facilities in Hawaii. These payments were originally authorized under

Public Law 82–411 and authorization continues today under Public Law 99–117.

Recognizing the historical significance of Kalaupapa, a National Historical Park was established under the National Park Service to preserve the legacy of Kalaupapa and the many individuals who lived out their lives in this remote settlement. Legislation establishing the park specifically states that the remaining patients would have the option of living at Kalaupapa for the rest of their lives.

The average patient age at Kalaupapa is 70 years. Though once forced to live in this remote location away from their families, away from civilization, today those at Kalaupapa chose to remain there. It is the only home they've ever known and prefer the life they had led in this remote settlement. They are elderly, many disabled and uncomfortable with outsiders or living in the outside world. It would be difficult and in some cases impossible for them to adjust to life away from Kalaupapa.

What the committee suggests in moving these patients from Kalaupapa is forcing them to leave this home. This is unthinkable and contrary to the promises made to them by the Federal Government. I hope this idea will be rejected.

THE SMITHSONIAN INSTITUTION COMES TO ST. PAUL, MN

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mr. VENTO. Mr. Speaker, I rise today to honor the 150th anniversary of the Smithsonian Institution and to recognize my home city of St. Paul, MN, which has the honor of hosting the America's Smithsonian Tour this fall.

The Smithsonian Institution's collection is the ultimate expression of the history, culture, creativity and abilities of America's and the world's people. The Smithsonian was founded in 1846 for the ''increase and diffusion of knowledge,'' and the Smithsonian continues to achieve success in striving toward that great goal, educating America through its sixteen museums and galleries, the National Zoological Park and significant, innovative role in facilities within the United States and abroad. The items restored, cared for and housed by the Smithsonian are important for science and research. These items have often become treasures that have not only contributed to America's knowledge base, but are parts of our cultural and artistic legacy. They have helped shape and define the history of our Nation and the world. America should be justly proud of the Smithsonian's collection and the hard work and dedication of its staff in bringing these treasures to our city.

America's Smithsonian is a special collection of over 300 items acquired from sixteen Smithsonian Museums in Washington, DC. The tour is currently crossing the Nation so that people in all corners of the country can experience a sample of the Smithsonian's legacy. The St. Paul Civic Center is the fifth stop on America's Smithsonian Tour, hosting this magnificent experience as a monthlong exhibit beginning in mild-October.

More than a celebration of the Smithsonian's 150 year existence, America's Smithsonian symbolizes America's accomplishments and fuels the fire of hope and optimism that drives our Nation even today to achieve even higher aspirations. The dynamic Smithsonian collection continues to grow, preserving the essence of America as an embroidery on the tapestry of the American heritage for future generations.

Touring America's Smithsonian is a unique opportunity to view some of the most significant pieces of America's past. I hope that every Minnesotan has the opportunity to see the exhibit during the tour's monthlong visit, and I join the entire St. Paul community in welcoming the Smithsonian Institution to Minnesota.

THE POWER OF LOVE

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mr. WYNN. Mr. Speaker, a constituent of mine, Mr. John F. Flood, brought to my attention a copy of Msgr. E. Carl Lyon's homily in celebration of his 50th anniversary as a Catholic priest. The homily entitled, ''The Power of Love,'' is fitting and I would ask that the Members of this body take the opportunity to read Monsignor Lyon's message:

THE POWER OF LOVE

(Monsignor Lyon's Homily)

The discovery of fire thousands of years ago, is said to have saved the human race from extinction. Today, it is not the absence of fire, but the absence of love, that could bring about the extinction of the human race. This prediction is made despite what men and women have said about love.

Love has been referred to as ''The religion of humanity!'' I once listened to a priest talk for two hours on this one quotation: ''Love cannot endure indifference. It needs to be wanted.''

And of course there's the beautiful quotation of St. John of the Cross: ''When the evening of life comes, we shall be judged on love.''

Environmental problems, nuclear capability, human inability, and the willingness to love one another are threatening the survival of our planet. Unless we rediscover love and harness its energies to God's plan, we may not make it through another century. It is feared that the human race will destroy the human race through hatred.

But this need not be. In the place of hatred, there stands always love. Love is the most universal, the most tremendous, the most mysterious, the most persuasive force in the world.

Because of these attributes, Jesus invites us to nothing more and nothing less, than a fundamental orientation of our life, of our love toward God. Jesus expects our total surrender to Him.

Love is so divine that we can say not only that God is love, but that love is God. As followers of Christ, we believe that love is action. We believe that love is the strongest force in the world—stronger than hate, stronger than evil, stronger than death. We believe that as great as faith and hope are, love is still greater. We believe that faith without love is cold; hope without love is grim.

As imitators of Christ, we forget what we have done for other people and remember what others have done for us; we ignore what the world owes us and think of what we owe the world.

We put our rights in the background and our duties in the foreground; we see that every human being, regardless of creed, race or nationality, is just as real as we are, just as prone to mistakes as we are, just as nice as we are.

To love we are willing: to consider the needs and desires of children; to remember the weaknesses and loneliness of people growing old; to stop asking how much our friends love us and ask ourselves whether we love them as Christ would have us love.

We believe that love knows no limitations and stops at no boundaries; that it is the only cure for racism, the only solution to poverty, the only means to peace. Love knows not anger, nor revenge, nor wrath, nor jealousy.

We believe that love accepts everyone, embraces everyone, and that it is the only bond that can attach people to people and people to God. Love is the companion of compassion, reconciliation, forgiveness and contrition.

What is real Christian love? It is more than a feeling of affection for others, more than benevolence. It has substance, strength, action and sacrifice. Christian love is action—something we do.

I would not want this day to go by without mentioning the wonderful people who are not of our faith—who have done so much for the good of our parish. There are too many to name, but I am grateful to each of them.

The priesthood has been a joy for me and the joy has been made possible because of you wonderful people. As a matter of fact your friendship has given me a glimpse of the eternal.

We have gathered to celebrate the divine fact that God is in love with us.

As we resume our journey—

Don't walk in front of me,
 I may not follow.
Don't walk behind me,
 I may not lead.
Walk beside me
 and be my friend.

''SWING LOW''

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mr. CLAY. Mr. Speaker, the following commentary written by Liz Brown recently appeared in the St. Louis American. It expresses some timely thoughts on the subject of affirmative action and Clarence Thomas' mishandling of the issue. I commend Ms. Brown's commentary to our colleagues as evidence of the black community's unwavering support for affirmative action and their irritation with Thomas' position on the issue.

SWING LOW

It's true confession time. I haven't been to church in a while—a good while. I've been busy. But God uses a number of different methods to herd his flock back into the fold. Sometimes it's a gentle nudge, sometimes it's a firm shove and sometimes it's a solid kick in the behind.

Well, I got a kick this week and I am going tomorrow as soon as the doors open up. Supreme Court Justice Clarence Thomas, the Accidental Jurist, has announced that God told him to vote against Affirmative action. That's right, Jesus came down from the mountain top and whispered into his ear, ''Clarence, if you type one word in your word processor in one opinion against whites, you are breaking God's Law''. This God that reigns over the church of Clarence Thomas, told the jurist, turn your back to the dark side, ''sin no more'' and make certain that the interest of white men are protected.

Well, I must admit Clarence's God has been doing a hell of a job. White males are 33% of the total American population. Yet they make up 80% of the US House of Representatives members, 92% of Forbes 400 richest people, 97% of school superintendents, 99.9% of professional athletic team owners and 100% of all US presidents.

Yes indeed, the God that reigns over this church certainly looks out for the interest of his followers. And what a savvy being this God, to get a person with dark pigmentation and supreme power to preach the gospel according to the powerless white male. Who would ever question such a messenger? In choosing the Accidental Jurist, this God has certainly selected a worthy disciple. Matthew, Mark, Luke, John and Clarence.

In June of last year Clarance Thomas voted with the majority on the Supreme Court to end affirmative action programs involving school desegregation and voting rights in three separate cases. Since those decisions, Thomas appeared publicly to explain his vote. Thomas has stated, policies like affirmative action, which address the issues of equal access, are racist.

If affirmative action policies are racist where is the proof? The class of people who are the victims of a racist affirmative action program according to Thomas are white males. And yet, white males, outnumber every other group combined in nearly every job category even though they make up only 33% of the population.

It seems that the good justice is saying we need to eliminate affirmative action and return to the days when the only policy in effect was ''the good old boy policy.'' Thomas appears to believe that we can and should trust those who benefit from the good old boy affirmative action program to do right by all of us. In Justice Thomas' world, white men will make certain everyone will benefit.

This type of thinking on the part of Justice Thomas reminds me of stories of slaves and citizens who truly believe ''if I work really, really hard, someday those who benefit by my efforts will do right by me.'' The trickle down theory.

The trickle down theory didn't end slavery—it took a war and 10's of thousands of dead bodies to do that. The trickle down theory didn't end lawful segregation—it took riots, marching and murder to do that. The trickle down theory did not make slaves into citizens or give women the right to vote—it took a constitutional amendment to do that. And the trickle down theory will not eliminate the need for affirmative action no matter how much Clarence Thomas believes his mean spirited god is telling him that.

At a time when the discussion about affirmative action is already muddied by some who believe that white males as a whole are truly suffering in the implementation of the policy, at a time when the debate is confused and inflamed by some with the use of the phrase ''preferential treatment'', it is insane to add to the discord the opinion of a man who imagines he hears voices from God about what he should type on his word processor.

TRIBUTE TO MORRIS AND SYLVIA RUBIN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mr. TORRICELLI: Mr. Speaker, I rise today in order to congratulate Morris and Sylvia Rubin of Fort Lee, NJ, on their 50th wedding anniversary. This remarkable couple was married on July 14, 1946 at Lou G. Siegel's restaurant in Manhattan. They lived in the Bronx between 1946 and 1975 until they moved to Fort Lee, where they have lived ever since.

Sylvia worked as a typist at the New York Public Service Commission for 18 years before she retired in 1993. Prior to her work for the commission, she raised Barbara and Barry, two wonderful and loving children.

Sylvia's husband Morris was employed as a garment worker in the garment industry for 40 years and as a part-time postal worker as well.

The Rubins have enjoyed the fruits of togetherness for five decades. Their love and devotion to each other and their friends and loved ones has always been apparent. They have been wonderful parents and grandparents to their only grandchild, Michael.

In life, it is the special moments that should be cherished, and a 50th wedding anniversary is one of those times. I wish both of them another 50 years of wonderful matrimony.

TRIBUTE TO HELPING HAND REHABILITATION CENTER

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mr. LIPINSKI. Mr. Speaker, today I salute an important organization that has been serving developmentally disabled residents in my district and surrounding areas for more than 40 years, the Helping Hand Rehabilitation Center.

The organization was started in the 1950's, a time when citizens with developmental disabilities were often sent to facilities far outside of the mainstream of society. However, a group of dedicated individuals from La Grange, IL, and nearby communities envisioned something better for these citizens: an organization that would help them become integrated into the mainstream of society as fully as possible.

Helping Hand Rehabilitation Center was the end result of this vision. Helping Hand offers a wide range of services for the developmentally disabled and their families, from early intervention child developmental programs to vocational work training for adult residential community living facilities. The lives of more than 500 disabled individuals are touched by Helping Hand each year through these programs.

Now in its fifth decade of service, Helping Hand is about to embark on a new program with the grand opening of its SubCon Industries Business Center. Unlike sheltered workshops that Helping Hand has operated in the past, the new center will be a profit generating, tax paying operation that will place disabled individuals with nondisabled workers.

The disabled and nondisabled working together have an opportunity to learn from each other, and this kind of professional environment enables the disabled to become totally integrated into the work world, giving them a strong feeling of personal achievement and success.

Mr. Speaker, I extend to Helping Hand my best wishes and congratulations on establishing the SubCon Industries Business Center and thank the organization for its many years of serving the developmentally disabled citizens in my district.

TRIBUTE TO JEFFREY GORDON ENSTROM

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mrs. COLLINS of Illinois. Mr. Speaker, I would like to take this opportunity to recognize Jeffrey Gordon Enstrom from the Seventh District of Illinois in receiving the distinguished rank of Eagle Scout.

Not every young American who joins the Boy Scout earns the prestigious rank of Eagle Scout. Only 2.5 percent of all Boy Scouts receive this ranking. To earn the award, a Boy Scout must fulfill requirements in the area of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in Nation, citizenship in world, safety, environmental science, and first aid.

As a distinguished member of troop 40, Jeffrey Gordon Enstrom has received 43 merit badges and attended the World Jamboree in Korea and Hawaii. He has done work as a counselor with his church, and he participated in the ''Help Feed the Children'' project in his community, as well as in New York. He has also developed a computer lab for unwed mothers. I hope that more young Americans follow his lead by becoming more involved in their communities.

On June 28, 1996, Jeffrey Gordon Enstrom received this honor of Eagle Scout at a recognition ceremony at the United Lutheran Church in Oak Park, IL. I ask that my colleagues join me saluting Eagle Scout Jeffrey Gordon Enstrom in recognition of this tremendous honor.

TRIBUTE TO MICHAEL STERN, WAR CORRESPONDENT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mrs. MALONEY. Mr. Speaker, I rise to pay tribute to Michael Stern, a renowned war correspondent who today celebrates his 86th birthday. Mr. Stern has led a distinguished career as an outstanding journalist who has also used his expertise as both a historian and an educator. He is deserving of special recognition here today in honor of his vast contributions to America's understanding of the realities of war.

Mr. Stern, the author of seven books and the producer of five feature motion pictures, has written extensively about his wartime experiences. His story on the B–17 flying fortress, Memphis Belle, America's four-engine bomber, has served as the basis for motion pictures and was selected by the World Publishing Company as one of the 100 best stories of World War II. Additionally, his story ''Nuts,'' written on the European front, has been an integral tool for historians writing about the Battle of the Bulge. To document his own vivid account as a war correspondent, he published his memoir, ''Into the Jaws of Death.''

Mr. Stern has not only documented the events he has witnessed, but has also made every effort to educate Americans through his personal accounts of his wartime experiences. He has served as a lecturer at the Newhouse School of Communication at Syracuse University and has made countless appearances on television to expose the American public to the realities of war. In addition to his role as educator, Mr. Stern currently acts as a trustee of the Intrepid Museum Foundation, a trustee of the Fisher House Foundation, executive vice president and chief operating officer of the Fisher Center for Alzheimer's Research at Rockefeller University, and the editor-in-chief of Fisher House Magazine.

Mr. Speaker, it is my pleasure to rise today in honor of Michael Stern, who has dedicated his life to bringing the reality of war home for Americans to understand and appreciate. I ask that my colleagues join with me in this well-deserved tribute to Mr. Stern and in celebration of his 86 years of experience and dedication to wartime journalism and education.

GORDON McALLISTER: A SPECIAL INDIVIDUAL

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mr. BARCIA. Mr. Speaker, whenever people ask me what ever happened to people who care about their community and their neighbors, I have the good fortune to tell them about people like Gordon McAllister, a special individual who for many years has served his community professionally, personally, and has taken the time to help people remember valuable lessons from our past.

Gordon McAllister has served as a police official in several capacities ever since his graduation from high school. He served as an Air Police officer with the United States Air Force. He then worked as a security officer for General Motors for 3 years, followed by another 3 years as a State Commissioned, Michigan State Railroad Police Detective.

For the past 27 years, Gordon has served as a member of the Bay City Police Department. For 8 years he was a patrol officer, and for 19 a detective corporal. During this time he earned 14 department commendations and numerous letters of merit from citizens and businessmen. Even more notable is that while performing in an exemplary fashion he continued to better himself by obtaining a bachelor of arts degree in Criminal Justice from Saginaw Valley State University.

He has personally been involved in many charitable events. Most notably he has been the local chairman for the National Law Enforcement Torch Run for Special Olympics for several years.

Most recently, Gordon earned the National Merit Award from the Sons of the Civil War for coordinating a salute to Civil War Veterans including songs and poems of the era, at the Vassar, Michigan, Riverside Cemetery. This program was a tribute to all veterans, particularly those from the Civil War, and marked the 100th anniversary of the dedication of a monument which bears the names of more than 200 Civil War veterans at the cemetery, including his great, great-grandfather, William Bassett Stark, who served in the 34th Massachusetts Volunteer Infantry.

With all of this public service, Gordon still believes his greatest success is investing in his family and their future—his help with his three children Darren, Darneal, and Brandon, attaining their college degrees.

Mr. Speaker, what happened to people who care about their community and their neighbors? One of them—Gordon McAllister—lives in Bay City, MI. I urge you and all of our colleagues to join me in recognizing his wonderful contributions.

PERSONAL EXPLANATION

HON. NORMAN SISISKY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mr. SISISKY. Mr. Speaker, yesterday I was unavoidably absent during tests related to my chemotherapy. Had I been present during consideration of H.R. 2391, the Compensatory Time Act, I would have voted against the bill.

AGENT ORANGE BENEFITS ACT OF 1996

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mr. EVANS. Mr. Speaker, today I am introducing the Agent Orange Benefits Act of 1996. The legislation provides necessary medical care and compensation to a new class of citizens who have sacrificed their health in the defense of our Nation—the children of agent orange-exposed Vietnam veterans who were born with Spina Bifida.

The legislation, proposed by the administration after close coordination with veterans services organizations and the disabilities community, is the result of a process set into place by the Agent Orange Act of 1991. The act established the process in which the National Academy of Sciences' [NAS] Institute of Medicine [IOM] issues reports every 2 years on the existing scientific evidence relating to Vietnam veterans' exposure to agent orange. The IOM's latest report confirmed what Vietnam veterans have known all along—that agent orange has and will continue to exact a high price on themselves and their families. The report specifically found that there is limited suggestive evidence of an association between agent orange exposure to vets and the occurrence of spina bifida in their children.

The bill I am introducing today is consistent with legislative action we have taken in the past with respect to veterans who suffered from conditions in the ''second tier'' of the NAS report. As with previous legislative relief we have granted veterans, my bill ensures that the VA has the authority to provide health care and appropriate compensation. Specifically, the bill gives the Secretary of the VA the authority to provide the extensive medical help needed by children suffering from spina bifida, including important case management services. The bill also gives the Secretary the flexibility to contract for care from private sources to ensure that appropriate medical services are provided.

I applaud the administration's quick and decisive movement on this issue. In particular, Secretary Brown should be congratulated for the strong action he took in ensuring that the administration proposed comprehensive legislation that guarantees that these children will be properly cared for and compensated.

I hope that we can take quick action on this legislation. The bottom line is that we have sick children who have paid the price because of their father's service to our Nation. They need and deserve the best that our nation can give them. I urge my colleagues to support this important legislation.

A TRIBUTE TO HISPANIC-AMERICAN VETERANS

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mr. TORRES. Mr. Speaker, I rise today to salute our Hispanic-American veterans and to share with you a few of the experiences of these brave men and women. On August 23 and 24, 1996, the California Occupational Foundation, under the leadership of Gus Hernandez, will be having a dinner and parade to recognize the contributions of our Hispanic-American veterans.

It is important that we recognize our Nation's Hispanic-American veterans, men and women who answered the call to defend freedom and democracy. Since the American Revolution, Hispanic Americans have courageously served, and in many cases died for our country. During the Civil War, an estimated 10,000 Hispanic-American soldiers fought in either the Union or Confederate Armies. Because of a language barrier, few Hispanic Americans saw any combat during World War I. But by World War II, with the language barrier broken, approximately 500,000 Hispanic-American soldiers helped the Allies defeat the Axis powers. Hispanic Americans have also served in Korea, Vietnam, and in Operation Desert Shield/Storm. Today, there are approximately 1 million living Hispanic-American veterans. Currently, Hispanic-Americans make up 5 percent of our Nation's active duty armed forces personnel.

Among these heroes is Marine PFC Guy Gabaldon, who with distinction captured more enemy soldiers than anyone else in the history of U.S. military conflicts. PFC Gabaldon captured over 1,000 Japanese soldiers during World War II. Also included are eight men who selflessly gave their lives for our country, continuing a tradition of honor rooted in a small street in Silvis, IL. Although the street is only large enough to accommodate 22 families, it has produced 84 brave men who fought in either World War II, Korea, or Vietnam. Once named Second Street, this small block has been renamed Hero Street U.S.A. and stands as a monument to these American heroes.

Most notable are the 41 Hispanic Americans who have been awarded our Nation's most prestigious and highest military decoration, the

Congressional Medal of Honor. This is more than any other ethnic group of veterans. Among the recipients is Private Jose P. Martinez who sacrificed his life by leaping forward and leading his platoon in attack after Japanese soldiers pinned down his unit during World War II.

Another honoree is Master Sergeant Roy P. Benavidez, who after recovering from a wound during his first tour of duty in Vietnam, returned to the war and earned his way into the elite Army Special Forces. Upon his return, Benavidez assisted in the rescue of 12 men from his unit, and destroyed classified documents so that they would not fall into enemy hands.

These soldiers are the epitome of the valor and service that is found within every soldier. Mr. Speaker, I ask my colleagues to please join me in honoring our Hispanic-American military heroes and to recognize the tremendous contributions Hispanic-American veterans have made in defense of liberty and democracy.

VETERANS' HEALTH CARE ELIGIBILITY REFORM ACT OF 1996

SPEECH OF

HON. JAMES B. LONGLEY, JR.

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 30, 1996

Mr. LONGLEY. Mr. Speaker, I rise in strong support of H.R. 3118, the Veterans Health Care Eligibility Reform Act.

It has become extremely clear that the question of health care eligibility has become extremely clouded as the result of a very complex and difficult to understand process of determining eligibility. In fact, as a country, we probably spend more time and money determining who is eligible, as compared to providing needed care. This must change.

I think that H.R. 3118 is a giant first step in the direction of positive changes in the provision of Veterans Administration health care.

At the same time, I want to commend this committee and Chairman STUMP for the outstanding work on behalf of the Nation's veterans. I hope that the committee will continue to be vigilant and aggressive in examining a system of veterans health care in order to ensure that it continues to provide quality care.

This would include, I hope, careful examination of the use of funds by the Veterans Administration. In the last two appropriations bills, this Congress has made careful provisions to increase funding for the provision of VA medical care. In the fiscal year 1997 budget, we increased funding by $504 million, from $16.6 billion to over $17 billion. In fiscal year 1996, the previous year, we increased funding an additional $400 million.

Sadly, however, although we have increased annual funding by almost $1 billion in the last 2 years, it seems that those additional funds have not made their way to the grass roots. It has certainly not made it to the Veterans Hospital in my district located in Togus, ME. In fact, if anything, as we have increased funding from Washington, the limitations on services, including the discussion of cutbacks on existing services has continued unabated.

It is not uncommon, for instance, to find a Maine veteran being forced to travel to a VA hospital in the Boston area and admit him or herself as an inpatient. He or she could remain in Boston for days, if not weeks, to receive needed medical treatment that could have been provided through a cooperative arrangement at a significantly lower cost with a Maine hospital.

Mr. Speaker, H.R. 3118 is a significant first step in the direction of improving and reforming the delivery of medical care to our Nation's veterans. I hope that, in the course of implementing H.R. 3118, we will see the committee continue to take a vigilant stance in overseeing the administration of the VA system and that it will take whatever action is necessary in order to protect provision of care at existing VA hospitals, such as that hospital located in Togus, ME. Our Nation's veterans, Maine veterans, deserve no less.

TRIBUTE TO DOROTHY ''DOTSY'' LOCKHART-ELSKOE

HON. VICTOR O. FRAZER

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 31, 1996

Mr. FRAZER. Mr. Speaker, Dorothy ''Dotsy'' Lockhart-Elskoe was born and raised on the island of St. Thomas and is the second child of Alfred and Elmira Lockhart. Dorothy was a graduate of the Charlotte Amalie High School Class of 1947. She attended on-island education programs for teachers that utilized professors from Puerto Rico and various mainland universities and colleges.

In 1952, Mrs. Elskoe began her teaching career as an elementary school teacher; however, after 8 years as a teacher, she developed a throat condition which forced her early retirement from the classroom. Mrs. Elskoe worked at the Department of Education and the Department of Finance. Additionally, she held various positions in the government. She was Administrative Assistant for the Virgin Islands Urban Renewal Board, Director of Emergency Housing for the Department of Housing and Community Renewal, Director of Community Relations and Complaints for the Virgin Islands Legislature and retired in 1986 as Director of the Rotary Multipurpose Center for Senior Citizens.

Dorothy's retirement gives her more time for community involvement. Her involvement in the community is both civic and political. She was president of the Democratic Party Women's Auxiliary for 8 years and a member of the Democratic Territorial Committee. Dotsy is still involved in politics—her assistance is often solicited by both senatorial and gubernatorial candidates. In addition to her past political involvements, Dotsy is a charter member of the League of Women Voters, member of St. Thomas is All of Us and the Welfare Rights Organization. Mrs. Elskoe chaired the Children's Sub-Committee of the Carnival Committee for 10 years and worked with Sam King and the late Halvor Hart, Jr. to bring children's rides to Carnival—began a children's village and started the tradition of a Prince and Princess float in the parade.

Presently, Dotsy is a member of the Board of Governors for the Virgin Islands cultural Heritage Institute, United Way Board Member, member of the Downstreet People, Inc., President of the Committee to Revive Our Culture, Co-Chairperson of the Merry Carolers, member of the Challenge of Carolers, Inc., President of the Elskoe and Associates Carnival Floupe, founder and member of the St. Jude Prayer Group and a Red Cross volunteer. Mrs. Elskoe has given and continues to render assistance to schools, social and civic clubs whenever her services are requested.

Mrs. Elskoe fosters her firm belief of preserving the traditional values and the indigenous customs of the Virgin Islands because they are on the fringe of extinction. In the summer of 1990, Dotsy assisted the Smithsonian Institute in Washington, DC, in preparing a mini-parade and a past and present living exhibit about the islands for the 24th annual festival of American Folklife.

She has presented and organized many demonstrations in the culinary arts and other arts and crafts to the schools and other organizations—locally and abroad. In past summers, the Committee to Revive Our Culture, of which Dotsy is President, organized youth summer programs for children between the ages of 12 and 17. They learned native culinary arts and additional handicrafts. With the aid of the Tourism Department, the Committee to Revive Our Culture held several successful cultural fairs in May and December at the Emancipation Garden. In the near future, Mrs. Elskoe will be embarking upon a project to organize a cooperative where local crafts and articles made in the Virgin Islands can be purchased.

Forty years ago, Dorothy Elskoe and master float builder—Ector Roebuck gave life to the then Elskoe and Roebuck Carnival Floupe—now known to all as the Elskoe and Associates Carnival Floupe. Dotsy and her floupe members have worked as ambassadors of the Virgin Islands, spreading the culture abroad to various areas in the Western Hemisphere. Elskoe and Associates have traveled to Puerto Rico, Miami, New York, Tortola, Washington, DC, St. Croix, St. John, Antigua, Toronto Canada and Atlanta—winning numerous prizes along the way.

At home, Elskoe and Associates has won numerous first place awards within the floupe category as well as within the King and Queen of the Bands competition. In 1972, the then Elskoe & Roebuck was the first floupe to construct queen and king of the band costumes on St. Thomas. Fayer Elskoe-Liburd—Dotsy's eldest daughter—was the first Queen of the Band and the King of the Band was ''Ricardo''. One of the famous Elskoe and Associates floupe entries that was considered a masterpiece was a float which displayed a twenty cent Danish coin—built by the late Ector Roebuck. This coin included three ladies who were very prominent in Virgin Islands History. The ladies who portrayed these historic individuals where sprayed entirely in silver for authenticity.

Mrs. Elskoe's overwhelming urge to protect and preserve our culture and heritage has not gone unnoticed by a supportive community. She has received many civic certificates, awards and honorable mentions including the Wilbur Bill Lamotta Community Service Award, The Queen Cosiah Award, the 1974 and 1996 Virgin Islands Carnival Committee Outstanding Participation Awards, the 1993 Virgin Islands Carnival Committee's V.I. Cultural Ambassador Award.

Two calypsos were written in her honor by Glen ''Kwabena'' Davis and the late Dana Orie in a Salute to Dorothy Elskoe by the Resident Calypsonians at the Reichhold Center for the Arts in 1984. Additionally, a resolution for her cultural and civic involvements in the community was presented to Mrs. Elskoe in 1994 by the 20th Legislature of the Virgin Islands. In July 1996, Dotsy was invited to Rio Grande, Puerto Rico by the Mayor of Rio Grande as the Grand Marshall of the Carnival Parade. She received a plaque in her honor for participating and assisting with the carnival since 1977.

Family unity is an important priority in Dotsy's life. This is present from her marriage of 48 years to Winthrop T. Elskoe. Him along with their six successful children—Faye Liburd, Karolyn Roebuck, Monica Rabsatt, Glen, Sandyl and Lori—have been inspirations in all of Dotsy's cultural and civic endeavors. If the preservation of culture is not instilled in anyone else, it is Dotsy's hope that it will be fixed in the minds and hearts of her offsprings and their offsprings. Dorothy views the culture of these islands not as footprints on a beach washed away by every wave and forgotten . . . but as footprints made in wet cement and left to dry . . . engraved and preserved in the minds of our youth forever.

TRIBUTE TO HAMILTON FISH

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Mr. CARDIN. Mr. Speaker, as you well know, one of our great colleagues recently passed away, Hamilton Fish, Jr. During a memorial service held in his behalf, Ralph Neas of the leadership conference on civil rights delivered eloquent remarks which I am inserting into the RECORD at this point:

REMARKS OF RALPH G. NEAS AT THE MEMORIAL SERVICE FOR CONGRESSMAN HAMILTON FISH, JR.

Mary Ann, Hamilton, Alexa, Nicholas, Peter, others in the Fish family, Speaker Gingrich, Members of Congress, and distinguished guests, I am profoundly grateful and deeply honored to have this opportunity to help celebrate the extraordinary life and legislative career of Congressman Hamilton Fish, Jr.

As the Executive Director of the Leadership Conference on Civil Rights, the legislative arm of the civil rights movement, I had the privilege of working with Ham Fish on nearly two dozen legislative campaigns between 1981 and 1995. Hamilton Fish was a civil rights champion, a mentor, and a close friend.

During the past week, the press coverage of Ham's thirteen terms in Congress has accurately characterized his personal integrity, his principled leadership, and his courageous commitment to equal opportunity for all Americans.

But, frankly, what I have read does not capture the sheer magnitude of Ham Fish's legislative accomplishments or, very importantly, the manner in which he achieved them. For a few minutes, I would like to share with you my perspective on this great man.

First, let us look at Ham Fish's civil rights record. It was legendary in its scope and breadth. Propelled by an awesome sense of justice and a determination not to rest until he had completed his mission, Ham Fish played an important role in virtuality every civil rights law enacted over the past two and a half decades.

Even during the Reagan and Bush presidencies, when Ham often faced formidable odds, he helped shepherd through Congress nearly a score of civil rights laws. Indeed, during this remarkable era, Ham, along with Don Edwards, his Democratic partner in guarding the Constitution, actually strengthened all the major civil rights statutes.

To sum up all these legislative successes would take up most of the morning. But I would like to mention specifically five landmark laws where Ham Fish was either the House author or the lead Republican sponsor. And, with respect to several of them. Ham was the legislator who fashioned the bipartisan compromise that catapulted the bill toward passage.

The 1982 Voting Rights Act Extension: Extended the Voting Rights Act of twenty-five years, overturned an adverse Supreme Court decision, and extended for ten years bilingual ballot assistance for language minorities.

The Civil Rights Restoration Act (1988): Overturned the notorious 1984 Grove City Supreme Court decision and once again made it illegal to use Federal funds to discriminate against women, minorities, persons with disabilities, and older Americans.

The Fair Housing Act Amendments of 1988: Provided at long last an effective enforcement mechanism for the 1968 Fair Housing Act. The 1988 Amendments also prohibited discrimination in housing against families with children and people with disabilities for the first time.

The Civil Rights Act of 1991: Overturned eight Supreme Court decisions that had dramatically weakened our nation's equal employment opportunity laws. And provides, for the first time, monetary damages for women and persons with disabilities who are victims of intentional discrimination.

The Americans with Disabilities Act (1990): Prohibits discrimination against 49 million Americans with disabilities in employment, public accommodations, communications and transportation.

These historic civil rights laws have benefitted, and will continue to benefit, millions of Americans. And let me state this as unequivocally as possible: these laws would not have been enacted without Congressman Hamilton Fish. His leadership during the most challenging of times was absolutely indispensable.

But it was not just the quantity and quality of these civil rights laws, or the legislative skills that made them possible, that made Hamilton Fish so special. In fact, his other attributes are what truly set him apart, providing standards of leadership that should serve as a model for everyone.

First, Ham Fish always understood thoroughly the need for bipartisanship. He knew how to build coalitions and forge a consensus. He knew the art of the timely compromise, the good compromise made at the right time that will produce the requisite number of votes, either a simple majority or a super majority, that is needed to enact a law.

The numerical results of the legislative victories I cited previously amply demonstrate this commitment to bipartisanship. The average final passage vote on these five laws was 90 percent of both Houses of Congress. Thanks to Ham Fish and his allies, he past decade and a half has been, legislatively, a bipartisan reaffirmation of civil rights laws and remedies.

Second, while Ham Fish was passionate in his beliefs, civility characterized his every action. He treated everyone with dignity. Few in Washington have matched his ability to command both the respect and the love of his peers. Time and again he proved that a nice guy can finish first.

Third, Ham Fish revered the institution in which he served. He enjoyed immensely being a member of the House of Representatives and always strove to make the House work. And while the House held his primary allegiance, he also respected the other institutions that comprise the Federal Government.

When the need arose, Ham Fish could be a fierce partisan. But he knew that bipartisan cooperation, not partisan confrontation, must ultimately prevail if government is to function at all.

Finally, and perhaps most significantly, Ham Fish was courageous. Whether it was voting to impeach a President of his own party or standing firm on civil rights legislation, Ham Fish did what he believed to be fair and just.

Last week, Congressman Maurice Hinchey summarized eloquently how Ham carefully balanced loyalty and independence in order to further the national interest. He stated: ''Ham was very proud to be called a loyal Republican, but he knew that loyalty does not mean surrender of one's own judgment and temperament * * * He believed that he served his party best when he served his country best, and that he served the country best by bringing the best of his own mind and heart to every issue he addressed.''

After he retired from the House, Ham Fish continued to work on behalf of his favorite issues. Just last month the two of us visited Senator Nancy Kassebaum and Congressman Amo Houghton lobbying on behalf of affirmative action and legal services.

As you can tell by now, I cherished my friendship with Ham. He was always there to help, performing any task with graceful enthusiasm. I will miss so much his warm smile, his mischievous sense of humor, and his calm and gentle presence.

As I sat praying at St. Albans chapel this morning, I thanked God for allowing Katy and me the opportunity to get to know Ham. And I was thankful that we all had the benefit of Ham's leadership at critical moments during our nation's past quarter of a century. As we leave the chapel shortly, let us all pray that God will bless America with a few more Ham Fishes.

IN HONOR OF THE SPONSORS OF PROJECT CHILDREN '96

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to a special group of people, the sponsors of Project Children '96 who have distinguished themselves with selfless dedication to the promotion of peace in Northern Ireland. Project Children is an organization that provides young people from the north of Ireland a respite from the violence which for too long has been a part of their lives. Through their generosity of spirit, the children's sponsors serve as vivid illustrations of the best we, as Americans, have to offer: respect for individual freedom.

Last year at this time, the children who came to visit us from Northern Ireland had a reason to be optimistic about their future. The ceasefire agreement signed in 1994 appeared to be having a positive effect on both sides in the ongoing struggle for freedom. Unfortunately, the past several months have seen a resumption of hostility. This makes the time shared by the 39 host families and the 46 children who are participating in Project Children '96 even more significant.

This year, the 39 families from my home State that have been kindhearted enough to open their lives to these young people include Rodney and Lynda Bialko, Michael and Elizabeth Cancian, Brian and Patricia Carmen, Marc and Tina Marie Cleaver, Kevin and Patricia Comer, James and Patti Cunningham, Anthony and Marge DeSando, Louis and Nancy Dolloway, Al and Ellen Dorso, Arnold and Madeline Fatteross, Rick and Arlene Faustini, Ken and Arleen Ferguson, Patrick and Fiona Ferguson, David and Patricia Freed, Margaret Gilsenan, Raymond and Isabelle Kayal, Timothy and Renee Kelly, James and Iza McCosker-Keane, Michael and Doreen Mackin, Michael and Kathleen McBride, Robert and Linda McGee, Brian and Lori McGorty, Peter and Nancy Midgley, Robert and Dyan Moore, Dennis and Meg O'Brien, Sean and Anne O'Neill, Paul and Julie Palminteri, Christopher and Barbara Pickell, John and Lori Rose, Hoby and Joyce Stager, Cheryl Stone, James and Louise Sweeney, Glenn and Diane Taylor, Michael and Anne Tizlo, Robert and Linda Toth, Joseph and Joyce Tricola, Joseph and Barbara Wells, John and Barbara White, and Craig and Barbara Yeske.

The 46 children we are privileged to have visit New Jersey are Denise Coyle, David Mahony, Samantha Walker, Dearbhlagh Digney-McCann, Ryan Corbett, Elaine Coyle, Daniel Fearon, Shauna Scott, Claire McKinley, Lorraine Fitzpatrick, Aisling Leavey, Shauna O'Toole, Laura Deane, Krisoffer Gallagher, Laura McCambridge, Aaron McCay, Joseph Doak, Jennifer Slavin, Jaime Teresa Coyle, Lisa Beggs, Natalia McKeown, Lynsay Martin, Katrina O'Reilly, Seadhna Billings, Brian Anneslay, Stephen Connelly, Brigid Fitzsimmons, Karen Barnes, Ciara Doherty, Karen Rafferty, Jonathan Magennis, Joseph O'Neill, Barry Dobbin, David Goodall, Catrina McQuillan, Charlene Nellins, Kenneth Murphy, Darren Diamond, David Diamond, Richard Johnson, Conor Hunter, Claire Dunseath, Aine Duffy, Elaine Murray, Shauna O'Hagen, and Eamonn Porter.

It is an honor to applaud the outstanding benevolence of the Project Children '96 sponsors. Their efforts to further the cause of peace will serve as a beacon of hope for countless others throughout Northern Ireland and the world. These compassionate individuals are truly local ambassadors of peace.

TRIBUTE TO THE AMERICAN AUTOMOBILE CENTENNIAL

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Mr. LEVIN. Mr. Speaker, on June 22, 1996, there was a celebration which was held in Detroit to mark the 100th anniversary of the automobile.

And what a celebration it was.

There was a parade with hundreds of cars that reflected the development of automotive production—from the 13 identical vehicles produced by the Duryea Bros. in Springfield, MA, and in June of the same year, the miraculous machine that Henry Ford drove amidst the horse and buggies in Detroit.

There followed a centennial gala. Thousands from all walks of life connected with the modern American automobile gathered to take note of the revolutionary impact of the automobile on daily life, its key role in the American economy, and its growth into a global industry.

The guiding spirit of the centennial, Keith Crain, presided over the gala's program. His remarks set the tone for the entire evening. They should be widely read, so it is my pleasure to place in the CONGRESSIONAL RECORD the speech given that evening by Keith Crain, chairman of the board of trustees of the American Automobile Centennial Commission and vice chairman of Crain Communications, Inc.

INTRODUCTORY REMARKS AT THE AMERICAN AUTOMOBILE CENTENNIAL DINNER

(By Keith Crain)

Good evening, it's my very pleasant duty to welcome you to Detroit, and this gala dinner, honoring 100 years of the American automobile industry.

As so many of you know, automobile production was bred, but not born, in Detroit.

The Duryea Brothers manufactured 13 identical motor-wagons in 1896, according that honor to Springfield, Massachusetts.

But it was also in June of that same year, at a site within walking distance of this Cobo Center that Henry Ford first drove what he called a quadri-cycle around the horse and buggy streets of this city and Detroit and the motor car became forever linked in history, and in the collective consciousness of people all around the world.

Tonight we celebrate the American automobile, and the heroic accomplishments of an industry whose business became the business of the century, the business of America.

We celebrate not only the history and lore of that amazing industry this evening, but a victory of ideas, of national will, of genius and muscle, of sweat, and blood, a victory of men and women and organizations and corporations who bent the way of living of an entire planet, in much the same way they bent the steel, that they molded into the vehicles of the world's dreams.

It was my friend and publisher, Leon Mandel, who said, ''It is important to understand how important the automobile has been to our development as a country, whether we like the way we developed or not.''

I think I speak for those of us in this room tonight, and for millions and millions more around a country connected by highways from coast to coast, in saying that we very much like the way America has developed over the past 100 years, and we thank the American automobile industry for giving us mobility and freedom and speed, and for making wheels the pivotal symbol of the 20th century.

The names of those responsible for this watershed accomplishment in the social evolution of mankind, are forever inscribed in the hearts of auto lovers. To list but a few is to risk omitting so many, but listen to the history, and the magic, those names inspire, Henry and Edsel Ford and the Duryea Brothers, Billy Durant, Walter Chrysler, Randson E. Olds, Maxim, Pope, Nash, Leland, the Dodge Brothers, Packard, Marmon, Studebaker, Willys, Thomas, Jeffery, Pierce, Stanley, Flanders, Chapin, Kettering, Sloan, Earl, Reuther.

We salute these pioneers, and so many of their fellows—past and present—in our centennial observation tonight. And among them, the name Walter Reuther. For it cannot be forgotten, that the American automobile industry was forged not just by celebrated men with revered names, but built vehicle by vehicle, on the muscle and strength, the will and, yes, the courage, of those that toiled in their shops.

It has been a wonderful business, developed by and nurtured by engineering geniuses, great designers, marketing powerhouses, manufacturing marvels and financial wizards.

That this business, our business, still exists and thrives today, is testimony to the greatness of the American idea, and testimony to the contributions of all those—known and unknown—that have sustained it for these 100 years.

In honoring this most American of enterprises, we must also take time this evening, to welcome and acknowledge our friends from overseas who join us here at the Cobo Center in this great celebration. There can be no question, that the global competition of the past quarter century, has been the most positive development in recent auto history. The buying public, the customer and the vehicles they purchase, have been the beneficiaries of this competition, and that is the ideal. It harkens back to the rivalries, and the pioneering spirit, of the original days of motor car production.

Who knows—were it not for this international influence, we might all still be driving 1950 Studebakers.

So we also salute America's newest manufacturers, and we thank them for their contributions to this century of growth, and for joining us tonight.

And finally, on a local note, we hope you out-of-towners will forgive us some parochial pride this evening in crowing about our motor capital of the world, this arsenal of democracy, this Detroit. Yes, it might have been Cleveland, it could have been Flint or Auburn, but to our town's everlasting credit and fame, it was Detroit.

And so we welcome you to a celebration that is both international and local at once, this 100th anniversary of the industry that has shaped America, and all of our lives. We thank those whose efforts over the decades have made this evening possible, those who have gone before us, and those who sustain this wonderful and world-changing business today. And we thank you in attendance, for joining us tonight in our centennial salute to the epic history, of the American automobile.

TOAST

I'd like to propose a toast to the men and women who have made the motor car in America, to the industry that has changed all our lives, to a blessed and magical 100 years, and to another 100 years that will rival the achievements of the first.

And finally, to the cars themselves, and the favorites we hold in our hearts; it's been a wonderful ride.

ROGERS CITY 125TH ANNIVERSARY

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Mr. STUPAK. Mr. Speaker, it is an honor for me to bring to the attention of the House and the entire Nation the 125th anniversary of Rogers City. Rogers City, found in Presque Isle County in the northeast corner of Michigan, will be celebrating its 125th birthday this weekend in conjunction with its Nautical City Festival.

Rogers City's long and distinguished history began in the late 1860's when William B. Rogers and his partner, Albert Moliter, hired Frederick Denny Larke to locate and land in northern Michigan for their company. The expedition led Mr. Larke to a beautiful area in northern Michigan, known in the 1860's as Alpena County. After returning to Detroit, Mr. Larke organized a number of German and Polish emigrants and returned to Alpena County in the spring of 1869. Rogers City was incorporated in 1877, just 2 years after the Presque Isle area broke away from Alpena to become its own county.

Although Frederick Larke was responsible for leading the settlers to the area, Albert Moliter is more often recognized as the founder. Mr. Moliter was an educated man who had a lot of influence in the small town. He began many businesses, including a store, but was unpopular with his fellow citizens. The resentment toward Mr. Moliter, real or unreal, culminated in tragedy when an individual shot and killed him as he worked in his store.

Albert Moliter was not the only educated man in Rogers City. The town's first two mayors were Charles Pfanneschmidt and Philip O'Farrell. Dr. Pfanneschmidt was one of two doctors in the area and the only dentist. Many other men made their marks and expanded Rogers City through business ventures which included Wendy's Saloon, the Kitchen House, Larke's Drugstore, and finally the county's courthouse.

With all of the distinguished men in Rogers City's history, the men who the town was named after never set foot in the area. William Evan Rogers was instrumental in financing and organizing the expedition that led to Presque Isle County but as a prominent figure from the east coast he never found a desire to move to the remote land many miles north of Detroit.

Surrounded by dense forests of white and Norway pine, white cedar, hemlock, and heavy hardwood, timber became Rogers City main industry. The town is located right on Lake Huron. By using its dock the town found an efficient way to transport the timber downstate. No railway went as far north as Presque Isle County and the automobile had not yet been introduced. The community did all of its trading by vessel.

Eventually, too many people settled in the area. All of the trees were wiped out and no other industry appeared profitable in northern Michigan. Crawford's Quarry, later renamed Calcite, was located just 2½ miles from Rogers City. There was fierce competition between these two towns especially since Quarry had attempted to become the county seat but Rogers City was awarded the honor. Crawford's Quarry lost many of its citizens and the whole city seemed to shut down.

Suddenly, in 1910, a demand for high-calcium limestone was created. Calcite, formerly known as Crawford's Quarry, housed the largest limestone quarry in the world. Once again, Calcite was alive and booming. As jobs opened up more people moved to Rogers City. In 1912, Rogers City had a population of 600. By 1950, more that 4,000 people resided in the town.

With the new industry came a renewed need for a railway that came all the way to Rogers City. On December 18, 1911, the residents of Rogers City welcomed their first train. Every citizen was waiting at the depot with bated breath. A huge ''Welcome'' sign hung above the tracks. When the train arrived the entire town broke out in cheers and laughter. One observer stated that the date December 18, 1911, means the same for Rogers City, as the date July 4, 1776, means for the United States.

Mr. Speaker, today Rogers City is a proud community, just as it was on December 18, 1911, and in the spring of 1869 when it incorporated. This small community has stayed together through good times and bad. Many citizens can trace their roots back to one of the original 21 names signed on the original petition for incorporation. It is this pride in their community that has kept Rogers City so strong for the last 125 years. On behalf of northern Michigan and the entire Nation, I would like to congratulate Rogers City on this, their 125th anniversary.

CONGRATULATIONS TO KOHLER AND CAROL McINNIS ON THEIR 50TH ANNIVERSARY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Mr. McINNIS. Mr. Speaker, I rise today in order to congratulate Kohler and Carol McInnis, my father and mother, on their Golden 50th Wedding Anniversary on August 27, 1996. They will celebrate the occasion by renewing their vows during mass at St. Stephen's Catholic Church in Glenwood Springs, CO. Glenwood Springs has been their home for more than 45 years, and they have many, many friends throughout the area.

Kohler and Carol have six children, Michael McInnis of Boulder, Kohler McInnis II of Durango, Kathy Krey of Glenwood Springs, Patty McInnis-Cole of Evergreen, Carie McInnis-Raaum of Grand Junction, and Scott McInnis of Grand Junction.

In addition, Kohler and Carol have 12 grandchildren, all of whom will be joining in the celebration.

Mr. Speaker, I would like to take this opportunity to share with my colleagues some background on these two very special people. Originally from Walsenburg, CO, my parents moved to Glenwood Springs in 1952, where my father, a small businessman, owned and operated a hardwood store. While my mother was a dedicated and hardworking homemaker of six children all of whom were very well behaved, my father became a member of the First Industrial Bank board, and later was part of the group which opened the Bank of Glenwood.

It is rare that a Congressman would profess love in the CONGRESSIONAL RECORD, but in this situation, it comes very easy. I extend my love and congratulations to them both on their Golden Anniversary.

THE ADMINISTRATION'S FOREIGN POLICY RECORD

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Mr. HAMILTON. Mr. Speaker, Secretary of State Christopher testified on July 31, 1996, before the International Relations Committee. It is an appropriate time to review the administration's foreign policy, and I would like to submit for inclusion in the CONGRESSIONAL RECORD my opening remarks.

OPENING STATEMENT BEFORE THE HOUSE INTERNATIONAL RELATIONS COMMITTEE

(By Lee H. Hamilton)

Mr. Secretary, welcome to the Committee. I look forward to your testimony. Since this may be one of the last times you testify before this committee during the 104th Congress, I also want to commend you personally for your efforts, and foreign policy accomplishments.

These have not been the easiest four years. We have had a difficult time defining our interests since the end of the Cold War. The single overwhelming threat from the Soviet Union is gone, replaced by any number of threats, including ethnic conflict, weapons proliferation, drugs, rogue states and terrorism.

Amidst this difficult environment, I believe the Administration has achieved a number of important foreign policy successes. They include reform in Russia, and Middle East peace.

On the most difficult question—U.S. intervention—the President has made the tough calls and achieved tangible results: in Haiti and Bosnia, and on the financial side, in Mexico. Let's face it: Without U.S. leadership during the past four years, thugs would be ruling Haiti, Bosnia would still be at war, and the Mexican economy would be in a free fall. We all know these successes are fragile; in today's world, no foreign policy achievement is permanent. But so far, so good.

The Administration has also had important success in arms control: the permanent extension of the Nuclear Nonproliferation Treaty; the removal of all nuclear weapons from Ukraine, Kazakhstan and Belarus; and a freeze on North Korea's nuclear program.

The economic record is also impressive. The President has tied together economic and foreign policy as well as any Administration in memory. During the first three years of the Administration, U.S. exports grew 31%. The U.S. economy has created a net 9 million new jobs since the Administration took office: Europe has lost 3 million jobs. The trade agreements initiated or concluded by the Administration have kept the world trading system open and unlocked new markets for U.S. products—with direct benefits for American consumers.

Most important of all, the United States is at peace. That is not small achievement.

You have unfinished business and some difficult tests ahead of you: relations with China; the Comprehensive Test-Ban talks; next steps in Bosnia; and keeping the Middle East peace process on track. I am sure these questions will come up today.

What impresses me most is that the President has decided that America must lead. He has decided that protecting and promoting our interests requires American leadership. This comes at a time when there are strong voices and actions by the Congress to cut resources and the American presence overseas. As he showed at the recent G–7 summit in France, the President is a skilled and highly respected world leader. Mr. Secretary, I commend you, and the President, for your record of accomplishment.

TRIBUTE TO A FLIER

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Mr. CLAY. Mr. Speaker, bustling in the skies overhead—airplanes and helicopters—satellites and spaceships—dirigibles and sometimes even UFO's—orbit the Earth in voyages of commerce, missions of mercy, and war, flights of fantasy and excursions of adventure and leisure.

For centuries our ancestors had no paths through the clouds. Once, most thought man would never fly; that only birds might soar the kingdom of clouds and rainbows. Today pilots steer passengers through the clouds and across the starry skies because dreamers and thinkers and inventors held to a faith that someday man would navigate the heavens.

Those who keep faith in their missions open new worlds and inspire us all to reach new heights.

I would like to take this opportunity to share a little bit of the story of one of our Nation's first black commercial airline pilots. Perry Jones is one of those faithful whose hard work, spirit, and dedication chartered a new course to the future. He is a model for young people who are pursuing dreams of flying and he is a model for older people who are searching out new rainbows when they retire from their life's work. Mr. Speaker, Capt. M. Perry Jones is one of our Nation's high flying heroes.

LIFE AFTER RETIREMENT FOR CAPT. M. PERRY JONES

On 16 December 94, Perry retired from Delta Airlines. Perry flew with Pan American World Airways for 26 years and Delta Air Lines for three. Not only was Perry Pan Am's first Black pilot and Captain, he was captain of the last Pan Am flight to depart London.

Perry has been a member of OBAP since 1977 and has served as NE regional Vice President, President, and presently as Chairman of the Board.

Perry's aviation career started in October, 1959. He served until December, 1965 in the USAF, first as a navigator and then as a pilot. He achieved the rank of Captain, flew over 100 missions over Vietnam, and received the air medal for valor. He has received many recognitions and awards including ''Outstanding Service'' awards from Delta Air Lines, the National Naval Officers Association (Pensacola, Florida), and Berlin American High School (Berlin, Germany).

Perry has served as an ''Expert in Residence,'' keynote speaker, panelist, workshop presenter, university lecturer and presented testimony to the U.S. Congress.

Topics have included: Flying Safety; The Air War in Vietnam; The Responsibilities of Being an American; Race in America; What's Wrong with America?

Your Triple ''A'' Plan to Success; Wines; The Rise and Fall of Pan Am; Civilian Aviation and Training Programs; Minorities in Aviation; The Red Cross in Vietnam; Bessie Coleman, An American Heroine; and Willa Brown-Aviatrix.

Perry's advice to those retiring is ''just enjoy every minute.'' His retirement plans include some consultant work and skiing. However, Perry is as busy as ever flying again with Delta as flight engineer. Congratulations and Best Wishes to Captain M. Perry Jones. Enjoy your retirement. OBAP appreciates your hard work and dedication.

TRIBUTE TO KEN MOFFETT

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Ms. HARMAN. Mr. Speaker, as a product of K–through–12 public schooling in Los Angeles, I can testify it works. It certainly did for me.

But virtually every school in the Los Angeles Unified School System—including those I attended—could work better. And they must, if every kid is to get every chance to succeed.

An extraordinary public school administrator who transformed Lennox schools into safe, attractive, graffiti-free havens for some of Los Angeles County's poorest children has just retired. I would like to share with my colleagues an excellent article about a visionary educator and friend, Ken Moffett, whose leadership will be sorely missed:

[From the Daily Breeze, July 28, 1996]

TO SIR, WITH LOVE—LENNOX SCHOOLS SAY GOODBYE TO SUPERINTENDENT

(By Marie Montgomery)

The Ken Moffett era in the Lennox School District is drawing to a close this week.

Not too many school superintendents quality to have an era named after them. Then again, not too many have a school named after them while they're still alive, and it's unusual to find one who has worked in the same district for almost 20 years.

Moffett, 61, has done all that and more since coming to Lennox in 1976.

On Wednesday night, the Manhattan Beach resident will walk out the door of his district headquarters and leave his superintendent title behind him. He is retiring to become an education professor at Pepperdine University this fall. He'll also head the university's administrative training program.

Bruce McDaniel, the district's assistant superintendent for business who has worked with Moffett for more than 10 years,will take over the Lennox superintendent post this week.

''I wanted to leave on a positive note, and I'm doing that,'' Moffett said, ''I'd like to leave without people's hands pushing in the middle of my back.''

That was hardly likely given that Moffett was named National Superintendent of the Year in 1994. But retiring now gives him a chance to pursue a second career in academia—one which may help create many more ''Moffett trainees'' to go out and run California's schools.

''Ken, for us exemplifies the outstanding qualities needed by a leader to take schools into the 21st century. . . . We're very fortunate to get him,'' said Terrence Cannings, associate dean for education at Pepperdine. ''He brings such a wealth of experience to anyone in today's tumultuous educational environment, and he has the ability to communicate that background to prospective teachers and administrators.''

Among Moffett's accomplishments at Lennox:

He transformed district campuses into safe, attractive, graffiti-free havens for some of Los Angeles County's poorest children.

He helped convince the state in 1985 to give his district $8.2 million to buy Lennox High School from the Centinela Valley Union High School District, refurbish it for $2.7 million provided by the state, and convert it to Lennox Middle School.

He fought state and federal governments in the 1970s and 1980s for the right to build a new elementary school on land the district owned directly in the flight path of Los Angeles International Airport, and then got the state to kick in money to build the school underground and soundproof it. Kenneth Moffett Elementary School opened in 1990.

The same year he won the national superintendent's title—a first for a California superintendent—he also was given the Marcus Foster Award, named for the Oakland schools chief assassinated by the Symbionese Liberation Army.

Lennox School District was one of the first in the South Bay to join the computer revolution, with the district schools already wired for classroom use of the Internet.

Teacher salaries in Lennox are the highest in the county, so the district can attract and keep qualified employees.

Glowing accolades are about all anyone will hear about Moffett.

His employees praise his enthusiasm and hard work. Colleagues in other South Bay districts stand in awe of his ability to communicate with everyone in the Lennox community, even gang members. And the direct beneficiaries of his work—Lennox students—know their superintendent by name a rarity in most other districts.

''He's Mr. Lennox to me,'' said school board member Mary Davis who has worked with Moffett for 10 years. ''Before I got on the board, I said to myself, 'Who is this man? They think of him like God.' Then when I got to know him, I realized he can talk to anybody and associate wit anybody. Children come first for him. I can't say anything bad about this man.''

El Segundo Unified School District Superintendent Bill Manahan said Moffett has always been generous with a sympathetic ear and advice for other administrators.

''If there is anyone I could emulate, it would be Ken Moffett.'' Manahan said. ''He just has such a sense of love for the community, for the kids. It goes beyond the kids—he cares about the families, too.''

Moffett made a point of visiting every classroom in his district, every year. He expected all his teachers and administrators to help give extra treats and incentives to students such as trips to a Dodgers game or a restaurant, and he pitched in with those duties too.

About the only time in Moffett's superintendent career that wasn't rosy was when he resigned briefly in 1986 to take the top job at the ABC Unified School District in east Los Angeles County.

He had a frustrating 15 months, caught in the middle of district politics. When he decided to apply to return to Lennox because the school board still hadn't filled his old post, he was criticized by some for missing the application deadline and getting rehire anyway.

But Hector Carrio, a board member who initially voted against rehiring Moffett, is now one of his big fans.

''I feel he is one of the most outstanding human beings,'' said Carrio, who worked with Moffett in 1970 at Monroe Junior High School in Inglewood when Moffett was a principal and Carrio was a teacher. ''Under his leadership, we have only one concern—the students. It's our main concern and the rest doesn't count for us.''

Moffett came to Inglewood from Western Washington State College in 1957, originally intending to teach for one year and then attend law school.

He never made it. After teaching English and physical education at Crozier Junior High School and working at a school for children of the U.S. military in Germany, he became an Inglewood administrator and then was hired by Lennox.

Situated in one of the poorest inner-city areas in California, the Lennox district houses 6,000 mainly Latino students. The vast majority speak a language other than English at home. But the district is renowned because of its success in creating English-fluent students.

''The thing I'm most proud of is that we created an attitude that all kids could learn, that they all could get along,'' Moffett said. ''We created a model where we showed it could happen.''

Moffett now hopes to spend more time with his wife, who teaches in Torrance, and with his two grown children—one at West Point and the other in Idaho, training in the ''family business'' to become a teacher.

And he wants to take a few more vacations and travel—although his idea of a relaxing vacation is building a redwood deck on his cabin in the mountains.

''I like to be busy, and I'm going to stay busy,'' he said. ''But I won't be gone for home six nights a week.''

KOVATCH GROUP CELEBRATES 50 YEARS IN BUSINESS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to my close personal friends, Mr. John J. ''Sonny'' Kovatch and his brother, Joseph. This month, their success as business leaders will be celebrated along with the 50th anniversary of their company, the Kovatch Group. A 3-day celebration of the Kovatch Group will begin tomorrow, and I am proud to be able to participate in these festivities.

In 1946, Sonny and Joseph began a small business dedicated to providing first-rate speciality motor vehicles. Fifty years later, the Kovatch Group has grown into a network of 13 different companies which work together to manufacture and service speciality vehicles used all around the world.

It is with great pride that I say that the international headquarters for the Kovatch Group is located in Nesquehoning, PA, in my congressional district. The complex sprawls over 65 acres and has over one-half million square feet under roof. More than 700 employees utilize a state-of-the-art computerized and automated assembly line to manufacture specialized vehicles designed to meet very specific needs of the Federal Government, military organizations, search and rescue crews, and heavy industry.

Having established a reputation for first-rate vehicles of the highest caliber, the Kovatch business organization grew dramatically since its establishment 50 years ago. In the mid-1980's, Kovatch was selected to construct highly specialized vehicles for the U.S. military. When Kovatch completed the contract nearly 1 year ahead of schedule, the company became known worldwide, and orders for vehicles were regularly submitted to the company from every division of the U.S. military, numerous foreign governments, and private businesses from around the world. Today, Kovatch is considered the manufacturer of choice for military refueling trucks and firefighting apparatus.

Whether we realize it or not, most of us have seen the vehicles produced by the Kovatch Co. Chances are the brave men and women responding to local emergencies utilize the rescue trucks, ambulances, pumpers, tankers, and aerial ladder trucks manufactured by Kovatch employees. The company can boast of having provided specialized vehicles to government agencies, volunteer fire and rescue teams, and private businesses from Eastport, ME, to Fairbanks, AK.

During the last decade, the Kovatch organization has experienced tremendous success because it has sought to integrate qualified workers with innovative engineering and modern manufacturing techniques. Together, Sonny and Joe have shown me that there really is no substitute for quality products designed and manufactured by American workers.

Mr. Speaker, I am not alone in recognizing the leadership of Kovatch Group for its success. Last year, Sonny was selected as the 1995 Master Entrepreneur of the Year for central Pennsylvania by a consortium of leading businesses including Ernst and Young, Sprint, and Merrill Lynch. Sonny was chosen for this award based on his ability to ensure continued success for the Kovatch Group over an extended period of time. Given that Sonny has been at the helm of the Kovatch Group since its founding 50 years ago, and has guided the company through both good and bad economic times, he is truly deserving of this award and recognition.

Mr. Speaker, I am proud to highlight the accomplishments of my good friends, Sonny and Joe Kovatch. The work of these business leaders is an example of the true entrepreneurial spirit that has made our country the greatest Nation in the world. Sonny and Joe have proven that hard work and ingenuity are the key ingredients of success. I am proud to join with their families, friends, and the community in congratulating the Kovatch brothers on their many successes.

IN HONOR OF LIAM BENSON: MAKING A DIFFERENCE TO HIS COMMUNITY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to an outstanding individual, Mr. Liam Benson, who has distinguished himself through uncommon dedication to the children of Northern Ireland. Mr. Benson, along with his wife Margaret, are again donating their services to the annual luncheon I will be hosting for the adopted families of Project Children. Their restaurant, O'Donoghues, is located at 205 First Street, Hoboken, NJ.

The word ''tradition'' comes to mind when speaking of this truly dedicated person. For the past 3 years, Mr. Benson has graciously afforded the children who come to the United States from Northern Ireland, along with their host families, an opportunity to meet and share their experiences in the United States. While in our country, the children have the possibility to sample a life without the threat of violence prevalent in their homeland. Mr. Benson, through his Irish heritage, has an unique understanding of the true value of peace and freedom.

Mr. Benson's journey to become a community member of my district began with his birth in County Mayo, Ireland. This son of the Emerald Isle traveled across the Atlantic Ocean 12 years ago in search of new horizons to explore. Mr. Benson arrived on our shores in New York City where he went to work in a neighborhood bar. Two years later, Mr. Benson's journey led him to Hoboken and the establishment of his own place of business, O'Donoghue's Bar and Restaurant. A genuinely modest gentleman, Mr. Benson chose to name his new establishment after a famous bar with the same name located in Dublin, Ireland.

Major themes that have resonated in the life of Mr. Benson have been community and family. For the residents of Hoboken, O'Donoghue's has become a friendly oasis in the life of this bustling urban center. The sense of community experienced by visitors who enter this local institution makes everyone feel like they are members of the Benson family. When it came time to think about starting a family, Mr. Benson married a women named Margaret who became his partner in life. In 1995, their joyful union produced a son, also named Liam, who will undoubtedly one day carry on the tradition of community service.

It is an honor to have such an extraordinarily considerate individual operating a business in my district. Mr. Liam Benson exemplifies the tremendously positive influence one person can have on the lives of others. I am certain my colleagues will rise with me and honor this remarkable gentleman.

TRIBUTE TO THE AMERICAN AUTOMOBILE CENTENNIAL

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Mr. LEVIN. Mr. Speaker, this year is the Centennial of automobile production in America.

At a gala held on June 22, 1996, the Mayor of Detroit, Dennis Archer, spoke eloquently about the impact of the automotive industry, of the role of management and labor in its development, and of the place it carved out for Detroit in this Nation's and the global economy.

It is my pleasure to insert his prepared remarks in the CONGRESSIONAL RECORD.

AMERICAN AUTOMOBILE CENTENNIAL GALA, SATURDAY, JUNE 22, 1996

Thank you very much, distinguished head table guests, ladies and gentleman. I want to thank Keith Crain, who shortly after I became mayor, came by the office and said, ''In about two years, we're going to be celebrating 100 magnificent years of the automobile, and I think we ought to do something about it.''

I said, ''Keith, you're absolutely right. Thanks for being my next dollar-a-year guy. Would you please take charge of it, and by the way, I want you to work with my point person, Maud Lyon, who is the city's director of the Historical Museum.''

Keith, you and Maud came together with everybody to make this happen. It wasn't just you that could create this beautiful room with all of these magnificent people who are here, but the sponsors—those of you who gave and contributed generously, and to the committee, I want to say thank you very much.

Second, I am pleased to bring a message from a friend that I was with earlier today in

Cleveland Ohio, as the United States Conference of Mayors was meeting.

He writes:

"I am delighted to join my fellow Americans in observing June 16–23 as National American Automobile Centennial Week. More than any other invention in the past century, the automobile has shaped and defined America. Even as it has helped our nation to grow, the car has brought people closer together, advancing commerce and communication, and connecting our cities, suburbs and small towns on an intricate web of highways and roads. In the 100 years since the production of the first motor wagons, the automobile industry has become a source of pride for Americans and an inspiration for entrepreneurs around the globe.

"The car is now an inseparable part of our culture. Our poets, our songwriters speak of the joys of the open road. And for millions of us, the automobile embodies America's freedoms of mobility and expression. This week offers us a special opportunity to honor the pioneers of automotive engineering and the automotive workers who helped build this remarkable industry and make the American dream of a better life come true.

"As we celebrate the remarkable automotive achievements of our past, let us salute, as well, the work of the engineers who are developing the next generation of vehicles—the cars we will be driving in the 21st century. These dreamers and doers are continuing a legacy of progress: innovation, employment and competitiveness that have marked America's automobile industry since its birth 100 years ago.

"Best wishes to all for a wonderful Centennial Celebration and a memorial week."—President Bill Clinton.

Next, and finally, I would like to ask Robert J. Eaton, Chief Executive Officer, Chrysler Corporation; Carolyn Forrest, Vice President, International Union, UAW; John F. Smith, Jr., Chairman, CEO & President, General Motors Corporation; and Alex Trotman, Chairman and CEO, Ford Motor Company, if you would join me here at the podium.

The United States automobile industry celebrates its 100th anniversary this year, and it is only fitting that Detroit, the world's motor capital, serves as a national headquarters for this historic event. From June 16–23, Detroit will showcase one of the largest gatherings of antique and classic automobiles ever, along with the most spectacular automotive parade in a half century.

As the birthplace of the global automobile industry, Detroit acknowledges its legacy as a city that profoundly shaped the American lifestyle and changed the culture of the 20th century. Appropriately nicknamed "The Motor City," Detroit sparked a century-long love affair with the automobile. Detroit is also home to three of the largest employers in southeast Michigan. Ford Motor Company, Chrysler Corporation, General Motors Corporation, and the UAW.

This celebration is a tribute to the inventors, engineers, entrepreneurs and the workers who made the auto industry great. The strength of our society relies, in part, on the advances made in technology. From innovations in manufacturing to design and development of alternative fuels, the auto industry has enriched the lives of all Americans and made our fine city's name synonymous with automobiles.

As communities across the United States throughout 1996 are uniting to celebrate this milestone in our nation's history, I salute the American Automobile Centennial Commission along with its four sponsors, Chrysler, Ford, General Motors, and the UAW for its efforts to create a year-long commemoration of this special occasion. The metropolitan Detroit area marks this historic anniversary with exhibits and displays, celebrity appearances and ceremonies.

Therefore, I Dennis Archer, Mayor of the City of Detroit, issue this proclamation in celebration of the 100th anniversary of the United States automobile industry. I urge all residents to embrace and celebrate this vital part of Detroit's history.

SUOMI COLLEGE CENTENNIAL CELEBRATION

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Mr. STUPAK. Mr. Speaker, I want to bring to the attention of the U.S. House of Representatives and this Nation the 100th anniversary of Suomi College, located in Hancock, MI, a small community of about 4,000 people on the Keweenaw Peninsula in Michigan's Upper Peninsula. The celebration of this event will occur this weekend, August 3–4, 1996.

Named for its founders' homeland and heritage, Suomi College was an outgrowth of the need for higher education for the sons and daughters of the hardy Finnish immigrants that settled in Michigan's Upper Peninsula, especially Hancock. They were quick to realize that education was a key to improving quality of life in their adopted country and wanted to make this opportunity available to all young men and women. At the same time, there was a strong desire to retain the proud ethic heritage that was brought with them, as well as the religious influence of the Lutheran Church. It was out of this framework that Suomi College was founded in 1896.

Suomi College proved early on to be highly innovative by offering scholarships, work opportunities, loans and other support services to students. It is a college that in its early years often saw gifts and tuition payments come, not as cash, but as contributions of food, firewood, books and building materials.

The school struggled financially in the early 1900's, but never lost sight of its stated mission of providing a quality education. As money was raised in the 1930's for expansion and to provide financial assistance, the Great Depression forced these funds to be rechanneled to pay for daily operating expenses. In the 1940's, enrollment and revenues started to significantly increase only to be halted again with the start of World War II. Regardless of these and other setbacks, leaders of the school, such as Viljo K. Mikander, who served as president of Suomi during their 50th anniversary, provided the encouragement to continue, even to the point of suggesting the school expand to a 4-year college of liberal arts.

It is the belief in the institution and its mission by its current and past administrations, faculty, students and supporters that have allowed it to get through the tough times and become the progressive, innovative and growing college it is today. Suomi College is establishing an outstanding record and providing excellent opportunities for its students.

Today, thousands of Suomi alumni are present in every walk of life and in every area of the country with more than 1,600 area residents alone having graduated or completed courses at Suomi. Suomi graduates are leaders in law, religion, medicine, administration and many other fields and all have as a basis of their education in their course work done at Suomi, nurtured in the Finnish heritage.

Liberal arts and humanities serve as a mainstay for this small, personalized, church-related college. Math and science are also strongly encouraged in any curriculum. To date, Suomi has been a 2-year community college granting associate degrees. However, beginning this fall, a new 3-year baccalaureate degree will be offered, again demonstrating the innovative thought that Suomi is known for. A 3-year degree obtained over eight consecutive semesters significantly reduces costs and provides greater efficiency and applicability of courses taken and quickly moves young people into the workforce.

The Suomi College Centennial Celebration this weekend will be highlighted by several events including the groundbreaking ceremony for its new chapel and library expansion. In attendance for this event will be Archbishop John Vikstrom of the Evangelical Lutheran Church of Finland as well as Presiding Bishop H. George Anderson of the Evangelical Lutheran Church of America and Bishop Dale Skogman of the Northern Great Lakes Synod.

Mr. Speaker, the 100-year history of Suomi College will serve the institution well in its second century as it continues to serve the Upper Peninsula and this Nation. On behalf of the First Congressional District, the State of Michigan and the House of Representatives, I congratulate President Robert Ubbelohde, his staff, the faculty, the student body and the Hancock community on this momentous occasion.

TRADE FREE ZONE IN THE NORTH OF IRELAND

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Mr. GILMAN. Mr. Speaker, a bill (H.R. 3599) which aims to help address some of the economic deprivation in Northern Ireland and the Republic of Ireland's six border countries was proposed here in the House on June 6, 1996. I was pleased to be an original cosponsor of this important proposal by my good friend—Representative THOMAS MANTON, of New York. In light of the current outbreak of turmoil in Northern Ireland the introduction of such a proposal aimed at economic improvement and change, has become even more crucial today.

Our bill (H.R. 3599) concerns the potential establishment of a free trade agreement between the United States and the United Kingdom and the Republic of Ireland, which governs the aforenamed areas. It provides authority for the President to negotiate such a treaty, consistent with the goals and policies of the European Union.

Indeed, it is envisaged that a strengthened economy in Northern Ireland and the affected border countries would help facilitate the precarious peace process which has become most imperative in light of the recent outbreak of sectarian violence in Northern Ireland.

The bill will not solve all of the region's many difficult problems, but it can greatly contribute toward a long-term shared economic strategy, which will be of mutual benefit to workers in the North of Ireland and American companies as well. It would help create a shared economic development, greatly needed in the current times of turmoil.

Most notably the proposals have been welcomed by a diversity of groups both in Ireland and the United States. Dr. John Alderdice, leader of the Alliance Party believes that the bill could ''help underpin political agreement.'' His voice is joined by Hon. Dr. Joe Hendron, MP, member of Social Democratic and Labour Party [SDLP], who stated that such an incentive could help ''bring a new day to Northern Ireland.'' Hon. Cecil Walker, MP, member of the Ulster Unionist Party [UUP] has also lent his support, believing the bill to be ''one of the most promising economic development proposals on the horizon for my beleaguered part of Northern Ireland.'' In addition, Fr. Sean McManus of the Irish National Caucus, Inc. in Washington, DC, Senator Sean Maloney and Senator Patrick McGowan of the Republic of Ireland, have all welcomed this trade free zone legislation.

Importantly, the proposals are aimed at improving the most economically disadvantaged regions of the North of Ireland, through the condition that only articles grown, produced, or manufactured in such areas will qualify for this proposal duty-free treatment. Those employers who seek to take advantage of the incentive must also be in compliance with the principles of economic justice dealing with fair employment, namely the MacBride Principles.

The widespread enthusiasm for the trade free zone among the parties of Northern Ireland and many others, is indeed proof that agreement can be reached, if the Government of the United States, Britain, and the Republic of Ireland are willing to take advantage of the opportunity H.R. 3599 provides. Although the arduous path of political compromise and solution has yet to be forthcoming in Northern Ireland today, increased economic prosperity in the region would help lay the foundation of goodwill and trust, which are required now more than ever.

UNITED STATES POLICY TOWARD SAUDI ARABIA

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1996

Mr. KOLBE. Mr. Speaker, I found this article by Mr. David Dunford in the Tucson Citizen to provide an illuminating analysis of the United States policy toward Saudi Arabia. I commend it to your attention:

[From the Tucson Citizen, June 28, 1996]

UNITED STATES ASKS TOO MUCH OF SAUDIS, WHO SACRIFICE PEACE AT HOME

(By David J. Dunford)

Tuesday's terrorist bombing in the Eastern Province of Saudi Arabia, which killed 19 Americans and wounded hundreds of others, forces us to focus again on our critical relationship with Saudi Arabia.

It is critical because Saudi Arabia is the world's largest oil producer and the United States is the world's largest oil consumer. It is critical because Saudi Arabia is the most important of the Arabian peninsula monarchies and provides the major platform from which we project our military forces to defend against Iraqi and Iranian threats to our interests.

Since the successful end of the 1990–91 Gulf War, our policy toward this part of the world has been on automatic pilot. We look to Saudi Arabia to take a forthright stand in favor of the Middle East peace process and we look to Saudi Arabia to provide assistance to the Palestinians and the Bosnians which our Congress refuses to provide. We also look to Saudi Arabia to buy our civilian and military airplanes and our telecommunications equipment. Although we pledged in 1990 that as soon as the crisis was over, we would leave, almost six years later we still have 5,000 U.S. Air Force personnel in Saudi Arabia. The Saudi government pays their expenses.

What we have failed to recognize is that Saudi Arabia has changed and, as a result, the Saudi monarchy may no longer be able to respond to the multiple demands that we place on it. Gone are the days when Saudi Arabia had $150 billion in foreign exchange reserves and the ability to buy social peace by providing employment and subsidized government services for all.

Saudi Arabia today, with its rapid population growth, educated but underemployed youth, and chronic budget deficits, provides fertile ground for Islamic militants.

While we may not know for some time who was responsible for Tuesday's bombing, it is likely that it was related to the bombing of the American military advisory compound in Riyadh in November, which killed five Americans. The message the militants seek to send by this latest terrorist act is that the Saudi government's beheading last month of four of their number convicted of involvement in the November incident has not weakened their strength or resolve.

Ironically, it may well be that some of the militants are so-called ''Afghans''—Arabs who trained to fight the Soviets in Afghanistan in a program supported by both the Saudi and U.S. governments. The militants oppose modernization, Westernization and Arab reconciliation with Israel. They are particularly indignant that, despite tens of billions of dollars spent on sophisticated weaponry, the Saudi government was forced in 1990 to rely on ''infidel'' troops to defend their land, which includes the two holiest places in Islam—Mecca and Medina.

The first step in fixing our Saudi policy is to confirm an ambassador and send him to Riyadh. King Fahd's recent illness and his decision to relinquish power temporarily to Crown Prince Abdullah have raised uncertainty about who is really in charge. It is particularly important to have an ambassador on the ground to monitor this situation.

During my four years as deputy ambassador in Saudi Arabia, I was acting ambassador for 15 months. Since I left more than four years ago, there has been an ambassador in Riyadh for less than half of that time. It should hardly surprises us that there was no ambassador on the ground when the truck bomb exploded on Tuesday.

Second, we should reduce our reliance on Saudi help financing our national security policy and we should be more judicious about pressing the Saudis to take public positions that incur the wrath of a substantial percentage of Saudi citizens. The Saudi government needs a reprieve to turn its attention to domestic economic and political priorities.

Third, we need to devise an end game for our Iraq policy. We must not withdraw our forces in Saudi Arabia under the duress of terrorism but, at the same time, policy drift is not a good reason to leave them there indefinitely.

Finally, we need to be more proactive in our encouragement of needed economic and political change in Saudi Arabia and in neighboring monarchies. Change is hard and Gulf rulers will not always welcome our injection of internal issues into diplomatic exchanges. That should not deter us.

Their survival and the maintenance of our vital interests in the region depend on orderly change.

Daily Digest

HIGHLIGHTS

See Résumé of Congressional Activity.

Senate passed Personal Responsibility Act Conference Report.

House agreed to Health Care Reform Conference Report.

House agreed to Agriculture Appropriations Conference Report.

House agreed to Military Construction Appropriations Conference Report.

House agreed to DOD Authorization Conference Report.

House agreed to District of Columbia Appropriations Conference Report.

House agreed to Legislative Branch Appropriations Conference Report.

House passed English Language Empowerment Act.

Senate

Chamber Action

Routine Proceedings, pages S9321–S9453

Measures Introduced: Eight bills and one resolution were introduced, as follows: S. 2009–2016, and S. Res. 286. **Page S9428**

Measures Reported: Reports were made as follows:

Special Report on Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1997. (S. Rept. No. 104–347)

H.R. 2464, to amend Public Law 103–93 to provide additional lands within the State of Utah for the Goshute Indian Reservation. (S. Rept. No. 104–348)

S. 199, to repeal certain provisions of law relating to trading with Indians. (S. Rept. No. 104–349)

S. 1952, to amend the Juvenile Justice and Delinquency Prevention Act of 1974. **Page S9428**

Budget Reconciliation/Personal Responsibility Act Conference Report: By 78 yeas to 21 nays (Vote No. 262), Senate agreed to the conference report on H.R. 3734, to provide for reconciliation pursuant to section 201(a)(1) of the concurrent resolution on the budget for fiscal year 1997.

Pages S9322–34, S9337–41, S9344–47, S9352–S9415

Nominations Received: Senate received the following nominations:

Kevin L. Thurm, of New York, to be Deputy Secretary of Health and Human Services.

Arthur I. Blaustein, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2002.

Ida L. Castro, of New York, to be Director of the Women's Bureau, Department of Labor.

Donna Holt Cunninghame, of Maryland, to be Chief Financial Officer, Corporation for National and Community Service.

Regina Markey Keeney, of Virginia, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1995.

Brigadier General Robert Bernard Flowers, United States Army, to be a Member and President of the Mississippi River Commission, under the provisions of Section 2 of an Act of Congress, approved June 1879 (21 Stat. 37) (33 USC 642).

Rose Ochi, of California, to be Director, Community Relations Service, for a term of four years.

Pages S9452–53

Nomination Withdrawn: Senate received notification of the withdrawal of the following nomination:

Joaquin F. Otero, of Virginia, to be an Assistant Secretary of Labor, which was sent to the Senate on February 20, 1996. **Page S9453**

Messages From the House: **Page S9426**

Measures Referred: **Page S9426**

Measures Placed on Calendar: **Page S9426**

Communications: Pages S9426–28

Executive Reports of Committees: Page S9428

Statements on Introduced Bills: Pages S9428–38

Additional Cosponsors: Pages S9438–39

Notices of Hearings: Page S9439

Authority for Committees: Page S9440

Additional Statements: Pages S9440–52

Record Votes: One record vote was taken today. (Total—262) Page S9415

Adjournment: Senate convened at 9:30 a.m., and adjourned at 9:13 p.m., until 10:30 a.m., on Friday, August 2, 1996. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S9452.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—COMMERCE/JUSTICE/ STATE

Committee on Appropriations: Committee ordered favorably reported, with amendments, H.R. 3814, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997.

BOSNIA MISSION

Committee on Armed Services: Committee held hearings to examine United States participation in the NATO Implementation Force Mission in Bosnia, receiving testimony from Walter B. Slocombe, Under Secretary of Defense for Policy; Rear Adm. Charles W. Moore, Jr., USN, Deputy Director of Operations, Joint Staff; and Lt. Gen. Patrick M. Hughes, USA, Director, Defense Intelligence Agency.

Hearings were recessed subject to call.

AVIATION SECURITY

Committee on Commerce, Science, and Transportation: Committee held hearings on proposals to develop and implement aviation security measures, receiving testimony from Senators Cohen, Campbell, and Lautenberg, Representative Burton; Federico Peña, Secretary, and David R. Hinson, Administrator, Federal Aviation Administration, both of the Department of Transportation; Keith O. Fultz, Assistant Comptroller General, and John K. Harper, Assistant Director, both of the Resources Community and Economic Development Division, General Accounting Office; Edward A. Merlis, Air Transport Association, and David Plavin, Airports Council International North America, both of Washington, D.C.; Morris Busby, DGI Incorporated, Arlington, Virginia; and Richard Everitt, BAA plc, London, England.

Hearings were recessed subject to call.

EMERGENCY TIMBER SALVAGE

Committee on Energy and Natural Resources: Committee held hearings to examine the Secretary of Agriculture directive to the Forest Service concerning the implementation of the emergency timber salvage program, designed to respond to the widespread forest fires of 1994, as authorized in section 2001 of Public Law 104–19, Omnibus Appropriations and Rescissions Act, receiving testimony from Daniel R. Glickman, Secretary, James R. Lyons, Under Secretary, and Jack Ward Thomas, Chief, Forest Service, all of the Department of Agriculture.

Hearings were recessed subject to call.

PROPRIETY OF A COMMERCIAL LEASE

Committee on Energy and Natural Resources: Subcommittee on Oversight and Investigations concluded oversight hearings to review the propriety of a commercial lease issued by the Bureau of Land Management at Lake Havasu, Arizona, including its consistency with the Federal Land Policy and Management Act and Department of the Interior land use management policies, after receiving testimony from Edward B. Cohen, Deputy Solicitor, Department of the Interior; and Mat Millenbach, Deputy Director, Joe Liebhauser, Havasu Resource Area Manager, and Rich Greenfield, Phoenix, Arizona Field Solicitor, all of the Department of the Interior.

NOMINATIONS

Committee on Environment and Public Works: Committee ordered favorably reported the nominations of Nils J. Diaz, of Florida, and Edward McGaffigan, Jr., of Virginia, each to be a Member of the Nuclear Regulatory Commission.

U.S. FOREIGN POLICY

Committee on Foreign Relations: Committee concluded hearings to review the role for the United States in the world and other foreign policy issues, after receiving testimony from Warren Christopher, Secretary of State.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following bills:

S. 1952, authorizing funds for fiscal years 1997 through 2000 for programs of the Juvenile Justice and Delinquency Prevention Act; and

S. 982, to develop safeguards to protect the national information infrastructure, with an amendment in the nature of a substitute.

TERRORISM

Select Committee on Intelligence: Committee held hearings on the threat of terrorism in the United States, focusing on recent terrorist incidents, U.S. policy response to terrorism, and the role of the U.S. intelligence community, receiving testimony from Louis J. Freeh, Director, and Robert M. Bryant, Assistant Director, National Security Division, both of the Federal Bureau of Investigation, Department of Justice; Caspar Weinberger, former Secretary of Defense; and James R. Schlesinger, former Director of Central Intelligence.

Committee recessed subject to call.

House of Representatives

Chamber Action

Bills Introduced: 13 public bills, H.R. 3936–3948; 1 private bill, H.R. 3949; and 5 resolutions, H. Con. Res. 206–207, and H. Res. 504–506 were introduced. **Pages H9705–06**

Reports Filed: Reports were filed as follows:

Conference report on H.R. 3448, to provide tax relief for small businesses, to protect jobs, to create opportunities, and to increase the take home pay of workers (H. Rept. 104–737);

H. Res. 502, waiving points of order against the conference report to accompany, H.R. 3103, to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance (H. Rept. 104–738);

H. Res. 503, waiving points of order against the conference report to accompany 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 employer 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 the Act (H. Rept. 104–739);

Conference report on H.R. 3845, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 1997 (H. Rept. 104–740);

Conference report on S. 1316, to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'' (H. Rept. 104–741);

H.R. 3378, to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and other third party payers (H. Rept. 104–742 Part I); and

H. Res. 507, waiving points of order against the conference report to accompany S. 1316 to reauthorize and amend title XIV of the Public Health Service Act, commonly known as the ''Safe Drinking Water Act'' (H. Rept. 104–743); and

H. Res. 508, providing for consideration for a certain motion to suspend the rules (H. Rept. 104–744). **Pages H9568–H9703, H9704–05**

Committees to Sit: The following committees and their subcommittees received permission to sit today during proceedings of the House under the 5-minute rule: Agriculture, Banking and Financial Services, Commerce, Economic and Educational Opportunities, Government Reform and Oversight, International Relations, Judiciary, Resources, Science, Small Business, Transportation and Infrastructure, and Select Intelligence. **(See next issue.)**

Order of Business: It was made in order that at any time to consider a conference report to accompany the bill H.R. 3754, that all points of order against the conference report and against its consideration be waived, and that the conference report be considered as read when called up. **(See next issue.)**

Legislative Branch Appropriations: By a yea-and-nay vote of 397 yeas to 22 nays, Roll No. 386, the House agreed to the conference report on H.R. 3754, making appropriations for the Legislative Branch for the fiscal year ending September 30, 1997. **(See next issue.)**

Agriculture Appropriations: By a yea-and-nay vote of 379 yeas to 42 nays, Roll No. 387, the House agreed to the conference report on H.R. 3603, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related

Agencies programs for the fiscal year ending September 30, 1997. (See next issue.)

H. Res. 496, waiving points of order against the conference report to accompany H.R. 3603, was laid on the table. (See next issue.)

English Language Empowerment: By a recorded vote of 259 ayes to 169 noes, Roll No. 391, the House passed H.R. 123, to amend title 4, United States Code, to declare English as the official language of the Government of the United States. (See next issue.)

Rejected the Serrano motion to recommit the bill to the Committee on Economic and Educational Opportunities with instructions to report the bill back forthwith with an amendment in the nature of a substitute that sought to include findings relating to English as the language of the United States, policies that promote English, and require Presidential campaigns and Federal elections to be conducted in English (rejected by a recorded vote of 171 ayes to 257 noes, Roll No. 390). (See next issue.)

Agreed to the amendment in the nature of a substitute consisting of the text of H.R. 3898, as amended, made in order by the rule. (See next issue.)

Agreed to the Cunningham amendment, as modified by unanimous consent, that cites the title as the Bill Emerson Language Empowerment Act of 1996, clarifies that the bill does not affect Native Alaskan or Native American languages, the Individuals with Disabilities Act, or terms of art and phrases from foreign languages. (See next issue.)

Rejected the Serrano amendment in the nature of a substitute that sought to include findings relating to English as the primary language of the United States and policies that promote English as the common language (rejected by a recorded vote of 178 ayes to 250 noes, Roll No. 389) (See next issue.)

H. Res. 499, the rule which provided for consideration of the bill was agreed to by a yea-and-nay vote of 236 yeas to 178 nays, Roll No. 388. (See next issue.)

Employee Association Representation: The House agreed to the Senate amendment to H.R. 782, to amend title 18 of the United States Code to allow members of employee associations to represent their views before the United States Government—clearing the measure for the President. (See next issue.)

J. Phil Campbell Conservation Center: The House passed H.R. 3387, to designate the Southern Piedmont Conservation Research Center located at 1420 Experimental Station Road in Watkinsville, Georgia, as the ''J. Phil Campbell, Senior Natural Resource Conservation Center''. (See next issue.)

Iosco County, Michigan Property: The House passed H.R. 2670, to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan. (See next issue.)

Agreed to the Committee amendment. (See next issue.)

Mark Twain National Forest: The House passed H.R. 3464, to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements. (See next issue.)

Agreed to the Committee amendment. (See next issue.)

Health Care Reform: By a yea-and-nay vote of 421 yeas to 2 nays, Roll No. 393, the House agreed to the conference report on H.R. 3103, to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, and to simplify the administration of health insurance. (See next issue.)

Rejected the Stark motion to recommit the conference report to the committee on conference with instructions to the managers on the part of the House to do everything possible, within the scope of the conference, to modify section 305 of the Senate amendment relating to mental health insurance parity so as to improve mental health care insurance while minimizing any impact on the cost or availability of health insurance plans, and to produce a conference report which confines itself to the differences between the bill as passed by the House and passed by the Senate (rejected by a yea-and-nay vote of 198 yeas to 228 nays, Roll No. 392). (See next issue.)

H. Res. 502, the rule waiving points of order against consideration of the conference report was agreed to by a voice vote. Earlier, agreed to H. Res. 500, waiving a requirement requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules. (See next issue.)

Order of Business: It was made in order that at any time to consider conference reports to accompany the bills H.R. 3517 and H.R. 3845, that all points of order against both conference reports and against their consideration be waived, and that both conference reports be considered as read when called up. (See next issue.)

Military Construction Appropriations: By a yea-and-nay vote of 396 yeas to 26 nays, Roll No. 394, the House agreed to the conference report on H.R.

3517, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for fiscal year ending September 30, 1997. (See next issue.)

H. Res. 497, waiving points of order against the conference report to accompany H.R. 3517, was laid on the table. (See next issue.)

District of Columbia Appropriations: By a yea-and-nay vote of 330 yeas to 91 nays, Roll No. 395, the House agreed to the conference report on H.R. 3845, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 1997. (See next issue.)

Order of Business: It was made in order that notwithstanding clause 1 of rule XXVII the Speaker may entertain motions to suspend the rules on Wednesday, September 4, 1996. (See next issue.)

Defense Authorization: By a yea-and-nay vote of 285 yeas to 132 nays, Roll No. 397, the House agreed to the conference report on H.R. 3230, to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, and to prescribe military personnel strengths for fiscal year 1997. (See next issue.)

Rejected the Dellums motion to recommit the conference report with instructions to the managers on the part of the House to insist on section 367 of the House bill relating to impact aid assistance to local educational agencies for the benefit of dependents of members of the Armed Forces and civilian employees of the Department of Defense (rejected by a yea-and-nay vote of 181 yeas and 236 nays, Roll No. 396). (See next issue.)

H. Res. 498 the rule providing for consideration of the bill was agreed to earlier by a voice vote. (See next issue.)

House Page Board: The Chair announced the Speaker's appointment of Representative Fowler to fill a vacancy on the House of Representatives Page Board. (See next issue.)

Recess: The House recessed at 11:35 p.m. and reconvened at 12:49 a.m. on August 2. (See next issue.)

Senate Messages: Messages received from the Senate today appear on page H9567.

Quorum Calls—Votes: Nine yea-and-nay votes and three recorded votes developed during the proceedings of the House today and appear in the next issue. There were no quorum calls.

Adjournment: Met at 10 a.m. and adjourned at 12:50 a.m. on Friday, August 2.

Committee Meetings

FAMILY PET PROTECTION ACT, PET SAFETY AND PROTECTION ACT

Committee on Agriculture: Subcommittee on Livestock, Dairy, and Poultry held a hearing on the following bills: H.R. 3393, Family Pet Protection Act of 1996; and H.R. 3398, Pet Safety and Protection Act of 1996. Testimony was heard from Michael Dunn, Assistant Secretary, Marketing and Regulatory Programs, USDA; and public witnesses.

OVERSIGHT—FANNIE MAE AND FREDDIE MAC

Committee on Banking and Financial Services: Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises concluded oversight hearings regarding Fannie Mae and Freddie Mac. Testimony was heard from Leland C. Brendsel, Chairman and CEO, Federal Home Loan Mortgage Corporation (Freddie Mac); and Robert B. Zoellick, Executive Vice-President, Federal National Mortgage Association (Fannie Mae).

BUDGET PROCESS

Committee on the Budget: Concluded hearings on "How Did We Get Here From There?" A Discussion of the Evolution of the Budget Process from 1974 to the Present, Part III. Testimony was heard from Representatives Barton of Texas, Orton, Cox of California, Stenholm, Neumann, Smith of Michigan, Largent, Crapo, Castle, Visclosky, Cardin, Everett and Horn.

REAUTHORIZATION—PUBLIC HEALTH SERVICE ACT PROGRAMS

Committee on Commerce: Subcommittee on Health and Environment held a hearing on reauthorization of Existing Public Health Service Act Programs. Testimony was heard from Philip R. Lee, M.D., Assistant Secretary, Health, Department of Health and Human Services; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Economic and Educational Opportunities: Ordered reported the following measures: H.R. 3863, amended, Student Debt Reduction Act of 1996; and H. Res. 470, expressing the sense of the Congress that the Department of Education should play a more active role in monitoring and enforcing compliance with the provisions of the higher Education Act of 1965 related to campus crime.

The Committee also began markup of H.R. 3876, Juvenile Crime Control and Delinquency Prevention Act.

FBI BACKGROUND FILES

Committee on Government Reform and Oversight: Held a hearing on Security of FBI Background Files. Testimony was heard from the following officials of the FBI, Department of Justice: Howard M. Shapiro, General Counsel; Thomas A. Kelley, Inspector, Deputy General Counsel; and Peggy J. Larson, Supervisory Research Analyst; and a public witness.

MISCELLANEOUS MEASURES

Committee on International Relations: Favorably considered and adopted a motion urging the Chairman to request that the following bills be considered on the Suspension Calendar: H. Con. Res. 120, amended, supporting the independence and sovereignty of Ukraine and the progress of its political and economic reforms; and H.R. 3916, to make available certain Voice of America and Radio Marti multilingual computer readable text and voice recordings.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Ordered reported amended H.R. 3307, Regulatory Fair Warning Act.

The Committee also continued markup of H.R. 3565, Violent Youth Crime Act of 1996.

Will continue tomorrow.

REFUGEE RESETTLEMENT

Committee on the Judiciary: Subcommittee on Immigration and Claims held an oversight hearing regarding the possible shifting of refugee resettlement to private organizations. Testimony was heard from Representatives Obey and Condit; Lavinia Limon, Director, Office of Refugee Resettlement, Department of Health and Human Services; Edwin Silverman, State Coordinator, Refugee Resettlement Program, Department of Public Aid, State of Illinois; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Ordered reported the following bills: H.R. 3640, amended, Torres-Martinez Desert Cahuilla Indians Claims Settlement Act; H.R. 3642, California Indian Land Claims Transfer Act; H.R. 2512, amended, Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996; H.R. 2710, amended, Hoopa Valley Reservation South Boundary Correction Act; H.R. 3547, amended, to provide for the conveyance of a parcel of real property in the Apache National Forest in the State of Arizona to the Alpin Elementary School District 7 to be used for the construction of school facilities and related playing fields; H.R. 2693, to require the Secretary of Agriculture to make a minor adjustment in the exterior boundary of the Hells Canyon Wilderness in the States of Oregon and Idaho to exclude an established Forest Service road inadvertently included in the wilderness; H.R. 1179, amended, Historically Black Colleges and Universities Historic Building Restoration and Preservation Act; S. 1467, amended, Fort Peck Rural County Water Supply System Act of 1995; H.R. 3903, amended, to require the Secretary of the Interior to sell the Sly Park Dam and Reservoir; H.R. 3910, amended, Emergency Drought Relief Act of 1996; S. 811, amended, Water Desalinization Research and Development Act of 1996; and H.R. 3828, Indian Child Welfare Act Amendments of 1996.

The Committee failed to approve H.R. 3879, Northern Mariana Islands Delegate Act.

NEW ENGLAND GROUNDFISH MANAGEMENT PLAN

Committee on Resources: Subcommittee on Fisheries, Wildlife and Oceans held an oversight hearing on the economic effects of the New England Groundfish Management Plan. Testimony was heard from Representative Frank of Massachusetts; the following officials of NOAA, Department of Commerce: Andrew Rosenberg, Northeast Regional Director, National Marine Fisheries Service; and John Bullard, Director, Office of Sustainable Development and Intergovernmental Affairs; Robin Alden, Commissioner of Marine Resources, State of Maine; and public witnesses.

SANTEE SIOUX TRIBE OF NEBRASKA

Committee on Resources: Subcommittee on Native American and Insular Affairs held a hearing on H.R. 3595, to make available to the Santee Sioux Tribe of Nebraska its proportionate share of funds awarded in Docket 74–A to the Sioux Indian Tribe. Testimony was heard from Representative Barrett of Nebraska; Deborah Maddox, Director, Office of Tribal Services, Department of the Interior; and public witnesses.

CONFERENCE REPORT—HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

Committee on Rules: Granted, by voice vote, a rule waiving points of order against the conference report on H.R. 3103, Health Insurance Portability and Accountability Act of 1996, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Chairman Archer and Representatives Hastert and Stark.

CONFERENCE REPORT—SAFE DRINKING WATER ACT

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report on S. 1316, the Safe Drinking Water Act Amendments of 1996, and against its consideration.

The rule provides that the conference report shall be considered as read.

COMBATING TERRORISM

Committee on Rules: Granted, by voice vote, a rule providing that at any time on the calendar day of Friday, August 2, 1996, the Speaker may entertain a motion offered by the majority leader or his designee that the House suspend the rules and pass a bill or joint resolution relating to the subject of combating terrorism.

CONFERENCE REPORT—SMALL BUSINESS JOB PROTECTION ACT

Committee on Rules: Granted, by voice vote, a rule waiving points of order against the conference report on H.R. 3448, Small Business Protection Act of 1996, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Chairman Archer and Representatives Hastert and Stark.

DEPARTMENT OF ENERGY RESEARCH AND DEVELOPMENT

Committee on Science: Subcommittee on Energy and Environment held a hearing on funding Department of Energy Research and Development in a constrained Budget Environment. Testimony was heard from the following officials of the Department of Energy: Gregory H. Friedman, Deputy Inspector General, Audits; and Roger A. Lewis, Senior Advisor, Office of Strategic Computing and Simulation; Allen Li, Associate Director, Energy, Resources and Science Issues, Resources, Community, and Economic Development Division, GAO; Daniel Hartley, Vice President, Laboratory Development, Sandia National Laboratory; Ron Cochran, Executive Office, Lawrence Livermore National Laboratory; Charles Gay, Director, National Renewable Energy Laboratory; and a public witness.

MISCELLANEOUS MEASURES; RESOLUTIONS

Committee on Transportation and Infrastructure: Ordered reported the following bills: H.R. 3535, to redesignate a Federal building in Suitland, MD, as the ''W. Edwards Deming Federal Building''; H.R. 3576, amended, to designate the U.S. courthouse located at 401 South Michigan Street in South Bend, IN, as the ''Robert Kurtz Rodibaugh United States Courthouse''; and H.R. 3710, amended, to designate a U.S. courthouse located in Tampa, FL, as the ''Sam M. Gibbons United States Courthouse''.

The Committee also approved the following: 18 Repair and Alteration Resolutions; 1 Lease Resolution; and 2 11(b) Resolutions.

CHILD SAFETY RESTRAINT SYSTEMS ON COMMERCIAL AIRCRAFT

Committee on Transportation and Infrastructure: Subcommittee on Aviation held a hearing on H.R. 1309, to amend title 49, United States Code, to require the use of child safety restraint systems approved by the Secretary of Transportation on commercial aircraft. Testimony was heard from Representative Lightfoot; the following officials of the FAA, Department of Transportation: Peggy Gilligan, Deputy Associate Administrator, Regulation and Certification; and Louise Maillett, Acting Assistant Administrator, Policy, Planning, and International Aviation; Barry Sweedler, Director, Office of Safety Recommendations, National Transportation Safety Board; and public witnesses.

OVERSIGHT—NEXCOM LEASE

Committee on Transportation and Infrastructure: Subcommittee on Public Buildings and Economic Development held a hearing on the oversight of NEXCOM Lease. Testimony was heard from the following officials of the GSA: Hillary Peoples, Assistant Commissioner, Public Buildings Service; and Harmon Eggers, Associate General Counsel; and the following officials of the Department of Defense: Eleanor Hill, Inspector General; VAdm. James Fitzgerald, USN, Inspector General and Steve Honigman, General Counsel, both with the Department of the Navy; and Robert Taylor, Deputy General Counsel.

U.S. TRADE POLICY

Committee on Ways and Means: Subcommittee on Trade continued hearings on the Status and Future Direction of U.S. Trade Policy, with emphasis on U.S. Trade with Sub-Saharan Africa. Testimony was heard from Representatives McDermott and Jefferson; Jeffrey M. Lang, Deputy U.S. Trade Representative; George Moose, Assistant Secretary, African Affairs Bureau, Department of State; and public witnesses.

BOSNIA/IRAN ARMS

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on Bosnia/Iran Arms. Testimony was heard from departmental witnesses.

Joint Meetings

HEALTH INSURANCE REFORM

Conferees on Wednesday, July 31, agreed to file a conference report on the differences between the Senate- and House-passed versions of H.R. 3103, to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, and to simplify the administration of health insurance.

SMALL BUSINESS JOB PROTECTION ACT

Conferees agreed to file a conference report on H.R. 3448, to provide tax relief for small businesses, to protect jobs, to create opportunities, and to increase the take home pay of workers.

APPROPRIATIONS—DISTRICT OF COLUMBIA

Conferees agreed to file a conference report on the differences between the Senate- and House-passed versions of H.R. 3845, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 1997.

COMMITTEE MEETINGS FOR FRIDAY, AUGUST 2, 1996

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Finance, Subcommittee on Social Security and Family Policy, to hold hearings to examine how to educate the public about the 1996 report of the Social Security Board of Trustees, 10 a.m., SD–215.

House

Committee on the Judiciary, to continue mark up of H.R. 3565, Violent Youth Crime Act of 1996, 9:30 a.m., 2141 Rayburn.

Résumé of Congressional Activity

SECOND SESSION OF THE ONE HUNDRED FOURTH CONGRESS

The first table gives a comprehensive résumé of all legislative business transacted by the Senate and House.
The second table accounts for all nominations submitted to the Senate by the President for Senate confirmation.

DATA ON LEGISLATIVE ACTIVITY

January 3 through July 31, 1996

	Senate	*House*	*Total*
Days in session	107	98	. .
Time in session	804 hrs., 57′	768 hrs., 38′	. .
Congressional Record:			
Pages of proceedings	9,320	9,566	. .
Extensions of Remarks	. .	1,421	. .
Public bills enacted into law	13	67	. .
Private bills enacted into law	1	1	. .
Bills in conference	19	20	. .
Measures passed, total	273	328	. .
Senate bills	100	15	. .
House bills	80	165	. .
Senate joint resolutions	2	3	. .
House joint resolutions	8	11	. .
Senate concurrent resolutions	14	7	. .
House concurrent resolutions	16	26	. .
Simple resolutions	53	101	. .
Measures reported, total	*199	*266	. .
Senate bills	140	3	. .
House bills	45	175	. .
Senate joint resolutions	1	0	. .
House joint resolutions	0	4	. .
Senate concurrent resolutions	4	0	. .
House concurrent resolutions	1	5	. .
Simple resolutions	8	79	. .
Special reports	12	7	. .
Conference reports	1	19	. .
Measures pending on calendar	272	80	. .
Measures introduced, total	618	1,398	. .
Bills	496	1,095	. .
Joint resolutions	13	50	. .
Concurrent resolutions	30	76	. .
Simple resolutions	79	177	. .
Quorum calls	2	1	. .
Yea-and-nay votes	261	165	. .
Recorded votes	. .	219	. .
Bills vetoed	0	5	. .
Vetoes overridden	0	0	. .

* These figures include all measures reported, even if there was no accompanying report. A total of 143 reports have been filed in the Senate, a total of 292 reports have been filed in the House.

DISPOSITION OF EXECUTIVE NOMINATIONS

January 3 through July 31, 1996

Civilian nominations, totaling 295, (including 119 nominations carried over from the first session), disposed of as follows:

Confirmed	137
Unconfirmed	148
Withdrawn	10

Civilian nominations (FS, PHS, CG, NOAA), totaling 1,337, (including 320 nominations carried over from the first session), disposed of as follows:

Confirmed	1,335
Unconfirmed	2

Air Force nominations, totaling 9,424, (including 4,952 nominations carried over from the first session), disposed of as follows:

Confirmed	6,713
Unconfirmed	2,711

Army nominations, totaling 10,857, (including 2,304 nominations carried over from the first session), disposed of as follows:

Confirmed	8,557
Unconfirmed	2,300

Navy nominations, totaling 3,553, (including 21 nominations carried over from the first session), disposed of as follows:

Confirmed	2,062
Unconfirmed	1,491

Marine Corps nominations, totaling 2,119, (including 8 nominations carried over from the first session), disposed of as follows:

Confirmed	2,063
Unconfirmed	56

Summary

Total nominations carried over from the first session	7,724
Total nominations received this session	19,861
Total confirmed	20,867
Total unconfirmed	6,708
Total withdrawn	10

Next Meeting of the SENATE

10:30 a.m., Friday, August 2

Senate Chamber

Program for Friday: Senate expects to consider conference reports on H.R. 3103, Health Insurance Reform, H.R. 3754, Legislative Branch, H.R. 3845, D.C. Appropriations, H.R. 3517, Military Construction, H.R. 3448, Small Business Job Protection Act, further conference reports, when available, and any cleared legislative and executive business.

Next Meeting of the HOUSE OF REPRESENTATIVES

9 a.m., Friday, August 2

House Chamber

Program for Friday: Consideration of the conference report on H.R. 3448, Minimum Wage (rule waiving points of order);

Consideration of the conference report on S. 1316, Safe Drinking Water Act (rule waiving points of order); and

One measure under suspension of the rules dealing with combating terrorism.

Extensions of Remarks, as inserted in this issue

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