QUESTIONS OF ORDER

DECIDED IN THE HOUSE OF REPRESENTATIVES AT THE FIRST SESSION OF THE ONE HUNDRED SECOND CONGRESS

HON. THOMAS S. FOLEY, OF WASHINGTON, SPEAKER;
DONNALD K. ANDERSON, OF CALIFORNIA, CLERK

POINT OF ORDER
(¶73.4)

THE COMMITTEE ON RULES MAY, WITHOUT VIOLATING CLAUSE 4(B) OF RULE XI, RECOMMEND A SPECIAL ORDER THAT LIMITS BUT DOES NOT WHOLLY PRECLUDE A MOTION TO RECOMMIT AFTER THE PREVIOUS QUESTION IS ORDERED ON PASSAGE OF A BILL OR JOINT RESOLUTION, SUCH AS ONE THAT CONTEMPLATES THE ADOPTION OF AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO PRECLUDE INSTRUCTIONS TO AMEND.

CLAUSE 4 OF RULE XVI DOES NOT GUARANTEE THAT A MOTION TO RECOMMIT AFTER THE PREVIOUS QUESTION IS ORDERED ON PASSAGE OF A BILL OR JOINT RESOLUTION MAY ALWAYS INCLUDE INSTRUCTIONS.

A SPECIAL ORDER THAT DOES NOT PRECLUDE ALTOGETHER THE MOTION TO RECOMMIT DOES NOT ''PREVENT THE MOTION TO RECOMMIT FROM BEING MADE AS PROVIDED IN CLAUSE 4 OF RULE XVI.''

On June 4, 1991, Mr. WHEAT, by direction of the Committee on Rules, called up the following resolution (H. Res. 162):

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be considered as having been read. No amendment to the bill or to said substitute shall be in order except those amendments printed in the report of the Committee on Rules accompanying this resolution, and all points of order against the amendment printed in the report are hereby waived. Said amendments shall be considered in the order and manner specified in the report, shall be considered as having been read, and shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment. If more than one amendment is adopted, only the last amendment which is adopted shall be considered as finally adopted. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendment as may have been adopted, and any Member may demand a separate vote in the House on the last amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion except one motion to recommit.

Pending consideration of said resolution,

POINT OF ORDER
(¶73.5)

Mr. SOLOMON made a point of order against the resolution, and said:

''Mr. Speaker, this resolution violates House rule XI, clause 4(b), which states that 'the Committee on Rules shall not report any rule or order * * * which would prevent the motion to recommit from being made as provided in clause 4 of rule XVI.'

''And the relevant portion of clause 4 of rule XVI states that, 'after the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution.'

''Mr. Speaker, On January 3 of this year, I wrote to you, the majority leader, and the chairman and members of the Rules Committee. With that letter I transmitted a 48-page report prepared by the Rules Committee minority staff entitled, 'The Motion to Recommit in the U.S. House of Representatives: The Rape of a Minority Right.'

''That paper carefully traced the legislative history and intent behind what is now clause 4(b) of rule XI and clause 4 of rule XVI. In essence that report demonstrated beyond any doubt that the whole purpose of the two rules was to give the minority a final vote on its legislative position.

''The House already had another provision in rule XVII dating back to 1880 which provided for one motion to recommit, with or without instructions, pending the adoption of the previous question or after it is ordered. But the new rule, which applies only to bills and joint resolutions after the previous question is ordered, was specifically set apart from that to clearly reserve to the opponents the right to offer the motion and get a vote on a final amendment in the form of instructions if the opponents so desired.

''As the author of the new rule, Representative John Fitzgerald, a Democrat from New York, put it on offering the language back on March 15, 1909, and I quote:

Under our present practice, if a Member desires to move to recommit with instructions, the Speaker, instead of recognizing the Member desiring to submit a specific proposition by instructions, recognizes the gentleman in charge of the bill and he moves to recommit * * *

''and Representative Fitzgerald concluded:

Under our practice the motion to recommit might better be eliminated from the rules altogether.

''Mr. Speaker, the author left no doubt that he was specifically offering this new House rule to give the opponents a final vote on a proposition in the form of instructions.

''I will not quote at length today all the Speakers who have subsequently reiterated this purpose of the new rule. Let me just give you one. Quoting from Cannon's Precedents, volume 8, section 2727, Speaker Gillett, on October 7, 1919, said the following in ruling on a point of order:

The fact is that a motion to recommit is intended to give the minority one chance to fully express their view so long as they are germane. * * * The whole purpose of this motion to recommit is to have a record vote on the program of the minority. That is the main purpose of the motion to recommit.

''Mr. Speaker, the Chair has previously relied on a 1934 precedent to uphold the right of the Rules Committee to restrict the minority's right to recommit.

''In that 1934 instance, a rule prohibited amendments to a particular title of a bill 'during its consideration,' meaning in the House and the Committee of the Whole. And the Chair upheld a point of order against a motion to recommit with instructions that attempted to amend that title.

''Mr. Speaker, as the research paper I submitted to you last January made clear, that 1934 point of order was wrongly decided since, if the Rules Committee could prohibit some amendments from being offered in a motion to recommit, by logical extension it could prohibit all. And that would clearly nullify the whole intent of the rule which was to guarantee to the minority the right to offer an amendment in the motion to recommit with instructions if it wished.

''The central issue, therefore, is not whether the Rules Committee has preserved the right of a straight motion to recommit, but rather if it has preserved the minority's right to a motion to recommit, in the words of the rule, 'as provided in clause 4 of rule XVI.' And what that rule's author 'provided' for was the right to offer amendatory instructions. About that there should

be no question after reading the history and precedents surrounding that rule.

''Mr. Speaker, the rule before us does not protect the right to offer a motion to recommit with amendatory instructions because it makes in order a committee amendment in the nature of a substitute as the base bill for amendment purposes. And the adoption of that substitute by the House would preclude any further amendments in a motion to recommit unless the rule had included the words, 'with or without instructions.' That has been the traditional language included by the Rules Committee dating back to 1909 for the specific purpose of protecting the minority's prerogatives whenever a committee substitute is made base text.

''I pointed this out during the Rules Committee's markup of this rule and offered the appropriate corrective language. My motion was rejected on a party line vote after it was made quite clear that the majority was intentionally denying this minority right because it did not want the minority to offer a further amendment. As the chairman put it, we were already given a substitute we could offer during consideration in the Committee of the Whole.

''It is clear from the record and this rule that the majority has purposely denied this historic minority right which dates back to 1909.

''I therefore urge, Mr. Speaker, that you uphold my point of order and the important principle involved here of preserving and protecting the right of the minority to have a final vote on its program in the motion to recommit. To do otherwise would be to render this rule meaningless and turn the clock back a century on this fundamental minority right on a civil rights bill pending before this House.''.

Mr. WHEAT was recognized to speak to the point of order and said:

''Mr. Speaker, the gentleman from New York [Mr. SOLOMON] makes a point of order that the rule inhibits the motion to recommit and, therefore, according to the minority, violates clause 4(b) of rule XI.

''Mr. Speaker, I respectfully disagree. Even if the rule prohibited the minority from offering the motion to recommit with instructions, the rule would not violate clause 4(b) of rule XI as long as a simple motion to recommit might be offered. The Rules Committee is not precluded from limiting instructions on a motion to recommit, and this is a well-established parliamentary point.

''As the minority pointed out, Speaker Rainey did in fact rule in January 11, 1934, and was sustained on appeal. He said then:

> The Chair will state that the Committee on Rules may, without violating this clause, recommend a special order which limits but does not totally prohibit a motion to recommit pending passage of a bill or joint resolution such as precluding a motion containing instructions relative to certain amendments.

''But, Mr. Speaker, as recently as October 16, 1990, the parliamentary point was reaffirmed. The Rules Committee reported a resolution making in order one motion to recommit which may not include instructions. The Speaker pro tempore on this occasion ruled: 'Clause 4 of rule XVI does not guarantee that a motion to recommit a bill must always include instructions.'

''Mr. Speaker, the precedents are clear and unequivocal. If the rule does not deprive the minority of the right to offer a simple motion to recommit the bill or a joint resolution, then the rule does not violate the spirit or the letter of clause 4(b) of rule XI.''.

The SPEAKER overruled the point of order, and said:

''Under clause 4(b) of rule XI, the authority of the Committee on Rules to propose special orders of business is not absolute. Clause 4(b) of rule XI contains the following limitation on that authority:

> The Committee on Rules shall not report any rule or order which provides that business under clause 7 of rule XXIV shall be set aside by a vote of less than two-thirds of the members present; now shall it report any rule or order which would prevent the motion to recommit from being made as provided in clause 4 of rule XVI.

''Pertinent to the latter restriction, clause 4 of rule XVI addresses the motion to recommit in the following terms:

> After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution.

''Under precedent dating to 1934—Speaker Rainey, January 11, 1934, sustained on appeal—and followed as recently as 1990—October 16, 1990, sustained by tabling of appeal—the Committee on Rules may, without violating clause 4(b) of rule XI, recommend a special order that limits but does not wholly preclude a motion to recommit after the previous question is ordered on passage of a bill or joint resolution.

''A special order that does not preclude a simple motion to recommit does not 'prevent the motion to recommit from being made as provided in clause 4 of rule XVI.' Clause 4 of rule XVI does not guarantee that a motion to recommit after the previous question is ordered on passage of a bill or joint resolution may always include instructions.

''Under the terms of the pending special order, only a motion to recommit with instructions to report an amendment forthwith might be disallowed—if the bill were entirely rewritten by the adoption of a substitute in the House. In no event would the pending rule disallow a simple motion to recommit or even a motion to recommit with general instructions.

''Accordingly, the Chair, in support of the precedent established by Speaker Rainey and reestablished last year, overrules the point of order.''.

When said resolution was considered.

After debate,

Mr. WHEAT moved the previous question on the resolution to its adoption or rejection.

The question being put, viva voce,

Will the House now order the previous question?

The SPEAKER pro tempore, Mr. MCNULTY, announced that the yeas had it.

Mr. SOLOMON objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 259 / Nays ..... 165 }

So the previous question on the resolution was ordered.

The question being put, viva voce,

Will the House agree to said resolution?

The SPEAKER pro tempore, Mr. MCNULTY, announced that the yeas had it.

Mr. SOLOMON demanded a recorded vote on agreeing to the resolution, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative ..... { Yeas ..... 247 / Nays ..... 175 }

So the resolution was agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶93.6)

INSTRUCTIONS CONTAINED IN A MOTION TO RECOMMIT MUST BE GERMANE TO THE SUBJECT MATTER OF THE BILL WHETHER OR NOT THEY PROPOSE A DIRECT AMENDMENT THERETO.

A MOTION TO RECOMMIT TO THE COMMITTEE ON WAYS AND MEANS A BILL ADDRESSING FEDERAL RESEARCH AND TECHNOLOGY POLICY REPORTED BY THE COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, WITH INSTRUCTIONS TO CONSIDER IMPROVING COMPETITIVENESS OF U.S. INDUSTRY BY CHANGES IN FEDERAL TAX POLICY IS OUT OF ORDER AS NOT GERMANE.

On July 16, 1991, the bill (H.R. 1989) to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes; was ordered to be engrossed and read a third time, was read a third time by title.

Mr. WALKER moved to recommit the bill to the Committee on Ways and Means with instructions to give consideration to improving the competitiveness of United States industry by (1) raising the research and experimentation tax credit to 25 percent and making it permanent; and (2) reducing the capital gains tax to levels comparable to that of our major trading partners.

Pending consideration of said motion,

POINT OF ORDER

(¶93.9)

Mr. DOWNEY made a point of order against the motion to recommit, and said:

''The point of order is the same as that of the chairman of the Committee on Ways and Means which was made prior to the gentleman's amendment which was offered just a few moments ago, that this is a motion to instruct another committee of a committee on Congress on substantive activity and has no place in this particular legislation.

''The motion has to be germane to the legislation. It is not.''.

Mr. VALENTINE was recognized to speak to the point of order and said:

''Mr. Chairman, I rise to oppose the motion.

''Mr. Chairman, I will be brief. I think about everything that needs to be said about this issue has been said.

''Mr. Speaker, we have had a long and spirited debate on the question. We recognize the fact that the gentleman from Pennsylvania seeks to have the body on this occasion record itself on the question of whether to tax the American people in a certain way or not to.

''I am going to suggest to the Chair in support of the point of order of the gentleman from New York [Mr. DOWNEY] which has been made that the gentleman seeks to re-refer the legislation to a committee in which it has not been. We suggest if it is to go the Ways and Means Committee, this is not the method for it. It would be improper for the motion to recommit to place a bill in a committee from whence it did not come to the floor.

''Mr. Speaker, we oppose the motion and support the gentleman's point of order.''.

The SPEAKER pro tempore, Mr. MCNULTY, sustained the point of order, and said:

''The Chair is prepared to rule. To a bill addressing Federal research and technology policy by provisions within the jurisdiction of the Committee on Science, Space, and Technology, an amendment in a motion to recommit addressing matters of tax and antitrust policy is not germane.

''Therefore, the point of order is sustained.''.

POINT OF ORDER

(¶109.6)

TO A BILL ADDRESSING MATTERS OF UNEMPLOYMENT COMPENSATION WITHIN THE JURISDICTION OF THE COMMITTEE ON WAYS AND MEANS, AN AMENDMENT PROPOSED IN A MOTION TO RECOMMIT ADDRESSING TAX INCENTIVES AND OTHER STIMULI FOR ECONOMIC GROWTH ADDITIONALLY INVOLVING THE JURISDICTIONS OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS AND THE COMMITTEE ON THE JUDICIARY IS NOT GERMANE.

On September 17, 1991, the bill (H.R. 3040) to provide a program of Federal supplemental compensation, and for other purposes; was ordered to be engrossed and read a third time, was read a third time by title.

Mr. GINGRICH moved to recommit the bill to the Committee on Ways and Means with instructions to report the bill back to the House forthwith with the following amendment:

At the end of the bill add the following new title:

TITLE I—INVESTMENT AND JOB CREATION INCENTIVES

Subtitle A—Reduction in Capital Gains Tax for Individuals

SEC. 101. REDUCTION IN CAPITAL GAINS TAX FOR INDIVIDUALS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new section:

''SEC. 1202. DEDUCTION FOR CAPITAL GAINS.

''(a) DEDUCTION ALLOWED FOR CAPITAL GAIN.—

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

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

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

''In the case of:	The applicable percentage is:
1-year gain	10
2-year gain	20
3-year gain	30.

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

''(1) APPLICABLE CAPITAL GAIN.—The term 'applicable capital gain' means 1-year gain, 2-year gain, or 3-year gain determined by taking into account only gain which is properly taken into account for periods on or after April 15, 1991.

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

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

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

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

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

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

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

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

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

''(5) SPECIAL RULES FOR GAIN ALLOCABLE TO PERIODS BEFORE 1993.—For purposes of this section—

''(A) GAIN ALLOCABLE TO PERIODS AFTER APRIL 15, 1991, AND BEFORE 1992.—In the case of any gain from any sale or exchange which is properly taken into account for the period beginning on April 15, 1991, and ending on December 31, 1991, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 3-year gain.

''(B) GAIN ALLOCABLE TO 1992.—In the case of any gain from any sale or exchange which is properly taken into account for periods during 1992, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 2-year gain and 3-year gain, respectively.

''(6) SPECIAL RULES FOR PASS-THRU ENTITIES.—

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

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

''(i) a regulated investment company,

''(ii) a real estate investment trust,

''(iii) an S corporation,

''(iv) a partnership,

''(v) an estate or trust, and

''(vi) a common trust fund.

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

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

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

(b) TREATMENT OF COLLECTIBLES.—

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

''(12) SPECIAL RULE FOR COLLECTIBLES.—

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

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

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

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

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

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

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

''(4) CAPITAL GAINS DEDUCTION DISALLOWANCE.—The deduction under section 1202 shall not be allowed.''

(d) CONFORMING AMENDMENTS.—

(1) Subsection (h) of section 1 is hereby repealed.

(2) Section 12 is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

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

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

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

(5)(A) Section 170(e)(1)(B) is amended by inserting ''(or, in the case of a taxpayer other than a corporation, the nondeductible percentage of the amount of gain)'' after ''the amount of gain''.

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

(6)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

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

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

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

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

(7)(A) Section 221 (relating to cross reference) is amended to read as follows:

''SEC. 221. CROSS REFERENCES.

''(1) For deduction for net capital gain, see section 1201.

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

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

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

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

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

(10) Paragraph (6)(C) of section 643(a) is amended—

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

(B) by inserting '', and (ii) the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses)'' before the period at the end thereof.

(11) Paragraph (4) of section 691(c) is amended by striking ''1(h),''.

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

(13)(A) Subparagraph (B) of section 904(b)(2) is amended by striking out so much of such subparagraph as precedes clause (i) and inserting the following:

''(B) SPECIAL RULES WHERE CORPORATE CAPITAL RATE GAIN DIFFERENTIAL.—In the case of a corporation, for any taxable year for which there is a capital gain rate differential—''.

(B) Subparagraphs (D) and (E) of section 904(b)(3) are amended to read as follows:

''(D) CAPITAL GAIN RATE DIFFERENTIAL.—There is a capital gain rate differential for any taxable year if any rate of tax imposed by section 11, 511, or 831(a) or (b) (whichever applies) exceeds the alternative rate of tax under section 1201(a) (determined without regard to the last sentence of section 11(b)(1)).

''(E) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital, or the excess of net capital gain from sources within the United States over net capital gain, as the case maybe, is the same proportion of such amount as—

''(i) the excess of the highest rate of tax specified in section 11(b)(1) over the alternative rate of tax under section 1201(a), bears to

''(ii) the highest rate of tax specified in section 11(b)(1).''

(14) Section 1402(i)(1) is amended to read as follows:

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

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

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

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

''Sec. 1202. Deduction for capital gains.''

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after April 15, 1991.

(2) TREATMENT OF COLLECTIBLES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning after April 15, 1991.

(B) SPECIAL RULE FOR 1991 TAXABLE YEAR.—In case of any taxable year which includes April 15, 1991, for purposes of section 1202 of the Internal Revenue Code of 1986 and section 1(h) of such Code, any gain or loss from the sale or exchange of a collectible (within the meaning of section 1222(12) of such Code) shall be treated as gain or loss from a sale or exchange occurring before such date.

SEC. 102. PREVENTION OF EXCESSIVE DEDUCTION.

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

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

''(1) the depreciation adjustments in respect of such property, or

''(2) the excess of—

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

''(B) the adjusted basis of such property shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

''(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188 (as in effect before its repeal by the Revenue Reconciliation Act of 1990), 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed.''

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

(1) by striking ''1250'' the first place it appears and inserting ''1250 (as in effect on the day before the date of the enactment of the Economic Growth and Jobs Creation Incentives Act of 1991'', and

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

(c) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

(3) Subparagraph (D) of section 1250(d)(8) is amended—

(A) by striking ''additional depreciation'' each place it appears and inserting ''amount of the depreciation adjustments'', and

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

(4) Paragraph (8) of section 1250(d) is amended by striking subparagraphs (E) and (F) and inserting the following:

''(E) ALLOCATION RULES.—For purposes of this paragraph, the amount of gain attributable to the section 1250 property disposed of shall be the net amount realized with respect to such property reduced by the greater of the adjusted basis of the section 1250 property disposed of, or the cost of the section 1250 property acquired, but shall not exceed the gain recognized in the transaction.''

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

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

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

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

(8) Clause (i) of section 267(e)(5)(D) is amended by striking ''section 1250(a)(1)(B)'' and inserting ''section 1250(a)(1)(B) (as in effect on the day before the date of the enactment of the Economic Growth Act of 1991)''.

(9)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and by re-

designating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

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

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

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

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

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

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

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

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

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

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

(11) Paragraph (5) of section 7701(e) is amended by striking ''(relating to low-income housing)'' and inserting ''(as in effect on the day before the date of the enactment of the Economic Growth and Dividend Act of 1991).''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions made on or after April 15, 1991, in taxable years ending on or after such date.

Subtitle B—Inflation Adjustment for Investments

SEC. 111. INDEXING OF CERTAIN INVESTMENTS AFTER APRIL 15, 1991 FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

''SEC. 1022. INDEXING OF INVESTMENTS ACQUIRED AFTER APRIL 15, 1991 FOR PURPOSES OF DETERMINING GAIN.

''(a) GENERAL RULE.—

''(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by an individual of an indexed asset which has been held for more than 1 year, the indexed basis of the asset shall be substituted for its adjusted basis.

''(2) SPECIAL RULE FOR RECAPTURE GAIN.—

''(A) IN GENERAL.—Paragraph (1) shall not apply for purposes of determining the amount of recapture gain on the sale or other disposition of an indexed asset, but the amount of any such recapture gain shall increase the adjusted basis of the asset for purposes of applying paragraph (1) to determine the amount of other gain on such sale or other disposition.

''(B) RECAPTURE GAIN.—For purposes of subparagraph (A), the term 'recapture gain' means any gain treated as ordinary income under section 1245, 1250, or 1254.

''(b) INDEXED ASSET.—

''(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

''(A) any stock in a corporation, and

''(B) any tangible property (or any interest therein) which is a capital asset or property used in the trade or business (as defined in section 1231(B)) and the holding period of which begins after April 15, 1991.

''(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

''(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

''(B) COLLECTIBLES.—Any collectible (as defined in section 408(m)(2) without regard to section 408(m)(3)).

''(C) OPTIONS.—Any option or other right to acquire an interest in property.

''(D) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (i)(3)).

''(E) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

''(F) STOCK IN FOREIGN CORPORATIONS.—Stock in a foreign corporation.

''(G) STOCK IN S CORPORATIONS.—Stock in an S corporation.

''(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Paragraph (2)(F) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis or is authorized for trading on the national market system operated by the National Association of Securities Dealers other than—

''(A) stock of a foreign investment company (within the meaning of section 1246(b)),

''(B) stock in a passive foreign investment company (as defined in section 1296), and

''(C) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

''(c) INDEXED BASIS.—For purposes of this section—

''(1) INDEXED BASIS.—The indexed basis for any asset is—

''(A) the adjusted basis of the asset, multiplied by

''(B) the applicable inflation ratio.

''(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset shall be determined by dividing—

''(A) the CPI for the calendar year preceding the calendar year in which the disposition takes place, by

''(B) the CPI for the calendar year preceding the calendar year in which the taxpayer's holding period for such asset began.

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-hundredth.

''(3) CONVENTIONS.—For purposes of paragraph (2), if any asset is disposed of during any calendar year—

''(A) such disposition shall be treated as occurring on the last day of such calendar year, and

''(B) the taxpayer's holding period for such asset shall be treated as beginning in the same calendar year as would be determined for an asset actually disposed of on such last day with a holding period of the same length as the actual holding period of the asset involved.

''(4) CPI.—For purposes of this subsection, the CPI for any calendar year shall be determined under section 1(f)(4).

''(d) SHORT SALES.—

''(1) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 1 year, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) multiplied by the applicable inflation ratio. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date on which the holding period for the asset begins and the closing date for the sale shall be treated as the date of disposition.

''(2) SHORT SALE OF SUBSTANTIALLY IDENTICAL PROPERTY.—If the taxpayer or the taxpayer's spouse sells short property substantially identical to an asset held by the taxpayer, the asset held by the taxpayer and the substantially identical property shall not be treated as indexed assets for the short sale period.

''(3) SHORT SALE PERIOD.—For purposes of this subsection, the short sale period begins on the day after property is sold and ends on the closing date for the sale.

''(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

''(1) ADJUSTMENTS AT ENTITY LEVEL.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

''(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

''(i) the determination of whether such distribution is a dividend shall be made without regard to this section, and

''(ii) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year determined without regard to this section exceeds the entity's net capital gain for such year determined with regard to this section. For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

''(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

''(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

''(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(ii). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

''(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

''(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

''(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

''(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

''(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

''(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this

paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

''(3) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

''(A) a regulated investment company (within the meaning of section 851), and

''(B) a real estate investment trust (within the meaning of section 856).

''(f) OTHER PASS-THRU ENTITIES.—

''(1) PARTNERSHIPS.—

''(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners (but only for purposes of determining the income of partners who are individuals).

''(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

''(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

''(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

''(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

''(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants (but only for purposes of determining the income of participants who are individuals).

''(g) DISPOSITIONS BETWEEN RELATED PERSONS.—This section shall not apply to any sale or other disposition of property between related persons (within the meaning of section 465(b)(3)(C)) if such property, in the hands of the transferee, is of a character subject to the allowance for depreciation provided in section 167.

''(h) SPECIAL RULES.—For purposes of this section—

''(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

''(A) A substantial improvement to property.

''(B) In the case of stock of a corporation, a substantial contribution to capital.

''(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation ratio shall be appropriately reduced for periods during which the asset was not an indexed asset.

''(3) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased property where—

''(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

''(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.''

(b) GAINS AND LOSSES FROM INDEXED ASSETS NOT TAKEN INTO ACCOUNT UNDER LIMITATION ON INVESTMENT INTEREST.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended by adding at the end thereof the following new sentences:

''Gain from the sale or other disposition of an indexed asset (as defined in section 1022) held for more than 1 year shall not be taken into account for purposes of the preceding sentence. The preceding sentence shall not apply to gain from the sale or other disposition of any such asset if the taxpayer elects to waive the benefits of section 1022 in determining the amount of such gain.''

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

''Sec. 1022. Indexing of investments acquired after April 15, 1990 for purposes of determining gain.''

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions of any property the holding period of which begins after April 15, 1991.

(2) EXCEPTION FOR CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by subsections (a) and (b) shall not apply to any property acquired after April 15, 1991, from a related person (as defined in section 465(b)(3)(C) of the Internal Revenue Code of 1986) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

Subtitle C—Enterprise Zones

PART I—DESIGNATION

SEC. 121. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

''Subchapter D—Designation of Enterprise Zones

''Sec. 7880. Designation.

''SEC. 7880. DESIGNATION.

''(a) DESIGNATION OF ZONES.—

''(1) DEFINITION.—For purposes of this title, the term 'enterprise zone' means any area—

''(A) which is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

''(B) which the Secretary of Housing and Urban Development, after consultation with—

''(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

''(ii) in the case of an area on an Indian reservation, the Secretary of the Interior, designates as an enterprise zone.

''(2) AUTHORITY TO DESIGNATE.—The Secretary of Housing and Urban Development is authorized to designate enterprise zones in accordance with the provisions of this section.

''(3) LIMITATIONS ON DESIGNATIONS.—

''(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

''(i) the procedures for nominating an area, and

''(ii) the procedures for designation as an enterprise zone, including a method for comparing courses of action under subsection (d) proposed for nominated areas, and the other factors specified in subsection (e).

''(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 48-month period beginning on the later of—

''(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

''(ii) June 30, 1991.

''(C) NUMBER OF DESIGNATIONS.—

''(i) IN GENERAL.—The Secretary of Housing and Urban development may designate—

''(I) not more than 50 nominated areas as enterprise zones under this section and

''(II) not more than 15 nominated areas as enterprise zones during the first 12-month period beginning on the date determined under subparagraph (B), not more than 30 by the end of the second 12-month period, not more than 45 by the end of the third 12-month period, and not more than 50 by the end of the fourth 12-month period.

''(ii) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated as enterprise zones, at least one-third must be areas that are—

''(I) within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined using the most recent census data available);

''(II) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)); or

''(III) determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

''(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designations under this section unless—

''(i) the local government and the State in which the nominated area is located have the authority to—

''(I) nominate such area for designation as an enterprise zone,

''(II) make the State and local commitments under subsection (d), and

''(III) provide assurances satisfactory to the Secretary of Housing and Urban development that such commitments will be fulfilled, and

''(ii) a nomination therefor is submitted by such State and local governments in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall prescribe by regulation.

''(4) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

'(b) TIME PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

''(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

''(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

''(B) the termination date specified by the State and local governments as provided in the nomination submitted in accordance with subsection (a)(3)(D)(ii),

''(C) such other date as the Secretary of Housing and Urban Development shall specify as a condition of designation, or

''(D) the date upon which the Secretary of Housing and Urban Development revokes such designation.

''(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials de-

scribed in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the State or a local government in which the area is located is not complying substantially with the agreed course of action for the area.

'(c) AREA AND ELIGIBILITY REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary of Housing and Urban Development may designate a nominated area as an enterprise zone only if it meets the requirements of paragraphs (2) and (3).

''(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

''(A) the area is within the jurisdiction of the local government;

''(B) the boundary of the area is continuous; and

''(C) the area—

''(i) has a population, as determined by the most recent census data available, of not less than—

''(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(3)(C)(ii)) is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

''(II) 1,000 in any other case; or

''(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

''(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State or local governments in which the nominated area is located certifies, and the Secretary of Housing and Urban Development accepts such certification, that—

''(A) the area is one of pervasive poverty, unemployment and general distress;

''(B) the area is located wholly within the jurisdiction of a local government that is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this Act;

''(C) the unemployment rate for the area, as determined by the appropriate available data, was not less than 1.5 times the national unemployment rate for the period;

''(D) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was not less than 20 percent for the period to which such data relate; and

''(E) the area meets at least one of the following criteria:

''(i) Not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

''(ii) The population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

''(4) ELIGIBILITY REQUIREMENTS FOR RURAL AREAS.—For purposes of paragraph (1), a nominated area that is a rural area described in subsection (a)(3)(C)(ii) meets the requirements of paragraph (3) if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that the area meets—

''(A) the criteria set forth in subparagraphs (A) and (B) of paragraph (3); and

''(B) not less than one of the criteria set forth in the other subparagraphs of paragraph (3).

'(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

''(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the State and the local government or governments of the jurisdictions in which the nominated area is located agree in writing that, during any period during which the nominated area is an enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

''(2) COURSE OF ACTION.—The course of action under paragraph (1) may include, but is not limited to—

''(A) the reduction or elimination of tax rates or fees applying within the enterprise zone,

''(B) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone,

''(C) an increase in the level or efficiency of local services within the enterprise zone, for example, crime prevention, and drug enforcement prevention and treatment,

''(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area,

''(E) mechanisms to increase equity ownership by residents and employees within the enterprise zone,

''(F) donation (or sale below market value) of land and buildings to benefit low and moderate income people,

''(G) linkages to—

''(i) job training,

''(ii) transportation,

''(iii) education,

''(iv) day care,

''(v) health care, and

''(vi) other social service support,

''(H) provision of supporting public facilities, and infrastructure improvements,

''(I) encouragement of local entrepreneurship; and

''(J) other factors determined essential to support enterprise zone activities and encourage livability or quality of life.

''(3) LATER MODIFICATION OF A COURSE OF ACTION.—The Secretary of Housing and Urban Development may by regulation prescribe procedures to permit or require a course of action to be updated or modified during the time that a designation is in effect.

'(e) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give preference to the nominated areas—

''(1) with respect to which the strongest and highest quality contributions have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief,

''(2) with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action will actually be carried out during the period of the enterprise zone designation,

''(3) with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

''(4) which best exhibit such other factors determined by the Secretary of Housing and Urban Development, including relative distress, as are consistent with the intent of the enterprise zone program and have the greatest likelihood of success.

'(f) GEOGRAPHIC DISTRIBUTION.—In making designations, the Secretary of Housing and Urban Development will take into consideration a reasonable geographic distribution of enterprise zones.

'(g) DEFINITIONS.—For the purposes of this title—

''(1) GOVERNMENTS.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

''(2) STATE.—The term 'State' shall also include Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

''(3) LOCAL GOVERNMENT.—The term 'local government' means—

''(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

''(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development, and

''(C) the District of Columbia.''.

''(h) CROSS REFERENCES FOR—

''(1) definitions, see section 1391,

''(2) treatment of employees in enterprise zones, see section 1392, and

''(3) treatment of investments in enterprise zones, see sections 1393 and 1394.''.

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

''SUBCHAPTER D. Designation of enterprise zones.''.

SEC. 122. REPORTING REQUIREMENTS

Not later than the close of the second calendar year after the calendar year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each second calendar year thereafter, the Secretary of Housing and Urban Development shall submit to the Congress a report on the effects of such designation in accomplishing the purposes of this Act.

SEC. 123. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 7880 of the Internal Revenue Code of 1986 (as added by this Act) shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)); or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(b) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of an enterprise zone under section 7880 of such Code shall not constitute a Federal action for purposes of applying the procedural requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

PART II—FEDERAL INCOME TAX INCENTIVES

SEC. 131. DEFINITIONS AND REGULATIONS; EMPLOYEE CREDIT; CAPITAL GAIN EXCLUSION; STOCK EXPENSING.

(a) GENERAL RULE.—Chapter 1 (relating to normal tax and surtax rules) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Enterprise Zones

"SEC. 1391. DEFINITIONS AND REGULATORY AUTHORITY.

''(a) ENTERPRISE ZONE.—

''(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone' means any area which the Secretary of Housing and Urban Development designates pursuant to section 7880(a) as a Federal enterprise zone for purposes of this title.

''(2) TERMINATION OF ENTERPRISE ZONE.—An area will cease to constitute an enterprise zone once its designation as such terminates or is revoked under section 7880(b).

''(b) ENTERPRISE ZONE BUSINESS.—

''(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone business' means an activity constituting the active conduct of a trade or business within an enterprise zone, and with respect to which—

''(A) at least 80 percent of the gross income in each calendar year is attributable to the active conduct of a trade or business within an enterprise zone,

''(B) less than 10 percent of the property (as measured by unadjusted basis) constitutes stocks, securities, or property held for use by customers,

''(C) no more than an insubstantial portion of the property constitutes collectibles (as defined in section 408(m)(2)), unless such collectibles constitute property held primarily for sale to customers in the ordinary course of the active trade or business,

''(D) substantially all of the property (whether owned or leased) is located within an enterprise zone, and

''(E) substantially all of the employees work within an enterprise zone.

''(2) RELATED ACTIVITIES TAKEN INTO ACCOUNT.—Except as otherwise provided in regulations, all activities conducted by a taxpayer and persons related to the taxpayer shall be treated as one activity for purposes of paragraph (1).

''(3) SPECIAL RULES.—

''(A) RENTAL REAL PROPERTY.—For purposes of paragraph (1), real property located within an enterprise zone and held for use by customers other than related persons shall be treated as the active conduct of a trade or business for purposes of paragraph (1)(A) and as not subject to paragraph (1)(B).

''(B) TERMINATION OF ENTERPRISE ZONE BUSINESS.—An activity shall cease to be an enterprise zone business if—

''(i) the designation of the enterprise zone in which the activity is conducted terminates or is revoked pursuant to section 7880(b);

''(ii) more than 50 percent (by value) of the activity's property or services are obtained from related persons other than enterprise zone businesses; or

''(iii) more than 50 percent of the activity's gross income is attributable to property or services provided to related persons other than enterprise zone businesses.

''(c) ENTERPRISE ZONE PROPERTY.—

''(1) IN GENERAL.—For purposes of this subchapter, the term 'enterprise zone property' means—

''(A) any tangible personal property located in an enterprise zone and used by the taxpayer in an enterprise zone business, and

''(B) any real property located in an enterprise zone and used by the taxpayer in an enterprise zone business.

In no event shall any financial property or intangible interest in property be treated as constituting enterprise zone property, whether or not such property is used in the active conduct of an enterprise zone business.

''(2) TERMINATION OF ENTERPRISE ZONE.—The treatment of property as enterprise zone property under subparagraph (A) shall not terminate upon the termination or revocation of the designation of the enterprise zone in which the property is located, but instead shall terminate immediately after the first sale or exchange of such property occurring after the expiration or revocation.

''(d) RELATED PERSONS.—For purposes of this subchapter, a person shall be treated as related to another person if—

''(1) the relationship of such persons is described in section 267(b) or 707(b)(1), or

''(2) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '33 percent' shall be substituted for '50 percent'.

''(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of subtitle C of title II of the Economic Growth Act of 1991, including—

''(1) providing that Federal tax relief is unavailable to an activity that does not stimulate employment in, or revitalization of, enterprise zones,

''(2) providing for appropriate coordination with other Federal programs that, in combination, might enable activity within enterprise zones to be more than 100 percent subsidized by the Federal Government, and

''(3) preventing the avoidance of the rules in this subchapter.

"SEC. 1392. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

''(a) GENERAL RULE.—In the case of a taxpayer who is an enterprise zone employee, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 5 percent of so much of the qualified wages of the taxpayer for the taxable year as does not exceed $10,500.

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

''(1) ENTERPRISE ZONE EMPLOYEE.—The term 'enterprise zone employee' means an individual—

''(A) performing services during the taxable year that are directly related to the conduct of an enterprise zone business,

''(B) substantially all of the services described in paragraph (1)(A) are performed within an enterprise zone, and

''(C) the employer for whom the services described in paragraph (1)(A) are performed is not the Federal government, any State government or subdivision thereof, or any local government.

''(2) WAGES.—The term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such subsection).

''(3) QUALIFIED WAGES.—The term 'qualified wages' means all wages of the taxpayer, to the extent attributable to services described in paragraph (1).

''(c) LIMITATIONS.—

''(1) PHASE-OUT OF CREDIT.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) $525, over

''(B) 10.5 percent of so much of the taxpayer's total wages (whether or not constituting qualified wages) as exceeds $20,000.

''(2) PARTIAL TAXABLE YEAR.—If designation of an area as an enterprise zone occurs, expires, or is revoked pursuant to section 7880 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in subsection (c)(1) shall be adjusted on a pro rata basis (based upon the number of days).

''(d) REDUCTION OF CREDIT TO TAXPAYERS SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit allowed under this section for the taxable year shall be reduced by the amount (if any) of tax imposed by section 55 (relating to the alternative minimum tax) with respect to such taxpayer for such year.

''(e) CREDIT TREATED AS SUBPART C CREDIT.—For purposes of this title, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C of part IV of subchapter A of this chapter.

"SEC. 1393. ENTERPRISE ZONE CAPITAL GAIN.

''(a) GENERAL RULE.—Gross income does not include the amount of any gain constituting enterprise zone capital gain.

''(b) DEFINITION.—For purposes of this section—

''(1) IN GENERAL.—The term 'enterprise zone capital gain' means gain—

''(A) treated as long-term capital gain,

''(B) allocable in accordance with the rules under subsection (b)(5) of section 338 to the sale or exchange of enterprise zone property, and

''(C) properly attributable to periods of use in an enterprise zone business.

''(2) LIMITATIONS.—Enterprise zone capital gain does not include any gain attributable to—

''(A) the sale or exchange of property not constituting enterprise zone property with respect to the taxpayer throughout the period of twenty-four full calendar months immediately preceding the sale or exchange,

''(B) any collectibles (as defined in section 408(m)), or

''(C) sales or exchanges to persons controlled by the same interests.

''(c) BASIS.—Amounts excluded from gross income pursuant to subsection (a) shall not be applied in reduction to the basis of any property held by the taxpayer.

"SEC. 1394. ENTERPRISE ZONE STOCK.

''(a) GENERAL RULE.—At the election of any individual, the aggregate amount paid by such taxpayer during the taxable year for the purchase of enterprise zone stock on the original issue of such stock by a qualified issuer shall be allowed as a deduction.

''(b) LIMITATIONS.—

''(1) CEILING.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed $50,000 for any taxable year, nor $250,000 during the taxpayer's lifetime.

''(A) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under this paragraph (1)—

''(i) the amount of such excess shall be treated as an amount paid in the next taxable year, and

''(ii) the deduction allowed for any taxable year shall be allocated among the enterprise zone stock purchased by such person in accordance with the purchase price per share.

''(2) RELATED PERSON.—

''(A) IN GENERAL.—The taxpayer and all individuals related to the taxpayer shall be treated as one person for purposes of the limitations described in subsection (b)(1).

''(B) EXCESS AMOUNTS.—The limitations described in subsection (b)(1) shall be allocated among the taxpayer and related persons in accordance with their respective purchases of enterprise zone stock.

''(3) PARTIAL TAXABLE YEAR.—If designation of an area as an enterprise zone occurs, expires, or is revoked pursuant to section 7880 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in subsection (b)(1) shall be adjusted on a pro rata basis (based upon the number of days).

''(c) DISPOSITIONS OF STOCK.—

''(1) GAIN TREATED AS ORDINARY INCOME.—Except as otherwise provided in regulations, if a taxpayer disposes of any enterprise zone

stock with respect to which a deduction was allowed under subsection (a), the amount realized upon such disposition shall be treated as ordinary income and recognized notwithstanding any other provision of this subtitle.

''(2) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

''(A) IN GENERAL.—If a taxpayer disposes of any enterprise zone stock before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

''(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

''(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date such stock was disposed of by the taxpayer,

''(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disposed of.

''(d) DISQUALIFICATION.—

''(1) ISSUER OR STOCK CEASES TO QUALIFY.—If a taxpayer elects the deduction under subsection (a) with respect to enterprise zone stock, and either—

''(A) the issuer with respect to which the election was made ceases to be a qualified issuer, or

''(B) the proceeds from the issuance of the taxpayer's enterprise zone stock fail or otherwise cease to be invested by the issuer in enterprise zone property, then, notwithstanding any provision of this subtitle other than paragraph (2) to the contrary, the taxpayer shall recognize as ordinary income the amount of the deduction allowed under subsection (a) with respect to the issuer's enterprise zone stock.

''(2) SPECIAL RULES.—

''(A) LIQUIDATION.—Where enterprise zone property acquired with proceeds from the issuance of enterprise zone stock is sold or exchanged pursuant to a plan of complete liquidation, the treatment described in paragraph (1) shall be inapplicable.

''(B) TERMINATION OF ENTERPRISE ZONE.—The treatment of an activity as an enterprise zone business shall not cease for purposes of paragraph (1) solely by reason of the termination or revocation of the designation of the enterprise zone with respect to the activity.

''(C) PARTIAL DISQUALIFICATION.—Where some, but not all, of the property acquired by the issuer with the proceeds of enterprise zone stock ceases to constitute enterprise zone property, the treatment described in paragraph (1) shall be modified as follows—

''(i) the total amount recognized as ordinary income by all shareholders of the issuer shall be limited to an amount of deduction allowed up to the unadjusted basis of property ceasing to constitute enterprise zone property,

''(ii) the amount recognized shall be allocated among enterprise zone stock with respect to which the election in subsection (a) was made in the reverse order in which such stock was issued, and

''(iii) the amount recognized shall be apportioned among taxpayers having made the election in subsection (a) in the ratios in which the stock described in paragraph (2)(C)(ii) was purchased.

''(3) ADDITIONAL AMOUNT.—If income is recognized pursuant to paragraph (1) at any time before the close of the 5th calendar year ending after the date the enterprise zone stock was purchased, the tax imposed by this chapter with respect to such income shall be increased by an amount equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

''(A) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of the disqualification event described in paragraph (1),

''(B) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disqualified.

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

''(1) ENTERPRISE ZONE STOCK.—The term 'enterprise zone stock' means common stock issued by a qualified issuer, but only to the extent that the amount of proceeds of such issuance are used by such issuer no later than twelve months followed issuance to acquire and maintain an equal amount of newly acquired enterprise zone property.

''(2) QUALIFIED ISSUER.—

''(A) IN GENERAL.—The term 'qualified issuer' means any subchapter C corporation which—

''(i) does not have more than one class of stock,

''(ii) is engaged solely in the conduct of one or more enterprise zone businesses,

''(iii) does not own or lease more than $5 million of total property (including money), as measured by the unadjusted basis of the property, and

''(iv) more than 20 percent of the total voting power and 20 percent of the total value of the stock of such corporation is owned by individuals, partnerships, estates or trusts.

''(B) LIMITATION ON TOTAL ISSUANCES.—A qualified issuer may issue no more than an aggregate of $5 million of enterprise zone stock.

''(C) AGGREGATION.—For purposes of applying the limitations under paragraph (2), the issuer and all related persons shall be treated as one person.

''(3) AMOUNT PAID.—For purposes of subsection (a), the amount 'paid' by a taxpayer for any taxable year shall not include the issuance of evidences of indebtedness of the taxpayer (whether or not such indebtedness is guaranteed by another person), nor amounts paid by the taxpayer after the close of the taxable year.

''(f) ISSUANCES IN EXCHANGE FOR PROPERTY.—If enterprise zone stock is issued in exchange for property, then notwithstanding any provision of subchapter C of this chapter to the contrary—

''(1) the issuance shall be treated for purposes of this subtitle as the sale of the property at its then fair market value to the corporation, and a contribution to the corporation of the proceeds immediately thereafter in exchange for the enterprise zone stock, and

''(2) the issuer's basis for the property shall be equal to the fair market value of such property at the time of issuance.

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a taxpayer elects the deduction under subsection (a), the taxpayer's basis (without regard to this subsection) for the enterprise zone stock with respect to such election shall be reduced by the deduction allowed or allowable.

''(h) LIMITATIONS ON ASSESSMENT AND COLLECTION.—If a taxpayer elects the deduction under subsection (a) for any taxable year, then—

''(1) the period for assessment and collection of any deficiency attributable to any part of the deduction shall not expire before one year following expiration of such period of the qualified issuer that includes the circumstances giving rise to the deficiency, and

''(2) such deficiency may be assessed before expiration of the period described in paragraph (1) notwithstanding any provisions of this subtitle to the contrary.

''(i) CROSS REFERENCE.—

For treatment of the deduction under subsection (a) for purposes of the alternative minimum tax, see section 56.''.

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out ''and'' at the end of paragraph (23); by striking out the period at the end of paragraph (24) and inserting in lieu thereof ''; and''; and by adding at the end thereof the following new paragraph:

''(25) to the extent provided in section 1394(g), in the case of stock with respect to which a deduction was allowed or allowable under section 1394(a).''.

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

''SUBCHAPTER U. Enterprise zones.''

SEC. 132. ALTERNATIVE MINIMUM TAX.

(a) CORPORATIONS.—Section 56(g)(4)(B) (relating to adjustments based on adjusted current earnings of corporations) is amended by adding the following new clause at the end thereof:

''(iii) EXCLUSION OF ENTERPRISE ZONE CAPITAL GAIN.—Clause (i) shall not apply in the case of any enterprise zone capital gain (as defined in section 1393(b)), and such gain shall not be included in income for purposes of computing alternative minimum taxable income.''.

(b) INDIVIDUALS.—Section 56(b) (relating to adjustments to the alternative minimum taxable income of individuals) is amended by adding the following new paragraph at the end thereof:

''(4) ENTERPRISE ZONE STOCK.—No deduction shall be allowed for the purchase of enterprise zone stock (as defined in section 1394(e)).''.

SEC. 133. ADJUSTED GROSS INCOME DEFINED.

Section 62(a) (relating to the definition of adjusted gross income) is amended by inserting after paragraph (14) the following new paragraph:

''(15) ENTERPRISE ZONE STOCK.—The deduction allowed by section 1394.''.

SEC. 134. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years ending after December 31, 1990.

PART III—REGULATORY FLEXIBILITY

SEC. 141. DEFINITION OF SMALL ENTITIES IN ENTERPRISE ZONE FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended by—

(1) striking out ''and'' at the end of paragraph (5); and

(2) striking out paragraph (6) and inserting in lieu thereof the following:

''(6) the term 'small entity' means—

''(A) a small business, small organization, or small governmental jurisdiction defined in paragraphs (3), (4), and (5) of this section, respectively; and

''(B) any qualified enterprise zone business; any unit of government that nominated an area which the Secretary of Housing and Urban Development designates as an enterprise zone (within the meaning of section 7880 of the Internal Revenue Code of 1986) that has a rule pertaining to the carrying out of any project, activity, or undertaking within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

''(7) the term 'qualified enterprise zone business' means any person, corporation, or other entity—

''(A) which is engaged in the active conduct of a trade or business within an enterprise zone (within the meaning of section 7880 of the Internal Revenue Code of 1986); and

''(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 1392(b)(1) of such Code).''.

SEC. 142. WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

''§ 611. Waiver or modification of agency rules in enterprise zones

''(a) Upon the written request of any government which nominated an area that the Secretary of Housing and Urban Development has designated as an enterprise zone under section 7880 of the Internal Revenue Code of 1986, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives with respect to such zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within such zone.

''(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, familial status, national origin, age, or handicap.

''(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If such a request is made to any agency other than the Department of Housing and Urban Development, the requesting government shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

''(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

''(1) violate a statutory requirement (including any requirements of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

''(2) be likely to present a significant risk to the public health, including environmental or occupational health or safety, or of environmental pollution.

''(e) If a request is disapproved, the agency shall inform all the requesting governments, and the Department of Housing and Urban Development, in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

''(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

''(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section, the time such waiver or modification takes effect and its duration, and the scope of applicability of such waiver or modification.

''(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary. Such determinations shall be published with the proposal to amend such rule.

''(i) No waiver or modification of a rule under this section shall remain in effect with respect to an enterprise zone after the enterprise zone designation has expired or has been revoked.

''(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title.''.

(b) The analysis for chapter 6 of title 5, United States Code, is amended by redesignating the items relating to sections 611 and 612 as items relating to sections 612 and 613, respectively, and by inserting after the item relating to section 610 the following new item:

''611. Waiver or modification of agency rules in enterprise zones.''.

(c) Section 601(2) of such title 5 is amended by inserting ''(except for purposes of section 611'' immediately before ''means''.

(d) Section 613 of such title 5, as redesignated by subsection (a), is amended—

(1) in subsection (a) by inserting ''(except section 611)'' immediately after ''chapter''; and

(2) in subsection (b) by inserting ''as defined in section 601(2)'' immediately before the period at the end of the first sentence.

SEC. 143. FEDERAL AGENCY SUPPORT OF ENTERPRISE ZONES.

In order to maximize all agencies' support of enterprise zones, the Secretary of Housing and Urban Development is authorized to convene regional and local coordinating councils of any appropriate agencies to assist State and local governments to achieve the objectives agreed to in the course of action under section 7880 of the Internal Revenue Code of 1986.

PART IV—ESTABLISHMENT OF FOREIGN TRADE ZONES IN ENTERPRISE ZONES

SEC. 151. FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act ''To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes'', approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprise zone designated pursuant to section 7880 of the Internal Revenue Code of 1986.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to ''An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes'', approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone so designated.

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones so designated, the Foreign-Trade Zone Board and the Secretary of the Treasury shall approve the applications, to the maximum extent practicable, consistent with their respective statutory responsibilities.

PART V—REPEAL OF TITLE VII OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

SEC. 161. REPEAL.

Title VII of the Housing and Community Development Act of 1987 is hereby repealed.

Subtitle D—Research and Experimentation Credit Made Permanent

SEC. 171. RESEARCH AND EXPERIMENTATION CREDIT MADE PERMANENT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Section 28(b)(1) of the Internal Revenue Code of 1986 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

TITLE II—SAVINGS INCENTIVES

SEC. 201. ESTABLISHMENT OF INDIVIDUAL RETIREMENT PLUS ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

''408A. INDIVIDUAL RETIREMENT PLUS ACCOUNTS.

''(a) GENERAL RULE.—Except as provided in this section, an individual retirement plus account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(b) INDIVIDUAL RETIREMENT PLUS ACCOUNT.—For purposes of this title, the term 'individual retirement plus account' means an individual retirement plan which is designated at the time of the establishment of the plan as an individual retirement plus account. Such designation shall be made in such manner as the Secretary may prescribe.

''(c) CONTRIBUTION RULES.—

''(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an individual retirement plus account.

''(2) CONTRIBUTION LIMIT.—

''(A) IN GENERAL.—Except in the case of rollover contributions, the aggregate amount which may be accepted as contributions to an individual retirement plus account shall not be greater than the excess (if any) of—

''(i) the nondeductible limit with respect to the individual for the taxable year under section 408(o) (after application of subparagraph (B)(ii) thereof), over

''(ii) the designated nondeductible contributions made by the individual for such taxable year to 1 or more individual retirement plans.

''(B) $1,000 INCREASE AFTER 1996.—In the case of any taxable year beginning after December 31, 1996, the amount determined under subparagraph (A)(i) (without regard to this subparagraph) shall be increased by $1,000.

''(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—The nondeductible limits under subparagraph (A) for an individual and for such individual's spouse shall be an amount equal to the excess (if any) of—

''(i) $2,000, over

''(ii) the sum of the amount allowed as a deduction under section 219 for contributions on behalf of such individual or such spouse, plus the amount determined under subparagraph (A)(ii) with respect to each.

In no event shall the sum of such limits exceed an amount equal to the sum of the compensation includible in the individual's and spouse's gross income for the taxable year, reduced by the sum of the amounts determined under clause (ii).

''(3) CONTRIBUTIONS AFTER AGE 70½.—Contributions may be made by an individual to an individual retirement plus account after such individual has attained the age of 70½.

''(4) LIMITATIONS ON ROLLOVER CONTRIBUTIONS.—No rollover contributions may be made to an individual retirement plus account unless such rollover contribution is a contribution of a distribution or payment out of—

''(A) another individual retirement plus account, or

''(B) an individual retirement plan which is not allocable to any amount transferred to such plan which represented any portion of the balance to the credit of an employee in a qualified trust (or any income allocable to such portion).

''(d) DISTRIBUTION RULES.—For purposes of this title—

''(1) IN GENERAL.—Except in the case of a qualified distribution, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an individual retirement plus account.

''(2) TREATMENT OF QUALIFIED DISTRIBUTION.—In the case of a qualified distribution from an individual retirement plus account—

''(A) the amount of such distribution shall not be includible in gross income; and

''(B) section 72(t) shall not apply.

''(3) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified distribution' means any distribution—

''(i) made on or after the date on which the individual attains age 59½,

''(ii) made to a beneficiary (or to the estate of an individual) on or after the death of the individual, or

''(iii) attributable to the employee's being disabled (within the meaning of section 72(m)(7)).

''(B) DISTRIBUTIONS WITHIN 5 YEARS.—No distribution shall be treated as a qualified distribution if—

''(i) it is made within the 5-taxable year period beginning with the 1st taxable year in which the individual made a contribution to an individual retirement plus account, or

''(ii) in the case of a distribution properly allocable to a rollover contribution (or income allocable thereto), it is made within 5 years of the date on which such rollover contribution was made.

''(4) SPECIAL RULES RELATING TO ROLLOVERS FROM REGULAR INDIVIDUAL RETIREMENT ACCOUNTS.—

''(A) IN GENERAL.—Except as provided in this paragraph, any amount paid or distributed out of an individual retirement plan on or before the earlier of—

''(i) the date on which the individual attains age 55, or

''(ii) June 30, 1993,

shall not be included in gross income (and section 72(t) shall not apply to such amount) if the individual receiving such amount transfers, within 60 days of receipt, the entire amount received to an individual retirement plus account.

''(B) TREATMENT OF TAX-FAVORED AMOUNTS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), there shall be included in gross income (but section 72(t) shall not apply to) the portion of any amount transferred which bears the same ratio to such amount as—

''(I) the aggregate amount of contributions to individual retirement plans with respect to which a deduction was allowable under section 219, bears to

''(II) the aggregate balance of such plans.

''(ii) TIME FOR INCLUSION.—Any amount described in clause (i) shall be included in gross income ratably over the 4-taxable year period beginning with the taxable year in which the amount was paid or distributed out of the individual retirement plan.

''(e) ROLLOVER CONTRIBUTIONS.—For purposes of this section, the term 'rollover contributions' means contributions described in sections 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), and 408(d)(3).

''(f) DETERMINATIONS.—For purposes of this section, any determinations with respect to aggregate contributions to, or the balance of, individual retirement plus accounts shall be made as of the close of the calendar year preceding the calendar year in which the taxable year begins.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

''Sec. 408A. Individual retirement plus accounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE III—HOMEOWNERSHIP INCENTIVES

Subtitle A—First-Time Homebuyers Tax Credit

SEC. 301. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

''SEC. 35. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

''(a) ALLOWANCE OF CREDIT.—If an individual who is a first-time homebuyer purchases a principal residence during the taxable year, there shall be allowed to such individual as a credit against the tax imposed by this subtitle for such taxable year an amount equal to $1,000.

''(b) INCOME LIMITATIONS.—

''(1) IN GENERAL.—No credit shall be allowed under subsection (a) to any individual whose adjusted gross income for the taxable year exceeds $41,000.

''(2) PHASE-DOWN OF CREDIT.—The $1,000 amount set forth in subsection (a) shall be reduced by $10 for each $100 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $31,000.

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

''(1) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' has the meaning given to such term by section 408A(e)(3)(E)(ii).

''(2) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

''(3) PURCHASE.—The term 'purchase' means any acquisition of property, but only if the basis of such property in the hands of the person acquiring it is not determined—

''(A) in whole or in part by the reference to the adjusted basis of such property in the hands of the person from whom acquired, or

''(B) under section 1014(a) (relating to property acquired from a decedent).

''(4) TREATMENT OF MARRIED INDIVIDUALS.—The adjusted gross income of any individual for any taxable year shall include the adjusted gross income of such individual's spouse for such spouse's taxable year corresponding to the taxable year of the individual. For purposes of the preceding sentence, marital status shall be determined under section 7703; except that an individual shall not be treated as being married if such individual would not be treated as being married under section 21(e)(4).

''(5) JOINT PURCHASES.—If a residence is purchased together by 2 or more individuals for use as their principal residence—

''(A) such individuals shall be limited to 1 credit under this section for such purchase and the amount of such credit shall be allocated among such individuals in the manner prescribed by the Secretary,

''(B) no credit shall be allowed under this section for such purchase unless all of such individuals are first-time homebuyers, and

''(C) the aggregate adjusted gross income of all of such individuals shall be taken into account in determining the amount of the credit allowable under this section for such purchase.''

(b) CLERICAL AMENDMENTS.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 35 and inserting the following:

''Sec. 35. Purchase of principal residence by first-time homebuyer.

''Sec. 36. Overpayments of tax.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to principal residences purchased after July 31, 1991.

Subtitle B—Penalty-Free IRA Plus Withdrawal for Home Purchase, Higher Education, and Health Costs

SEC. 311. PENALTY-FREE IRA PLUS WITHDRAWAL FOR HOME PURCHASE, HIGHER EDUCATION, AND HEALTH COSTS.

(a) GENERAL RULE.—Subparagraph (A) of section 408A(d)(3) (as added by title II) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by adding at the end thereof the following new clause:

''(iv) which is a qualified special purpose distribution (within the meaning of subsection (e)).

(b) QUALIFIED SPECIAL PURPOSE DISTRIBUTION DEFINED.—Section 408A (as so added) is amended by redesignating subsections (e) and (f) as (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) QUALIFIED SPECIAL PURPOSE DISTRIBUTION FROM IRA PLUS ACCOUNTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified special purpose distribution' means—

''(A) a qualified first-time homebuyer distribution, or

''(B) an applicable medical or educational distribution.

''(2) 25 PERCENT ACCOUNT LIMIT.—

''(A) IN GENERAL.—A distribution shall not be treated as a qualified special purpose distribution to the extent it exceeds the amount (if any) by which—

''(i) 25 percent of the sum of—

''(I) the aggregate balance of individual retirement plus accounts established on behalf of an individual, plus

''(II) the aggregate amounts previously treated as qualified special purpose distributions, exceeds

''(ii) the amount determined under clause (i)(II).

''(B) LIMITATION NOT TO APPLY FOR PURPOSES OF SECTION 72(t).—Section 72(t) shall not apply to any distribution which would be a qualified distribution but for the limitations of subparagraph (A).

''(3) DISTRIBUTIONS FROM IRA PLUS ACCOUNTS USED TO PURCHASE A HOME BY FIRST-TIME HOMEBUYER.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by a first-time homebuyer (or by a parent or grandparent of a first-time homebuyer) from an individual retirement plan to the extent such payment or distribution is used by the individual receiving the payment or distribution before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence for such first-time homebuyer.

''(B) BASIS REDUCTION.—The basis of any principal residence described in subparagraph (A) shall be reduced by any amount excluded from the gross income of such first-time homebuyer (or parent or grandparent thereof) by reason of this section.

''(C) RECOGNITION OF GAIN AS ORDINARY INCOME.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subtitle, except as provided in clause (ii)—

''(I) gain (if any) on the sale or exchange of a principal residence to which subparagraph (A) applies shall, to the extent of the amount excluded from gross income under this section, be treated as ordinary income by such individual, and

''(II) section 72(t) shall apply to such amount.

''(ii) EXCEPTION.—Clause (i) shall not apply to any taxable year to the extent of any amount which, before the due date (without extensions) for filing the return for such year, the taxpayer contributes to an individual retirement plus account. Such amount shall not be taken into account for purposes of any provision of this title relating to excess contributions.

''(iii) COORDINATION WITH OTHER PROVISIONS.—In the event all or part of the gain referred to in clause (i) is treated as ordinary income under any other provision of this subtitle, such provision shall be applied before clause (i).

''(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

''(i) any amount is paid or distributed from an individual retirement plus account to an individual for purposes of being used as provided in subparagraph (A), and

''(ii) by reason of a delay in the acquisition of the residence, such amount cannot be so used,

the amount so paid or distributed may be paid into an individual retirement plus account as provided in section 408(d)(3)(A)(i) without regard to section 408(d)(3)(B), and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

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

''(i) QUALIFIED ACQUISITION COSTS.—The term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

''(ii) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

''(iii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

''(iv) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

''(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

''(II) on which construction or reconstruction of such a principal residence is commenced.

''(4) APPLICABLE MEDICAL DISTRIBUTIONS FROM IRA PLUS ACCOUNTS.—For purposes of paragraph (1), the term 'applicable medical distributions' means any distributions made to an individual (not otherwise taken into account under this subsection) to the extent such distributions do not exceed the amount allowable as a deduction under section 213 for amounts paid during the taxable year for medical care (without regard to whether the individual itemized deductions for the taxable year). For purposes of determining the amount so allowable, any child or grandchild of the taxpayer shall be treated as a dependent of the taxpayer.

''(5) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLUS ACCOUNTS FOR EDUCATIONAL EXPENSES.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable educational distributions' means distributions to an individual to the extent that the amount of such distributions (not otherwise treated as qualified special purpose distributions, determined after application of paragraph (4)) does not exceed the qualified higher education expenses of the individual for the taxable year.

''(B) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

''(I) the taxpayer,

''(II) the taxpayer's spouse, or

''(III) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

''(ii) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE IV—WORK INCENTIVES

Subtitle A—Reduction in Social Security Penalty on Working Elderly

SEC. 401. PHASED-IN INCREASES IN THE EARNINGS TEST OVER THE PERIOD 1992–1997 FOR INDIVIDUALS WHO HAVE ATTAINED NORMAL RETIREMENT AGE.

(a) IN GENERAL.—Subparagraph (D) of section 203(f)(8) of the Social Security Act (42 U.S.C. 403(f)(8)) is amended to read as follows:

''(D)(i) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be—

''(I) for each month of the taxable year ending after 1991 and before 1993, the exempt amount so applicable for each month of the preceding taxable year, plus ½ of $1,000,

''(II) for each month of the taxable year ending after 1992 and before 1994, the exempt amount so applicable for each month of the preceding taxable year, plus ½ of $1,000,

''(III) for each month of the taxable year ending after 1993 and before 1995, the exempt amount so applicable for each month of the preceding taxable year, plus ½ of $1,000,

''(IV) for each month of the taxable year ending after 1994 and before 1996, the exempt amount so applicable for each month of the preceding taxable year, plus ½ of $1,000,

''(V) for each month of the taxable year ending after 1995 and before 1997, the exempt amount so applicable for each month of the preceding taxable year, plus ½ of $1,000,

''(VI) for each month of the taxable year ending after 1996 and before 1998, the exempt amount so applicable for each month of the preceding taxable year, plus ½ of $1,000.

''(ii) For purposes of subparagraph (B)(ii)(II), the increase in the exempt amount provided under clause (i)(VI) shall be deemed to have resulted from a determination which shall be deemed to have been made under subparagraph (A) in 1996.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after 1991.

SEC. 402. TRANSFERS TO TRUST FUNDS.

(a) IN GENERAL.—There are hereby appropriated to each payor fund amounts equivalent to the aggregate increase in social security benefits payable from such fund which is attributable to the amendment made by section 401.

(b) TRANSFERS.—The amounts appropriated by subsection (a) to a payor fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such subsection. Any such quarterly payment shall be made on the first day of such quarter and shall take into account social security benefits estimated to be received during such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) DEFINITIONS.—For purposes of this section—

(1) PAYOR FUND.—The term ''payor fund'' means the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

(2) SOCIAL SECURITY BENEFITS.—The term ''social security benefits'' means any amount received by a person by reason of entitlement to monthly benefits under title II of the Social Security Act.

(d) REPORTS.—The Secretary of the Treasury shall submit annual reports to the Congress and to the Secretary of Health and Human Services on—

(1) the transfers made under this section during the year, and the methodology used in determining the amount of such transfers and the payor funds to which made, and

(2) the anticipated operation of this section during the next 5 years.

SEC. 403. STUDY TO DETERMINE IMPACT OF TOTAL REPEAL.

(a) STUDY.—The Secretary of Health and Human Services (hereinafter in this section referred to as the ''Secretary'') shall undertake in 1997 a study for the purpose of determining whether further amendments relating to deductions on account of work and the exempt amount provided for under section 203 of the Social Security Act are necessary or appropriate. Such study shall be conducted in full consultation with the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Commerce. The Secretary of the Treasury, the Secretary of Labor, and the Secretary of Commerce shall provide the Secretary with such appropriate assistance and information requested by the Secretary as the Secretary considers necessary and appropriate to carry out the study under this section.

(b) SPECIFIC MATTERS TO BE STUDIED.—
(1) IN GENERAL.—The Secretary, in carrying out the study provided for in this section, shall address, analyze, and report specifically on various effects—
(A) which have resulted from the amendment made by section 401, and
(B) which would reasonably be expected to result from repeal, effective with respect to taxable years ending after calendar year 1997, of the provisions relating to deductions on account of work and the exempt amount provided for under section 203 of the Social Security Act.
The Secretary shall include in the report any other information which the Secretary considers would be relevant and useful to the Congress in considering legislation relating to deductions on account of work and the exempt amount.
(2) EFFECTS TO BE INCLUDED IN STUDY.—The effects referred to in paragraph (1) shall include—
(A) the effect on numbers in the workforce, by category of income;
(B) the effect on the purchasing power of members of the workforce, expressed in constant dollars;
(C) the effect on the working elderly with wage or salary income at or below the national average wage level;
(D) the short-term and long-term effect on the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund;
(E) the effect on the Federal budget; and
(F) the effect on the national economy.
(c) REPORTS.—The Secretary shall submit to each House of the Congress, not later than November 1, 1997, a final report of the findings of such study.

Subtitle B—Economic Growth Dividend

SEC. 411. USE OF ECONOMIC GROWTH DIVIDEND.

(a) GENERAL RULE.—If the Secretary of the Treasury (hereinafter in this title referred to as the ''Secretary'') determines that there is an economic growth dividend for any fiscal year beginning on or after October 1, 1992, such dividend shall be used to increase the amount of the personal exemptions as provided in section 412.
(b) ECONOMIC GROWTH DIVIDEND.—For purposes of this Act—
(1) there is an economic growth dividend for any fiscal year if the Secretary determines that the real growth in the gross national product during such fiscal year was at a rate in excess of 3 percent, and
(2) the amount of the economic growth dividend for such fiscal year is the amount which the Secretary estimates will be the annual increase in Federal tax receipts resulting from the real growth in the gross national product during such fiscal year at a rate in excess of 3 percent.
Determinations under the preceding sentence shall be made before the close of the calendar year in which the fiscal year ends.
(c) SPECIAL RULE FOR FISCAL YEARS BEFORE 1996.—In the case of any fiscal year beginning before October 1, 1995, subsection (b) shall be applied by substituting for ''3 percent'' each place it appears the estimated rate of real growth in the gross national product for such fiscal year as set forth in the President's budget submission for such fiscal year under section 1105 of title 31, United States Code.

SEC. 412. INCREASE IN AMOUNT OF PERSONAL EXEMPTIONS.

(a) GENERAL RULE.—If the Secretary determines that there is an economic growth dividend for any fiscal year beginning on or after October 1, 1992, the amount of the exemption amount for taxable years beginning after the close of the calendar year in which such fiscal year ends shall be increased by an amount which the Secretary estimates will reduce Federal tax receipts for taxable years beginning in the following calendar year by an amount equal to 100 percent of the amount of such economic growth dividend.
(b) SPECIAL RULE FOR FISCAL YEARS BEFORE 1996.—In the case of any fiscal year beginning before October 1, 1995, 50 percent of the economic growth dividend shall be used in accordance with subsection (a), and 50 percent of the growth dividend shall be used to make a downward adjustment in the maximum deficit amount of section 250(c)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.
(c) EXEMPTION AMOUNT.—For purposes of this section, the term 'exemption amount' means the amount which would otherwise be the exemption amount under section 151(d) of the Internal Revenue Code of 1986 before the application of paragraphs (2) and (3) thereof.
(d) INFLATION ADJUSTMENTS.—Any increase determined under this section shall be adjusted for increases in the cost of living under procedures similar to those provided in section 151(d)(4) of such Code.

POINT OF ORDER

(¶109.12)

Mr. ROSTENKOWSKI made a point of order against the motion to recommit with instructions, and said:

''Mr. Speaker, I make a point of order that the motion is not germane since it exceeds the scope and content of the pending legislation.''.

Mr. GINGRICH was recognized to speak to the point of order and said:

''Mr. Speaker, if I might just briefly state, the House just decided by 324 to 84 to add a revenue measure to the bill, and this broadened the act, and the Economic Growth Act, which I offer, is an amendment which relates directly to unemployment by changing the Tax Code to create 1,100,000 new jobs. So, it seems to me, clearly on an unemployment bill, it is germane to the question of unemployment.''.

The SPEAKER sustained the point of order, and said:

''The gentleman from Illinois [Mr. ROSTENKOWSKI] makes a point of order that the amendment proposed by the motion offered by the gentleman from Georgia [Mr. GINGRICH] is not germane to the bill.

''The bill, as reported, is confined to provisions relating to unemployment insurance and compensation within the jurisdiction of the committee on Ways and Means.

''The amendment proposed in the motion offered by the gentleman from Georgia [Mr. GINGRICH] contains provisions ''to provide incentives for work, savings and investments in order to stimulate economic growth, job creation and opportunity.'' These provisions range beyond matters of unemployment compensation and involve the jurisdiction of committees other than the Committee on Ways and Means, to wit: the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary.

''Accordingly, the Chair finds the amendment is not germane, and, therefore, the motion to recommit is not in order.

''The Chair sustains the point of order of the gentleman from Illinois [Mr. ROSTENKOWSKI].''.

POINT OF ORDER

(¶116.14)

UNDER CLAUSE 1 OF RULE XIV, REMARKS IN DEBATE MUST BE CONFINED TO THE QUESTION UNDER CONSIDERATION.

DURING THE CONSIDERATION OF A SPECIAL RULE REPORTED BY THE COMMITTEE ON RULES, DEBATE MUST BE CONFINED TO THE SPECIAL RULE AND THE MEASURE TO WHICH IT RELATES.

On October 1, 1991, Mr. BONIOR, by direction of the Committee on Rules, called up the following resolution (H. Res. 230):

Resolved, upon adoption of this resolution it shall be in order to consider the conference report on the bill (S. 1722) to provide emergency unemployment compensation, and for other purposes. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

When said resolution was considered.

POINT OF ORDER

(¶116.15)

Mr. SOLOMON made a point of order against irrelevant debate, and said:

''I make a point of order that the gentleman's remarks are not relevant to the subject at hand, namely, the rule on the conference report on S. 1722 and are, therefore, in violation of House Rule XIV, which states:

When any Member desires to speak or deliver any matter to the House, he shall confine himself to the question under debate.''.

Mr. BONIOR was recognized to speak to the point of order and said:

''Mr. Speaker, the question under debate here is unemployment and people out of work in the gentleman's district and the district of the gentleman from Georgia and people all across this country. If we are going to have continued dawdling, delaying tactics like that, we are not going to be able to debate one of the most fundamental issues that faces this country today.''.

The SPEAKER pro tempore, Mr. MONTGOMERY, said:

''The Chair will rule and make a statement. The rule is that debate should be confined to the merits of the rule and to the conference report made in order by the rule.''.

POINT OF ORDER

(¶118.9)

TO AN AMENDMENT MERELY CHANGING THE AMOUNT OF AN APPROPRIATION FOR A COMMISSION, AN AMENDMENT PROPOSING TO CHANGE EXISTING LAW TO EXTEND THE LIFE OF THE COMMISSION IS NOT GERMANE.

On October 3, 1991, Mr. SMITH of Iowa, pursuant to the special order of the House of Wednesday, October 2,

1991, called up the conference report (Rept. No. 102–233) on the bill (H.R. 2608) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

Following the disposition of the conference report, Mr. SMITH of Iowa moved that the House recede from its disagreement to the amendment of the Senate numbered 116 and concur therein with the following amendment:

In lieu of the sum stricken and inserted by said amendment insert:

''$1,882,000: *Provided*, That section 7 of the Public Law 98–101, as amended by Public Law 99–549, is further amended by striking ''December 31, 1991'' and inserting in lieu thereof ''June 30, 1992'': *Provided further*, That funds provided herein are''.

POINT OF ORDER

(¶118.13)

Mr. CLAY made a point of order against said motion, and said:

''Mr. Speaker, I raise a point of order against the amendment on the ground that the amendment is nongermane to Senate amendment numbered 116. The Senate amendment merely changed the dollar amount of the appropriation for the Commission on the Bicentennial of the Constitution. The amendment of the gentleman from Iowa proposes a change in existing law by extending the life of the Commission by 6 months.

''Mr. Speaker, clearly this amendment is nongermane to the Senate amendment.''.

The SPEAKER pro tempore, Mr. GLICKMAN, sustained the point of order, and said:

''The gentleman of Iowa [Mr. SMITH] concedes the point of order, and the point of order of the gentleman from Missouri [Mr. CLAY] is sustained.''.

On motion of Mr. SMITH of Iowa, the House insisted on its disagreement to the amendment of the Senate numbered 116.

POINT OF ORDER

(¶118.21)

TO AN AMENDMENT DIRECTING AN AGENCY TO STUDY A CERTAIN PROGRAM AND REPORT SHORTLY THEREAFTER, AN AMENDMENT ADDRESSING TWO OTHER, TOTALLY UNRELATED PROGRAMS IS NOT GERMANE.

On October 3, 1991, Mr. ROYBAL, pursuant to the special order of the House of Wednesday, October 2, 1991, called up the conference report (Rept. No. 102-234) on the bill (H.R. 2622) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes.

Following the disposition of the conference report, Mr. ROYBAL moved that the House recede from its disagreement to the amendment of the Senate numbered 152 and concur therein with the following amendment:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 631. Notwithstanding any other provision of law, sick leave provided by section 6307 of Title 5, United States Code, may be approved for purposes related to the adoption of a child in order to test the feasibility of this concept during fiscal year 1992.

SEC. 632. Notwithstanding any other provision of law, the Administrator of the Office of Federal Procurement Policy, for the purpose of clarifying the Federal Acquisition Regulation with respect to the definition of ''construction materials'' and the identification of ''domestic construction materials,'' shall evaluate emergency life safety systems—such as emergency lighting, fire alarms, audio evacuation systems and the like—which are discrete systems incorporated into a public building or work and which are produced as a complete system, as a single and distinct construction material regardless of when or how the individual parts or components of such systems were delivered to the construction site.

POINT OF ORDER

(¶118.23)

Mr. ACKERMAN made a point of order against said motion, and said:

''Mr. Speaker, I raise a point of order against the amendment on the ground that the amendment is nongermane to Senate amendment numbered 152. The Senate amendment required the General Accounting Office to conduct a study of a certain IRS program. The amendment of the gentleman from California authorizes the use of sick leave by Federal employees for purposes related to the adoption of a child and clarifies a Federal acquisition regulation with respect to the Buy America Act. The gentleman's amendment clearly is unrelated to Senate amendment numbered 152.''.

The SPEAKER pro tempore, Mr. STUDDS, sustained the point of order, and said:

''The gentleman of California [Mr. ROYBAL] concedes the point of order, and the point of order of the gentleman from New York [Mr. ACKERMAN] is sustained.''.

On motion of Mr. ROYBAL, the House receded from its disagreement to the amendment of the Senate numbered 152 and concurred therein with the following amendment:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 632. Notwithstanding any other provision of law, the Administrator of the office of Federal Procurement Policy, for the purpose of clarifying the Federal Acquisition Regulation with respect to the definition of ''construction materials,'' and the identification of ''domestic construction materials,'' shall evaluate emergency life safety systems—such as emergency lighting, fire alarms, audio evacuation systems and the like—which are discrete systems incorporated into a public building or work and which are produced as a complete system, as a single and distinct construction material regardless of when or how the individual parts or components of such systems were delivered to the construction site.

PRIVILEGES OF THE HOUSE

(¶118.24)

A RESOLUTION CLOSING THE BANK IN THE OFFICE OF THE SERGEANT-AT-ARMS, AND DIRECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO REVIEW AUDITS BY THE GENERAL ACCOUNTING OFFICE OF THE OPERATION OF THE BANK TO DETERMINE POTENTIAL VIOLATIONS OF STANDARDS OF CONDUCT, GIVES RISE TO A QUESTION OF THE PRIVILEGES OF THE HOUSE AS AFFECTING THE DIGNITY AND INTEGRITY OF THE HOUSE.

On October 3, 1991, Mr. GEPHARDT rose to a question of the privileges of the House and submitted the following resolution (H. Res. 236):

Whereas, Audits by the General Accounting office have raised questions concerning the operation of the Bank in the office of the Sergeant-at-Arms, therefore be it

Resolved, That as soon as practicable but no later than December 31, 1991, the Office of Sergeant-at-Arms shall cease all bank and check cashing operations, be it further

Resolved, That the House of Representatives directs the General Accounting Office to provide to the House Committee on Standards of Official Conduct copies of the two most recent audits of the Sergeant-at-Arms Bank and the supporting work papers, be it further

Resolved, That the Committee on Standards of Official Conduct, or a subcommittee of the Committee designated by the Committee and appointed by the Chairman and ranking Minority Member are hereby instructed to review those audits, and the operation of the Sergeant-at-Arms Bank for the period of time covered by those audits through the present and to determine whether the operation of the Bank or the use of the Bank facilities by Members, Officers, employees, or other individuals presents questions of potential violation of the Rules of the House or any other applicable standards of conduct. In making this determination, the committee should consider:

(1) Whether Members, Officers, employees, or others abused the banking privileges by routinely an repeatedly writing checks for which their accounts did not have, by a significant amount, sufficient funds on deposit to cover;

(2) The Bank's practices with respect to nonaccount holders or checks not written on House Bank accounts transacted at the Bank's facilities; and

(3) The general operation and management of the bank by the Sergeant-at-Arms and his employees.

If in reviewing the audits and practices of the bank the Committee determines that any individual Member's, Officer's or employee's conduct constituted a possible violation of the rules of the House or any other applicable standard of conduct should consider the initiation of an inquiry respecting that Member, Officer or employee, if appropriate.

After debate,

On motion of Mr. GEPHARDT, the previous question was ordered on the resolution to its adoption or rejection.

The question being put, viva voce,

Will the House agree to said resolution?

The SPEAKER announced that the yeas had it.

Mr. SANTORUM objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 390 / Nays 8

So the resolution was agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

WORDS TAKEN DOWN

(¶120.6)

REMARKS IN DEBATE THAT INESCAPABLY SUGGEST A COURSE OF ACTION FOR THE SENATE IN PENDING CONFIRMATION PROCEEDINGS ARE NOT IN ORDER UNDER CLAUSE 1 OF RULE XIV AND JEFFERSON'S MANUAL.

THE MOTION THAT A MEMBER WHO HAS BEEN CALLED TO ORDER BE PERMITTED TO PROCEED IN ORDER, BEING DEBATABLE UNDER THE HOUR RULE, IS SUBJECT TO THE MOTION TO LAY ON THE TABLE.

On October 8, 1991, Ms. DELAURO during one minute speeches addressed the House and, during the course of her remarks,

Mr. SENSENBRENNER demanded that certain words be taken down.

The Clerk read the words taken down as follows:

''* * * to be sure a person is innocent until proven guilty, but without a full and public hearing about these very serious charges a decision this evening to elevate Judge Thomas to the Supreme Court casts doubt on the entire process.''.

The SPEAKER held the words taken down to be unparliamentary, and said:

''It is the Chair's opinion that the words inevitably relate to an action to be taken by the Senate with respect to a nomination by the President subject to the confirmation of the Senate and, accordingly, are not in order, and the words, accordingly without objection, will be stricken from the Record.

''Without objection the gentlewoman from Connecticut [Ms. DELAURO] may proceed in order.''.

By unanimous consent, the words objected to were stricken from the Record.

By unanimous consent, Ms. DELAURO was allowed to proceed in order.

Mr. SENSENBRENNER objected to permission for Ms. DELAURO to proceed in order.

Mr. SENSENBRENNER submitted the preferential motion to table the motion to proceed in order.

The question being put, viva voce,

Will the House lay on the table the motion to proceed in order?

The SPEAKER announced that the nays had it.

Mr. SENSENBRENNER objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared .... { Yeas ..... 142 / Nays ..... 257 / Answered present 1

So the motion to table the motion to proceed in order was not agreed to.

A motion to reconsider the vote whereby said motion was not agreed to was, by unanimous consent, laid on the table.

Mr. GEPHARDT was recognized for one hour of debate.

On motion of Mr. GEPHARDT, the previous question was ordered.

The question being put, viva voce,

Will the motion to proceed in order be agreed to?

The SPEAKER announced that the yeas had it.

Mr. SENSENBRENNER demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The vote was taken by electronic device.

It was decided in the affirmative ..... { Yeas ..... 260 / Nays ..... 145 / Answered present 2

So the motion to proceed in order was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶120.9)

A RESOLUTION SEEKING A DETERMINATION WHETHER THERE HAS BEEN AN UNREASONABLE DELAY IN TRANSMITTING AN ENROLLED BILL TO THE PRESIDENT GIVES RISE TO A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX.

A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE IS SUBJECT TO THE MOTION TO LAY ON THE TABLE.

On October 8, 1991, Mr. GINGRICH rose to a question of the privileges of the House and submitted the following resolution (H. Res. 239):

Whereas the House of Representatives and the Senate both acted on and adopted on October 1, 1991 the Conference Report to accompany the bill, S. 1722, a bill to provide emergency unemployment compensation;

Whereas as of this morning, October 8, 1991, the Senate Enrolling Clerk hasn't completed action on the final enrollment of the bill, S. 1722, even though the bill was only 48 pages in length;

Whereas the final enrollment of the bill, S. 1722, has not been signed by the Speaker of the House of Representatives or by the President of the Senate, or by any presiding officer empowered by either House by written designation to sign enrolled bills;

Whereas the failure to complete action on an enrolled bill delays its presentation to the President of the United States;

Whereas an unreasonable delay in the transmission of an enrolled bill to the President affects the integrity of the proceedings of the House of Representatives: now therefore be it

Resolved, That the Speaker of the House of Representatives shall appoint a committee of two Members of the House, one from each major party, to determine whether there has been unreasonable delay in transmitting the enrolled bill of S. 1722 to the President and such committee shall promptly inform the Senate of the concern of the House of Representatives over the delay in the bill's presentation to the President.

Mr. GEPHARDT moved to lay on the table said resolution.

The question being put, viva voce,

Will the House lay on the table said resolution?

The SPEAKER pro tempore, Mr. MCNULTY, announced that the nays had it.

Mr. GEPHARDT objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 253 / Nays 156

So the motion to table the resolution was agreed to.

A motion to reconsider the vote whereby said motion was agreed to was, by unanimous consent, laid on the table.

POINT OF PERSONAL PRIVILEGE

(¶120.11)

A MEMBER ROSE TO A QUESTION OF PERSONAL PRIVILEGE UNDER RULE IX ON THE BASIS THAT HIS CHARACTER AND MOTIVES HAD BEEN IMPUGNED IN A POLITICAL ADVERTISEMENT ON TELEVISON.

On October 8, 1991, Mr. GINGRICH rose to a question of personal privilege.

The SPEAKER pro tempore, Mr. MCMULTY, recognized Mr. GINGRICH for one hour.

Mr. GINGRICH made the following statement:

''Mr. Speaker, I want to frankly rise to a question of personal privilege. I have talked with the Parliamentarian, and I simply want to make the following point. I will, of course, respect whatever ruling the Parliamentarian feels he must make.

''At a time when the Democratic leadership has held the unemployment bill at the desk in the Senate, the Democratic Congressional Campaign Committee, as I understand it, which is controlled by the Democratic leadership through an officer of the Democratic leadership, has been running a commercial which holds both the President and myself up to ridicule.

''Mr. Speaker, it seems to me, under the standards of the House, to have a Member of the other side's leadership authorizing an action which clearly holds a Member up to ridicule would be a question of personal privilege, and, therefore, responsive.

''Since it involves the unemployment question, which has just come up and which has just been tabled, it seems to me very timely and appropriate to raise this question about the Democratic Congressional Campaign Committee's behavior, and whether or not we could in fact discuss on the floor of the House the Democratic leadership running this commercial while refusing to send the bill down to the White House.

''Mr. Speaker, I would be glad to have the Parliamentarian's ruling on whether or not we have in fact standing, and I would, of course, respect the ruling of the Parliamentarian.

''I would note that in the Rules of the House of Representatives, in the man-

ual for the 102d Congress, on page 348, it says, 'A Member may raise a question of personal privilege based upon press accounts of another Member's remarks, in debate or off the floor, which impugned his character or motives.'

''Mr. Speaker, in this case it is clear that the gentleman from California [Mr. FAZIO] had to have been the authorizing agent, and these are in effect his remarks.''.

POINT OF ORDER

(¶120.16)

TO AN AMENDMENT MERELY CHANGING THE AMOUNT OF AN APPROPRIATION, AN AMENDMENT ALSO INSERTING UNRELATED LANGUAGE IS NOT GERMANE.

On October 8, 1991, Mr. HEFNER called up the following conference report (Rept. No. 102–236) on the bill (H.R. 2426) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes.

Following the disposition of the conference report, Mr. HEFNER moved that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with the following amendment:

In lieu of the sum stricken and inserted by said amendment, insert: ''$1,005,954,000, provided, that the certification requirements specified in section 210 of title 23 of the United States Code, shall not apply in the case of the renovation of the Suitland Parkway as a defense access road for Andrews Air Force Base, Maryland''.

POINT OF ORDER

(¶120.18)

Mr. WALKER made a point of order against said motion, and said:

''Mr. Speaker, I have a point of order against one section of the amendment.

''Mr. Speaker, in the amendment there is $6 million for the renovation of the Suitland Parkway, and I make the point of order against that language that it is not germane to the legislation, and that the language contained includes legislation in an appropriation bill and is, therefore, not eligible for consideration by the House.''.

The SPEAKER pro tempore, Mr. MCNULTY, sustained the point of order, and said:

''The gentleman of North Carolina [Mr. HEFNER] concedes the point of order, and the point of order of the gentleman from Pennsylvania [Mr. WALKER] is sustained.''.

On motion of Mr. HEFNER the House receded from its disagreement to the amendment of the Senate numbered 5 and concurred therein with the following amendment:

In lieu of the sum stricken and inserted by said amendment, insert: ''$1,005,954,000''.

PRIVILEGES OF THE HOUSE—RETURN OF BILL TO SENATE

(¶128.31)

A RESOLUTION ASSERTING THAT A SENATE-PASSED BILL CONTAINS PROVISIONS RAISING REVENUE IN DEROGATION OF THE CONSTITUTIONAL PREROGATIVE OF THE HOUSE TO ORIGINATE SUCH BILLS GIVES RISE TO A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX. THE HOUSE RETURNED TO THE SENATE A SENATE-PASSED BILL DIRECTLY AMENDING THE INTERNAL REVENUE CODE.

On October 22, 1991, Mr. RUSSO rose to a question of the privileges of the House and submitted the following privileged resolution (H. Res. 251):

Resolved, That the bill of the Senate (S. 1241) to control and reduce violent crime, in the opinion of this House, contravenes the 1st clause of the 7th section of the 1st article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore, Mr. COX of Illinois, recognized Mr. RUSSO for one hour.

When said resolution was considered.

After debate,

On motion of Mr. RUSSO, the previous question was ordered on the resolution to its adoption or rejection, and under the operation thereof, the resolution was agreed to.

A motion to reconsider the vote whereby the resolution was agreed to was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶129.6)

NO RULE OF THE HOUSE PRECLUDES THE COMMITTEE ON RULES FROM REPORTING A SPECIAL ORDER MAKING IN ORDER SPECIFIED AMENDMENTS WHICH HAVE NOT BEEN PREPRINTED AS OTHERWISE REQUIRED BY AN ANNOUNCED, AD HOC POLICY OF THAT COMMITTEE.

On October 23, 1991, Mr. WHEAT, by direction of the Committee on Rules, called up the following resolution (H. Res. 252):

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2950) to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed two and one-half hours, with two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 3566, as modified by the amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution, as an original bill for the purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute, as modified, shall be in order except those printed in part 2 of the report of the Committee on Rules. Said amendments shall be considered in the order and manner specified in the report and shall be considered as having been read. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report of the Committee on Rules. Where the report of the Committee on Rules specifies consideration of amendments en bloc, then said amendments shall be so considered, and such amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. It shall be in order at any time for the chairman of the Committee on Public Works and Transportation to offer amendments en bloc consisting of amendments, and modifications in the text of any amendment which are germane thereto, printed in part 2 of the report of the Committee on Rules. Such amendments en bloc, except for any modifications, shall be considered as having been read and shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation. All points of order against the amendments en bloc are hereby waived. The original proponents of the amendments en bloc shall have permission to insert statements in the Congressional Record immediately before disposition of the amendments en bloc. Such amendments en bloc shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments in the report of the Committee on Rules are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Pending consideration of said resolution,

POINT OF ORDER

(¶129.7)

Mr. DELAY made a point of order against the resolution, and said:

''Mr. Speaker, I raise a point of order against this rule because several amendments were put in to admit No. 53 that were not published according to the rules of the Committee on Rules.''.

Mr. WHEAT was recognized to speak to the point of order and said:

''Mr. Speaker, it is my understanding that there is, under the rules of the House, no point of order that lies against the amendment for including amendments that were not printed in

the RECORD, as long as they are made in order by the rule.''.

Mr. WALKER was recognized to speak to the point of order and said:

''Mr. Speaker, if I understand the explanation of the gentleman from Missouri, his point is that the point of order should not be sustained because there is no rule of the House which requires the Committee on Rules to obey its own rules. It was the Committee on Rules itself which suggested that there was a time limit on Members' submitting amendments.

''I think that most Members in good conscience believed that that was a firm time limit. The Committee on Rules then evidently violated its own rule by accepting amendments after the time of the deadline.

''If in fact the Chair is not going to uphold the gentleman from Texas in his point of order, then it seems to me that there is no enforcement mechanism for the Committee on Rules' announcements with regard to time limits, and it appears as though they are going to unfairly apply different standards to different Members in the accomplishment of their duties.

''It seems to me that the gentleman from Texas has raised a legitimate point of order here. It was in fact a request of the Committee on Rules before the House. The chairman of the Committee on Rules made the announcement before the House of this deadline.

''The deadline was then violated by the Committee on Rules, and amendments were included in this particular rule that were not within the deadline as announced by the Committee on Rules.

''If that is permitted, then there is no enforcement mechanism for any kind of time deadlines that come forward. So I would suggest that the gentleman from Texas has raised a legitimate point of order because it has to do with the total privileges of the House, not simply with the internal rules of the Committee on Rules.''.

The SPEAKER pro tempore, Mr. MCNULTY, overruled the point of order, and said:

''There is no requirement under House rules that the Committee on Rules have amendments preprinted, and the point of order is not well taken.

''Under the previous statement made by the Chair, the point of order is overruled.'' .

POINT OF ORDER

(¶130.11)

AN INDIVIDUAL PROPOSITION IS NOT GERMANE TO ANOTHER INDIVIDUAL PROPOSITION.

TO AN AMENDMENT ADJUSTING BOUNDARY LINES IN A NATIONAL PARK, AN AMENDMENT ALSO FUNDING NATIONAL PARK SERVICE IMPROVEMENTS ELSEWHERE IS NOT GERMANE.

On October 24, 1991, Mr. YATES called up the conference report (Rept. No. 102–256) on the bill (H.R. 2686) making appropriations for the Department of the Interior and Related Agencies, for the fiscal year ending September 30, 1992, and for other purposes.

Following the deposition of the conference report, Mr. YATES moved that the House recede from its disagreement to the amendment of the Senate numbered 52 and concur therein with the following amendment:

In lieu of the matter inserted by said amendment insert '': *Provided further,* That section 323 of Public Law 101–512 is amended by striking out ''B½NW¼ section 9'' and inserting in lieu thereof ''E½NW¼ section 9'': *Provided further,* That Federal funds available to the National Park Service may be used for improvements to the National Park Service rail excursion line between milepost 132.7 and 100.5 located in Northeastern Pennsylvania''.

POINT OF ORDER

(¶130.16)

Mr. VENTO made a point of order against said motion, and said:

''Mr. Speaker, I make a point of order against the motion, that it is not germane to the amendment of the Senate, and as such is in violation of rule XVI, clause 7.''.

The SPEAKER pro tempore, Mr. LANCASTER, sustained the point of order, and said:

''The gentleman of Illinois [Mr. YATES] concedes the point of order, and the point of order of the gentleman from Minnesota [Mr. VENTO] is sustained.''.

On motion of Mr. YATES, the House receded from its disagreement to the amendment of the Senate numbered 52 and concurred therein with the following amendment:

In lieu of the matter inserted by said amendment, insert '': *Provided further,* That Federal funds available to the National Park Service may be used for improvements to the National Park Service rail excursion line between milepost 132.7 and 120.55 located in Northeastern Pennsylvania''.

PRIVILEGES OF THE HOUSE—RETURN OF BILL TO SENATE

(¶134.10)

A RESOLUTION ASSERTING THAT A SENATE-PASSED BILL CONTAINS PROVISIONS RAISING REVENUE IN DEROGATION OF THE CONSTITUTIONAL PREROGATIVE OF THE HOUSE TO ORIGINATE SUCH BILLS GIVES RISE TO A QUESTION OF THE PRIVILEGES OF THE HOUSE UNDER RULE IX. THE HOUSE RETURNED TO THE SENATE A SENATE-PASSED BILL IMPOSING OR AUTHORIZING THE IMPOSITION OF PROHIBITIONS AGAINST CERTAIN IMPORTS, THEREBY EFFECTING A CHANGE IN TARIFF REVENUES.

On October 31, 1991, Mr. ROSTENKOWSKI rose to a question of the privileges of the House and submitted the following resolution (H. Res. 267):

Resolved, That the bill of the Senate (S. 320) entitled the ''Omnibus Export Amendments Act of 1991'', in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

After debate,

On motion of Mr. ROSTENKOWSKI, the previous question was ordered on the resolution to its adoption or rejection and under the operation thereof was agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

PRIVILEGES OF THE HOUSE

(¶136.23)

A RESOLUTION ALLEGING THAT A LEGAL BRIEF FILED IN THE SUPREME COURT OF FLORIDA BY THE GENERAL COUNSEL TO THE CLERK DID NOT HAVE SUPPORT OF THE HOUSE FOR THE POSITIONS TAKEN THEREIN, AND DIRECTING THE CLERK TO NOTIFY ALL PARTIES ACCORDINGLY, GIVES RISE TO A QUESTION OF PRIVILEGES OF THE HOUSE UNDER RULE IX.

On November 4, 1991, Mr. COX of California rose to a question of the privileges of the House and submitted the following resolution (H. Res. 268):

Whereas, Rule IX of the Rules of the House of Representatives provides that questions of privilege shall arise whenever the rights of the House collectively, or the integrity of its proceedings, are affected; and,

Whereas, under the precedents, customs, and traditions of the House pursuant to Rule IX, a question of privilege has arisen in cases involving the actions of officers and employees of the House, including the use of the House of Representatives legal counsel to represent individual Members or the House collectively, where such representation could reflect upon the House as a whole; and,

Whereas, the rights of the House collectively are affected directly by the House of Representatives' legal counsel preparing a formal legal brief arguing the unconstitutionality of Congressional term limits; and,

Whereas, the rights and the reputation of all Members of the House of Representatives are directly affected by the House of Representatives legal counsel preparing such a legal brief, which could be understood to imply the support of the House of Representatives and its membership (or at least a majority thereof) for the positions taken therein; and

Whereas, no vote of the Members of the House has occurred on any resolution or bill, authorizing the House of Representatives' counsel to prepare a legal brief for or against the constitutionality of term limits; and,

Whereas, the decision by the House of Representatives' counsel to use the funds and resources of the House to prepare arguments against the constitutionality of term limits—without any formal or informal vote of the Members—subjects the House collectively, and each of its Members, to legitimate question concerning the integrity of House proceedings; and,

Whereas, the use of official House resources to prepare a legal brief for an individual Member in a case where he is not a party, but where instead he has personal political interest, could subject Members, in their representative capacity, to ridicule and contempt; and

Whereas, the constitutionality of state-imposed term limits for Members of Congress is an open question, undecided by our legal system, and on which reasonable persons can differ;

Resolved, That the Clerk of the House shall take all necessary steps to notify interested parties, including the Florida Supreme Court, that the House of Representatives regrets that official resources were used to pre-

pare a brief against the constitutionality of State-imposed term limitations for Members of Congress, and that the House has no official or unofficial position thereon.

The SPEAKER pro tempore, Mr. HOYER, ruled that the resolution submitted did present a question of the privileges of the House under rule IX.

PRIVILEGES OF THE HOUSE—UNFINISHED BUSINESS

(¶138.6)

A RESOLUTION OFFERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE AND POSTPONED TO A DATE CERTAIN (BY UNANIMOUS CONSENT) BECOMES THE UNFINISHED BUSINESS ON THAT DATE AND IS READ ANEW ONLY BY TITLE.

A RESOLUTION CONSIDERED AS A QUESTION OF THE PRIVILEGES OF THE HOUSE IS SUBJECT TO THE MOTION TO LAY ON THE TABLE.

On November 6, 1991, the SPEAKER pro tempore, Mr. MCNULTY, pursuant the order of the House of Monday, November 4, 1991, announced the unfinished business to be the further consideration of the resolution (H. Res. 268) presenting a question of the privileges of the House.

When said resolution was considered.

After debate,

Mr. GEPHARDT moved to lay said resolution on the table.

The question being put, viva voce,

Will the House lay on the table said resolution?

The SPEAKER pro tempore, Mr. MCNULTY, announced that the yeas had it.

Mr. COX of California objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 265 / Nays 160

So the motion to lay said resolution on the table was agreed to.

A motion to reconsider the vote whereby said resolution was laid on the table was, by unanimous consent, laid on the table.

POINT OF ORDER

(¶150.6)

UNDER CLAUSE 1 OF RULE XIV, REMARKS IN DEBATE MUST BE CONFINED TO THE QUESTION UNDER CONSIDERATION.

DEBATE ON A MOTION TO SUSPEND THE RULES IS CONFINED TO THE OBJECT OF THE MOTION AND MAY NOT RANGE TO ALTERNATIVE LEGISLATIVE PROGRAMS.

On November 23, 1991, Mr. Jones of North Carolina moved to suspend the rules and pass the bill (H.R. 3282) to provide for the equity of revenue availability on American and foreign cruise vessels, the regulations of gaming on vessels, penalties for gambling violations, and for other purposes; as amended.

The SPEAKER pro tempore, Mr. MCDERMOTT, recognized Mr. JONES of North Carolina and Mr. LENT, each for 20 minutes.

After debate,

Pending consideration of said bill,

POINT OF ORDER

(¶150.7)

Mr. AUCOIN made a point of order, and said:

''I make a point of order, Mr. Speaker, and I call for regular order. I understand the regular order to be the bill which is being managed by the gentleman from North Carolina [Mr. JONES].''.

The SPEAKER pro tempore, Mr. MCDERMOTT, sustained the point of order, and said:

''The bill under consideration is the U.S. Flag Cruise Ship Competitiveness Act of 1991, matters related to the issues of development of a cruise ship industry.

''The gentleman from Oregon [Mr. AUCOIN] is correct. The debate should relate to the issue before the body.''.

POINT OF ORDER

(¶151.8)

THE COMMITTEE ON RULES MAY, WITHOUT VIOLATING CLAUSE 4(B) OF RULE XI, RECOMMEND A SPECIAL ORDER THAT LIMITS BUT DOES NOT WHOLLY PRECLUDE A MOTION TO RECOMMIT AFTER THE PREVIOUS QUESTION IS ORDERED ON PASSAGE OF A BILL OR JOINT RESOLUTION, SUCH AS ONE THAT CONTEMPLATES THE ADOPTION OF AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO PRECLUDE INSTRUCTIONS TO AMEND.

CLAUSE 4 OF RULE XVI DOES NOT GUARANTEE THAT A MOTION TO RECOMMIT AFTER THE PREVIOUS QUESTION IS ORDERED ON PASSAGE OF A BILL OR JOINT RESOLUTION MAY ALWAYS INCLUDE INSTRUCTIONS.

A SPECIAL ORDER THAT DOES NOT PRECLUDE ALTOGETHER THE MOTION TO RECOMMIT DOES NOT PREVENT THE MOTION TO RECOMMIT FROM BEING MADE AS PROVIDED IN CLAUSE 4 OF RULE XVI.

On November 25, 1991, Mr. FROST, by direction of the Committee on Rules, called up the following resolution (H. Res. 299):

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3750) to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide for a voluntary system of spending limits and benefits for House of Representatives election campaigns, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider an amendment in the nature of a substitute consisting of the text printed in part 1 of the report of the Committee on Rules accompanying this resolution as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order except the amendment printed in part 2 of the report of the Committee on Rules accompanying this resolution. The amendment shall be considered as having been read, and shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. The amendment shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendments adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendment thereto final passage without intervening motion except one motion to recommit. After passage of H.R. 3750, it shall be in order to move to take from the Speaker's table the bill S. 3 and consider said bill in the House. It shall then be in order to offer a motion to strike out all after the enacting clause of S. 3 and insert in lieu thereof the provisions of H.R. 3750 as passed by the House. It shall then be in order to move that the House insist on its amendment to S. 3 and request a conference with the Senate thereon.

Pending consideration of said resolution,

POINT OF ORDER

(¶151.9)

Mr. SOLOMON made a point of order against consideration of the resolution, and said:

''Mr. Speaker, This resolution violates House rule XI, clause 4(b), which states that:

The Committee on Rules shall not report any rule or any order which would prevent the motion to recommit from being made as provided in clause 4 of rule XVI.

''The relevant portion of clause 4, Mr. Speaker, of rule XVI states that:

After the previous question shall have been ordered on the passage of a bill or joint resolution, one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such permission to a Member who is opposed to the bill or joint resolution.

''Mr. Speaker, on January 3 of this year I wrote to you, the majority leader, and the chairman and members of the Committee on Rules. With that letter, I transmitted a 48-page report prepared by the Committee on Rules minority staff entitled 'The Motion to Recommit in the U.S. House of Representatives: The Rape of a Minority Right.'

''Mr. Speaker, that paper carefully traced the legislative history and intent behind what is now clause 4(b) of rule XI and clause 4 of rule XVI. In essence that report demonstrated beyond any doubt that the whole purpose of the two rules was to give the minority a final vote on its legislative position.

''The House already had another provision in rule XVII, dating back to 1880, which provided for one motion to recommit with or without instructions, pending the adoption of the previous question or after it is ordered.

''Mr. Speaker, this new rule, which applies only to bills and joint resolutions after the previous question is or-

dered, was specifically set apart from that to clearly reserve to the opponents the right to offer the motion and get a vote on the final amendment in the form of instructions, if the opponents so desire.

''That is the way this House has always operated.

''As the author of the new rule, Representative John Fitzgerald, a Democrat from their side of the aisle and from New York, my State, put it on offering the language back on March 15 of 1909, and I quote this for Members back in their offices who ought to be listening.

Under our present practice, if a Member desires to move to commit with instructions, the Speaker, instead of recognizing the Member desiring to submit a specific proposition by instructions, recognizes the gentleman in charge of the bill and he moves to recommit.

''And Representative Fitzgerald concluded:

Under our practice, the motion to recommit might better be eliminated from the rules altogether.

''Mr. Speaker, the author left no doubt that he was specifically offering this new House rule to give the opponents a final vote on a proposition in the form of instructions. I will not quote at length all the speakers who have subsequently reiterated this purpose of the new rule. Let me just give one example.

''Quoting from Cannon's Precedents, volume 8, section 2727, Speaker Gillett, on October 7, 1919, said the following in ruling on a point of order:

The fact is that a motion to recommit is intended to give the minority one chance to fully express their view so long as they are germane. The whole purpose of this motion to recommit is to have a record vote on the program of the minority. That is the main purpose of the motion to recommit.

''And it is the democratic way of doing things.

''Mr. Speaker, the Chair has previously relied on a 1934 precedent to uphold the right of the Committee on Rules to restrict the minority's right to recommit.

''In that 1934 instance, a rule prohibited amendments to a particular title of a bill during its consideration, meaning in the House and in the Committee of the Whole. And the Chair upheld a point of order against a motion to recommit with instructions that attempted to amend that title.

''Mr. Speaker, as the research paper I submitted to you last January made clear, that 1934 point of order was wrongly decided.

''The ruling was wrong because if the Committee on Rules could prohibit some amendments from being offered in a motion to recommit, by logical extension it could prohibit all amendments from being offered. And that would clearly nullify the whole intent of the rule, which was to guarantee to the minority the right to offer an amendment and a motion to recommit with instructions, if they so wished, provided they were opposed to the bill.

''The central issue, Mr. Speaker, is not whether the Committee on Rules has preserved the right of a straight motion to recommit but, rather, if it has preserved the minority's right to a motion to recommit. In the words of the rule, 'as provided in clause 4 of rule XVI' the rules of our House.

''And what that rule's author provided was the right to offer amendatory instructions. About that there should be no question after reading the history and precedents surrounding that rule.

''Mr. Speaker, the rule before us does not protect the right to offer a motion to recommit with amendatory instructions because it makes in order an amendment in the nature of a substitute as the base bill for amendment purposes. And the adoption of that substitute by the House would preclude any further amendments in a motion to recommit unless the rule had included the words 'with or without instructions.'

''Everybody upstairs in the Committee on Rules knew that. Nobody was being fooled. That has been the traditional language included by the Committee on Rules, dating back to 1909, for the specific purposes of protecting the minority's prerogatives whenever a committee substitute is made the base text.

''The gentleman from California [Mr. DREIER] pointed this out during the Committee on Rules markup of this rule and offered the appropriate corrective language. That motion was rejected on a party line vote after it was made quite clear that the majority was intentionally denying this minority right because it did not want the minority to offer a further amendment.

''I cannot believe this. As the chairman put it, we were already given a substitute we could offer during consideration in the Committee of the Whole. It is clear from the record and this rule that the majority has purposefully denied this historic minority right which dates back over 90 years ago.

''I therefore urge, Mr. Speaker, that you uphold my point of order and the important principle involved here of preserving and protecting the right of the minority to have a final vote on its program in the motion to recommit. To do otherwise would be to render this rule meaningless and to turn the clock back a century on this fundamental minority right.''.

Mr. FROST was recognized to speak to the point of order, and said:

''Mr. Speaker, the gentleman from New York [Mr. SOLOMON] makes the point of order that the rule limits the motion to commit and therefore, according to the minority, violates clause 4(b) of rule XI.

''Mr. Speaker, I respectfully disagree. Rule XI prohibits the Rules Committee from reporting a rule that: 'would prevent the motion to recommit from being made as provided in clause 4 of rule XVI.'

''Clause 4 of rule XVI addresses the simple motion to recommit a bill or joint resolution and requires the Speaker to give preference in recognition to a Member of the minority who is opposed to the measure. Nowhere are instructions mentioned.

''The Rules Committee, therefore, may report a rule that limits but does not prohibit the motion to recommit or to commit—without violating clause 4(b) of rule XI.

''Mr. Speaker, so long as a simple motion to commit can be offered, a rule does not prevent the motion to recommit from being made as provided in clause 4 of rule XVI. This is a well-established parliamentary point.

''Speaker Rainey so ruled in 1934 and was sustained on appeal. He said then:

The Chair will state that the Committee on Rules may, without violating this clause, recommend a special order which limits, but does not totally prohibit, a motion to recommit pending passage of a bill or joint resolution, such as precluding the motion from containing instructions relative to certain amendments.

''Mr. Speaker, the parliamentary point was reaffirmed on October 16, 1990, and once gain on June 4, 1991, on the civil rights bill the first time the House considered it.

''In October 1990, the Rules Committee reported a resolution making in order one motion to recommit which may not include instructions. The Speaker pro tempore [Mr. MURTHA] on that occasion ruled:

Clause 4 of rule XVI does not guarantee that a motion to recommit a bill must always include instructions.

''On June 4, 1991, the same point of order was raised against the rule on the civil rights bill. The Speaker overruled the point of order, stating:

A special order that does not preclude a simple motion to recommit does not ''prevent the motion to recommit from being made as provided in clause 4 of rule XVI.''

''In summary, Mr. Speaker, the precedents are clear and unequivocal. If the rule does not deprive the minority of the right to offer a simple motion to commit or recommit, then the rule does not violate the spirit or the letter of clause 4(b) of rule XI.''.

The SPEAKER overruled the point of order, and said:

''The gentleman from New York makes a point of order against House Resolution 299 on the ground that it violates clause 4(b) of rule XI, which provides that the Committee on Rules shall not report any rule or order of business that would prevent the motion to recommit from being made as provided in clause 4 of rule 16.

''Clause 4 of rule XVI provides for one motion to recommit a bill or joint resolution after the previous question in ordered on final passage, with preference in recognition going to a Member who is opposed to the bill or joint resolution.

''Under the terms of the pending special order, the option of including instructions to amend in the motion to recommit H.R. 3750 pending the question of its passage might be precluded

if the bill were entirely rewritten by the House's adoption of an amendment in the nature of a substitute. But the rule would allow not only a simple motion to recommit but even a motion to recommit with nonamendatory instructions.

''On October 16, 1990, and more recently on June 4, 1991, the Chair was called upon to rule on similar points of order. On each occasion the Committee on Rules had reported a special order of business that would directly or indirectly preclude the inclusion of instructions in the motion to recommit the bill pending the question of its passage. On each occasion the Chair overruled the point of order, relying on precedents of the House—specificially the ruling of Speaker Rainey on January 11, 1934—holding that the Committee on rules does not violate clause 4(b) of rule XI so long as it does not deprive the minority of the right to offer a simple motion to recommit. On this point the Chair would refer to page 471 of the House rules and manual.

''Under the precedents a special order that does not preclude a simple motion to recommit does not 'prevent the motion to recommit from being made as provided in clause 4 of rule XVI.' Clause 4 of rule XVI does not guarantee that a motion to recommit after the previous question is ordered on passage of a bill or joint resolution may always include instructions.

''Although the pending resolution could indirectly preclude recommittal with instructions to amend, it would not 'prevent the motion to recommit from being made as provided in clause 4 of rule XVI.' For this reason the Chair is constrained to abide by the rulings of January 11, 1934, October 16, 1990, and June 4, 1991, and to overrule the point of order.''.

SUBPOENA RECEIVED PURSUANT TO RULE L

On September 11, 1991, the SPEAKER pro tempore, Mr. SWETT, laid before the House a communication which was read as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC, August 15, 1991.

Hon. THOMAS S. FOLEY,
Speaker of the House, The Capitol, Washington, D.C.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the General District Court of North Carolina for Cumberland County.

After consultation with the General Counsel to the Clerk, I will make the determinations required by the Rule.

Sincerely,

CHARLIE ROSE.