

104TH CONGRESS
1ST SESSION

H. R. 2534

To amend the Internal Revenue Code of 1986 with respect to treatment of corporations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 1995

Mr. SANDERS (for himself, Mr. OWENS, Ms. NORTON, Mr. HINCHEY, Mr. ROMERO-BARCELÓ, and Mr. CONYERS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Agriculture, National Security, Science, Resources, Commerce, Transportation and Infrastructure, Banking and Financial Services, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 with respect to treatment of corporations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Corporate Responsibility Act of 1995”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Table of contents.

TITLE I—TAX SUBSIDY REFORM

- Sec. 101. Elimination of credit for foreign taxes and allowance of deduction for such taxes.
- Sec. 102. Repeal of election to take percentage credit under Puerto Rico and possession tax credit.
- Sec. 103. Use of formulaic approach under section 482.
- Sec. 104. Disposition of stock in domestic corporations by 10-percent foreign shareholders.
- Sec. 105. Portfolio debt.
- Sec. 106. Termination of exclusion of certain income of citizens or residents of United States living abroad.
- Sec. 107. Elimination of exclusion of certain income of foreign sales corporations.
- Sec. 108. Repeal of deferral of income of controlled foreign corporations.
- Sec. 109. Extension of statute of limitations for certain foreign-related deficiencies.

TITLE II—AGRICULTURAL AND GRAZING SUBSIDIES

- Sec. 201. Payment limitations under farm commodity programs.
- Sec. 202. Repeal of title III of Agricultural Trade Act of 1978.
- Sec. 203. Elimination of tobacco price support and production adjustment programs.
- Sec. 204. Repeal of section 203 of Agricultural Trade Act of 1978.
- Sec. 205. Grazing fees at fair market value.

TITLE III—AEROSPACE AND HIGH-TECHNOLOGY INDUSTRY SUBSIDIES

- Sec. 301. Termination of Federal assistance for Sematech.
- Sec. 302. Termination of Federal assistance under defense technology reinvestment programs.
- Sec. 303. Space station program.

TITLE IV—NATIONAL PARKS CONCESSION REFORM

- Sec. 401. Findings.
- Sec. 402. Definitions.
- Sec. 403. Repeal of concessions policy act of 1965.
- Sec. 404. Concessions policy.
- Sec. 405. Competitive selection process.
- Sec. 406. Franchise fees.
- Sec. 407. Duration of contract.
- Sec. 408. Transfer of contract.
- Sec. 409. Structures and facilities.
- Sec. 410. Recordkeeping requirements.
- Sec. 411. Exemption from certain lease requirements.
- Sec. 412. Effective Date.

TITLE V—MISCELLANEOUS INDUSTRY SUBSIDIES

- Sec. 501. Fair market value sales of petroleum from naval petroleum reserves.
- Sec. 502. Tokamak physics experiment program.
- Sec. 503. Elimination of funding for highway demonstration projects.

Sec. 504. Use of fees from gaming activities to fund National Indian Gaming Commission.

Sec. 505. Reduction of outstanding loan, guarantee, and insurance authority of the Export-Import Bank of the United States.

Sec. 506. Abolition of Overseas Private Investment Corporation.

Sec. 507. Termination of nuclear weapons activities.

Sec. 508. Fossil and nuclear research and development.

Sec. 509. Requirements relating to recoupment of nonrecurring costs for certain sales of major defense equipment.

TITLE VI—EFFECTIVE DATES

Sec. 601. Effective dates.

1 **TITLE I—TAX SUBSIDY REFORM**

2 **SEC. 101. ELIMINATION OF CREDIT FOR FOREIGN TAXES**

3 **AND ALLOWANCE OF DEDUCTION FOR SUCH**

4 **TAXES.**

5 (a) IN GENERAL.—Section 901 of the Internal Reve-
 6 nue Code of 1986 (relating to taxes of foreign countries
 7 and of possessions of the United States) is amended by
 8 redesignating subsection (k) as subsection (l) and by in-
 9 serting after subsection (j) the following new subsection:

10 “(k) TERMINATION OF FOREIGN TAX CREDIT.—

11 “(1) IN GENERAL.—No credit shall be allowed
 12 under subsection (a) for any income, war profits, or
 13 excess profits taxes paid or accrued (or deemed paid
 14 under section 902 or 960) for any taxable year be-
 15 ginning after the date of the enactment of this sub-
 16 section.

17 “(2) TAXES ALLOWED AS DEDUCTION.—Section
 18 275(a)(4) shall not apply to any tax for which credit
 19 is not allowable by reason of this subsection.”

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

4 **SEC. 102. REPEAL OF ELECTION TO TAKE PERCENTAGE**
5 **CREDIT UNDER PUERTO RICO AND POSSES-**
6 **SION TAX CREDIT.**

7 (a) IN GENERAL.—Paragraph (4) of section 936(a)
8 of the Internal Revenue Act of 1986 (relating to Puerto
9 Rico and possession tax credit) is amended by striking
10 subparagraph (B).

11 (b) TERMINATION OF EXISTING ELECTIONS.—No
12 election under subparagraph (B) of section 936(a)(4) of
13 such Code (as in effect on the day before the date of the
14 enactment of this Act) shall apply for any taxable year
15 beginning after December 31, 1995.

16 (c) REVOCATION OF SECTION 936 ELECTION WITH-
17 OUT CONSENT OF SECRETARY.—Notwithstanding section
18 936(e)(2)(A) of such Code, a taxpayer may revoke the
19 election under subsection (a) of section 936 of such Code
20 without the consent of the Secretary of the Treasury if
21 the taxpayer had in effect, for the last taxable year ending
22 on or before December 31, 1995, an election under sub-
23 paragraph (B) of section 936(a)(4) of such Code (as in
24 effect on the day before the date of the enactment of this
25 Act). This subsection shall apply only with respect to rev-

1 ocations made for the first taxable year beginning after
2 December 31, 1995.

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

6 **SEC. 103. USE OF FORMULAIC APPROACH UNDER SECTION**
7 **482.**

8 Not later than January 1, 1996, the Secretary of the
9 Treasury or his delegate shall prescribe regulations under
10 section 482 of the Internal Revenue Code of 1986 which
11 use a formulaic approach to clearly reflect income of mul-
12 tinational corporations.

13 **SEC. 104. DISPOSITION OF STOCK IN DOMESTIC CORPORA-**
14 **TIONS BY 10-PERCENT FOREIGN SHAREHOLD-**
15 **ERS.**

16 (a) GENERAL RULE.—Subpart D of part II of sub-
17 chapter N of chapter 1 of the Internal Revenue Code of
18 1986 (relating to miscellaneous provisions) is amended by
19 adding at the end the following new section:

20 **“SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPORA-**
21 **TIONS BY 10-PERCENT FOREIGN SHAREHOLD-**
22 **ERS.**

23 “(a) GENERAL RULE.—

24 “(1) TREATMENT AS EFFECTIVELY CONNECTED
25 WITH UNITED STATES TRADE OR BUSINESS.—For

1 purposes of this title, if any nonresident alien indi-
2 vidual or foreign corporation is a 10-percent share-
3 holder in any domestic corporation, any gain or loss
4 of such individual or foreign corporation from the
5 disposition of any stock in such domestic corporation
6 shall be taken into account—

7 “(A) in the case of a nonresident alien in-
8 dividual, under section 871(b)(1), or

9 “(B) in the case of a foreign corporation,
10 under section 882(a)(1),

11 as if the taxpayer were engaged during the taxable
12 year in a trade or business within the United States
13 through a permanent establishment in the United
14 States and as if such gain or loss were effectively
15 connected with such trade or business and attrib-
16 utable to such permanent establishment. Notwith-
17 standing section 865, any such gain or loss shall be
18 treated as from sources in the United States.

19 “(2) 26-PERCENT MINIMUM TAX ON NON-
20 RESIDENT ALIEN INDIVIDUALS.—

21 “(A) IN GENERAL.—In the case of any
22 nonresident alien individual, the amount deter-
23 mined under section 55(b)(1)(A) shall not be
24 less than 26 percent of the lesser of—

1 “(i) the individual’s alternative mini-
2 mum taxable income (as defined in section
3 55(b)(2)) for the taxable year, or

4 “(ii) the individual’s net taxable stock
5 gain for the taxable year.

6 “(B) NET TAXABLE STOCK GAIN.—For
7 purposes of subparagraph (A), the term ‘net
8 taxable stock gain’ means the excess of—

9 “(i) the aggregate gains for the tax-
10 able year from dispositions of stock in do-
11 mestic corporations with respect to which
12 such individual is a 10-percent share-
13 holder, over

14 “(ii) the aggregate of the losses for
15 the taxable year from dispositions of such
16 stock.

17 “(C) COORDINATION WITH SECTION
18 897(a)(2).—Section 897(a)(2)(A) shall not apply
19 to any nonresident alien individual for any tax-
20 able year for which such individual has a net
21 taxable stock gain, but the amount of such net
22 taxable stock gain shall be increased by the
23 amount of such individual’s net United States
24 real property gain (as defined in section
25 897(a)(2)(B)) for such taxable year.

1 “(b) 10-PERCENT SHAREHOLDER.—

2 “(1) IN GENERAL.—For purposes of this sec-
3 tion, the term ‘10-percent shareholder’ means any
4 person who at any time during the shorter of—

5 “(A) the period beginning on January 1,
6 1995, and ending on the date of the disposition,
7 or

8 “(B) the 5-year period ending on the date
9 of the disposition,
10 owned 10 percent or more (by vote or value) of the
11 stock in the domestic corporation.

12 “(2) CONSTRUCTIVE OWNERSHIP.—

13 “(A) IN GENERAL.—Section 318(a) (relat-
14 ing to constructive ownership of stock) shall
15 apply for purposes of paragraph (1).

16 “(B) MODIFICATIONS.—For purposes of
17 subparagraph (A)—

18 “(i) paragraph (2)(C) of section
19 318(a) shall be applied by substituting ‘10
20 percent’ for ‘50 percent’, and

21 “(ii) paragraph (3)(C) of section
22 318(a) shall be applied—

23 “(I) by substituting ‘10 percent’
24 for ‘50 percent’, and

1 “(II) in any case where such
2 paragraph would not apply but for
3 subclause (I), by considering a cor-
4 poration as owning the stock (other
5 than stock in such corporation) owned
6 by or for any shareholder of such cor-
7 poration in that proportion which the
8 value of the stock which such share-
9 holder owns in such corporation bears
10 to the value of all stock in such cor-
11 poration.

12 “(3) TREATMENT OF STOCK HELD BY CERTAIN
13 PARTNERSHIPS.—

14 “(A) IN GENERAL.—For purposes of this
15 section, if—

16 “(i) a partnership is a 10-percent
17 shareholder in any domestic corporation,
18 and

19 “(ii) 10 percent or more of the capital
20 or profits interests in such partnership is
21 held (directly or indirectly) by nonresident
22 alien individuals or foreign corporations,
23 each partner in such partnership who is not
24 otherwise a 10-percent shareholder in such cor-
25 poration shall, with respect to the stock in such

1 corporation held by the partnership, be treated
2 as a 10-percent shareholder in such corpora-
3 tion.

4 “(B) EXCEPTION.—

5 “(i) IN GENERAL.—Subparagraph (A)
6 shall not apply with respect to stock in a
7 domestic corporation held by any partner-
8 ship if, at all times during the 5-year pe-
9 riod ending on the date of the disposition
10 involved—

11 “(I) the aggregate bases of the
12 stock and securities in such domestic
13 corporation held by such partnership
14 were less than 25 percent of the part-
15 nership’s net adjusted asset cost, and

16 “(II) the partnership did not own
17 50 percent or more (by vote or value)
18 of the stock in such domestic corpora-
19 tion.

20 The Secretary may by regulations dis-
21 regard any failure to meet the require-
22 ments of subclause (I) where the partner-
23 ship normally met such requirements dur-
24 ing such 5-year period.

1 “(ii) NET ADJUSTED ASSET COST.—
2 For purposes of clause (i), the term ‘net
3 adjusted asset cost’ means—

4 “(I) the aggregate bases of all of
5 the assets of the partnership other
6 than cash and cash items, reduced by

7 “(II) the portion of the liabilities
8 of the partnership not allocable (on a
9 proportionate basis) to assets excluded
10 under subclause (I).

11 “(C) EXCEPTION NOT TO APPLY TO 50-
12 PERCENT PARTNERS.—Subparagraph (B) shall
13 not apply in the case of any partner owning (di-
14 rectly or indirectly) more than 50 percent of the
15 capital or profits interests in the partnership at
16 any time during the 5-year period ending on the
17 date of the disposition.

18 “(D) SPECIAL RULES.—For purposes of
19 subparagraphs (B) and (C)—

20 “(i) TREATMENT OF PREDE-
21 CESSORS.—Any reference to a partnership
22 or corporation shall be treated as including
23 a reference to any predecessor thereof.

24 “(ii) PARTNERSHIP NOT IN EXIST-
25 ENCE.—If any partnership was not in ex-

1 istence throughout the entire 5-year period
2 ending on the date of the disposition, only
3 the portion of such period during which
4 the partnership (or any predecessor) was
5 in existence shall be taken into account.

6 “(E) OTHER PASS-THRU ENTITIES;
7 TIERED ENTITIES.—Rules similar to the rules
8 of the preceding provisions of this paragraph
9 shall also apply in the case of any pass-thru en-
10 tity other than a partnership and in the case of
11 tiered partnerships and other entities.

12 “(c) COORDINATION WITH NONRECOGNITION PROVI-
13 SIONS; ETC.—

14 “(1) COORDINATION WITH NONRECOGNITION
15 PROVISIONS.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), any nonrecognition provision
18 shall apply for purposes of this section to a
19 transaction only in the case of—

20 “(i) an exchange of stock in a domes-
21 tic corporation for other property the sale
22 of which would be subject to taxation
23 under this chapter, or

24 “(ii) a distribution with respect to
25 which gain or loss would not be recognized

1 under section 336 if the sale of the distrib-
2 uted property by the distributee would be
3 subject to tax under this chapter.

4 “(B) REGULATIONS.—The Secretary shall
5 prescribe regulations (which are necessary or
6 appropriate to prevent the avoidance of Federal
7 income taxes) providing—

8 “(i) the extent to which nonrecogni-
9 tion provisions shall, and shall not, apply
10 for purposes of this section, and

11 “(ii) the extent to which—

12 “(I) transfers of property in a re-
13 organization, and

14 “(II) changes in interests in, or
15 distributions from, a partnership,
16 trust, or estate,

17 shall be treated as sales of property at fair
18 market value.

19 “(C) NONRECOGNITION PROVISION.—For
20 purposes of this paragraph, the term ‘non-
21 recognition provision’ means any provision of
22 this title for not recognizing gain or loss.

23 “(2) CERTAIN OTHER RULES MADE APPLICA-
24 BLE.—For purposes of this section, rules similar to

1 the rules of subsections (g) and (j) of section 897
2 shall apply.

3 “(d) CERTAIN INTEREST TREATED AS STOCK.—For
4 purposes of this section—

5 “(1) any option or other right to acquire stock
6 in a domestic corporation,

7 “(2) the conversion feature of any debt instru-
8 ment issued by a domestic corporation, and

9 “(3) to the extent provided in regulations, any
10 other interest in a domestic corporation other than
11 an interest solely as creditor,
12 shall be treated as stock in such corporation.

13 “(e) TREATMENT OF CERTAIN GAIN AS A DIVI-
14 DEND.—In the case of any gain which would be subject
15 to tax by reason of this section but for a treaty and which
16 results from any distribution in liquidation or redemption,
17 for purposes of this subtitle, such gain shall be treated
18 as a dividend to the extent of the earnings and profits
19 of the domestic corporation attributable to the stock.
20 Rules similar to the rules of section 1248(c) (determined
21 without regard to paragraph (2)(D) thereof) shall apply
22 for purposes of the preceding sentence.

23 “(f) REGULATIONS.—The Secretary shall prescribe
24 such regulations as may be appropriate to carry out the
25 purposes of this section, including—

1 899 does not apply to such disposition be-
2 cause—

3 “(i) the transferor is not a foreign
4 person, or

5 “(ii) the transferor is not a 10-percent
6 shareholder, and

7 “(B) such withholding agent does not
8 know (or have reason to know) that such affida-
9 vit is not correct.

10 “(2) STOCK WHICH IS REGULARLY TRADED.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), a withholding agent shall
13 not be required to deduct and withhold any
14 amount under subsection (a) with respect to
15 any disposition of regularly traded stock if such
16 withholding agent does not know (or have rea-
17 son to know) that section 899 applies to such
18 disposition.

19 “(B) SPECIAL RULE WHERE SUBSTANTIAL
20 DISPOSITION.—If—

21 “(i) there is a disposition of regularly
22 traded stock in a corporation, and

23 “(ii) the amount of stock involved in
24 such disposition constitutes 1 percent or

1 more (by vote or value) of the stock in
2 such corporation,
3 subparagraph (A) shall not apply but para-
4 graph (1) shall apply as if the disposition in-
5 volved stock which was not regularly traded.

6 “(C) NOTIFICATION BY FOREIGN PER-
7 SON.—If section 899 applies to any disposition
8 by a foreign person of regularly traded stock,
9 such foreign person shall notify the withholding
10 agent that section 899 applies to such dispo-
11 sition.

12 “(3) NONRECOGNITION TRANSACTIONS.—A
13 withholding agent shall not be required to deduct
14 and withhold any amount under subsection (a) in
15 any case where gain or loss is not recognized by rea-
16 son of section 899(c) (or the regulations prescribed
17 under such section).

18 “(c) SPECIAL RULE WHERE NO WITHHOLDING.—If

19 “(1) there is no amount deducted and withheld
20 under this section with respect to any disposition to
21 which section 899 applies, and

22 “(2) the foreign person does not pay the tax
23 imposed by this subtitle to the extent attributable to
24 such disposition on the date prescribed therefor,

1 for purposes of determining the amount of such tax, the
2 foreign person's basis in the stock disposed of shall be
3 treated as zero or such other amount as the Secretary may
4 determine (and, for purposes of section 6501, the
5 underpayment of such tax shall be treated as due to a
6 willful attempt to evade such tax).

7 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
8 poses of this section—

9 “(1) WITHHOLDING AGENT.—The term ‘with-
10 holding agent’ means—

11 “(A) the last United States person to have
12 the control, receipt, custody, disposal, or pay-
13 ment of the amount realized on the disposition,
14 or

15 “(B) if there is no such United States per-
16 son, the person prescribed in regulations.

17 “(2) FOREIGN PERSON.—The term ‘foreign per-
18 son’ means any person other than a United States
19 person.

20 “(3) REGULARLY TRADED STOCK.—The term
21 ‘regularly traded stock’ means any stock of a class
22 which is regularly traded on an established securities
23 market.

24 “(4) AUTHORITY TO PRESCRIBE REDUCED
25 AMOUNT.—At the request of the person making the

1 disposition or the withholding agent, the Secretary
2 may prescribe a reduced amount to be withheld
3 under this section if the Secretary determines that
4 to substitute such reduced amount will not jeopard-
5 ize the collection of the tax imposed by section
6 871(b)(1) or 882(a)(1).

7 “(5) OTHER TERMS.—Except as provided in
8 this section, terms used in this section shall have the
9 same respective meanings as when used in section
10 899.

11 “(6) CERTAIN RULES MADE APPLICABLE.—
12 Rules similar to the rules of section 1445(e) shall
13 apply for purposes of this section.

14 “(e) REGULATIONS.—The Secretary shall prescribe
15 such regulations as may be appropriate to carry out the
16 purposes of this section, including regulations coordinat-
17 ing the provisions of this section with the provisions of
18 sections 1445 and 1446.”

19 (c) EXCEPTION FROM BRANCH PROFITS TAX.—Sub-
20 paragraph (C) of section 884(d)(2) of such Code is amend-
21 ed to read as follows:

22 “(C) gain treated as effectively connected
23 with the conduct of a trade or business within
24 the United States under—

1 “(i) section 897 in the case of the dis-
2 position of a United States real property
3 interest described in section
4 897(c)(1)(A)(ii), or
5 “(ii) section 899.”.

6 (d) REPORTS WITH RESPECT TO CERTAIN DIS-
7 TRIBUTIONS.—Paragraph (2) of section 6038B(a) of such
8 Code (relating to notice of certain transfers to foreign per-
9 son) is amended by striking “section 336” and inserting
10 “section 302, 331, or 336”.

11 (e) CLERICAL AMENDMENTS.—

12 (1) The table of sections for subpart D of part
13 II of subchapter N of chapter 1 of such Code is
14 amended by adding at the end the following new
15 item:

 “Sec. 899. Dispositions of stock in domestic corporations by 10-
 percent foreign shareholders.”

16 (2) The table of sections for subchapter A of
17 chapter 3 of such Code is amended by adding at the
18 end the following new item:

 “Sec. 1447. Withholding of tax on certain stock dispositions.”

19 (f) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to dispositions after December 31,
21 1995, except that section 1447 of such Code (as added
22 by this section) shall not apply to any disposition before
23 July 1, 1996.

1 **SEC. 105. PORTFOLIO DEBT.**

2 (a) IN GENERAL.—Section 871(h)(3) of the Internal
3 Revenue Code of 1986 (relating to tax on nonresident
4 alien individuals) is amended to read as follows:

5 “(3) PORTFOLIO INTEREST TO INCLUDE ONLY
6 INTEREST ON GOVERNMENT OBLIGATIONS.—The
7 term ‘portfolio interest’ shall include only interest
8 paid on an obligation issued by a governmental en-
9 tity.”

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 881(c)(3) of such Code is amend-
12 ed—

13 (A) in subparagraph (A), by adding “or”
14 at the end, and

15 (B) by striking subparagraph (B) and re-
16 designating subparagraph (C) as subparagraph
17 (B).

18 (2) Section 881(c)(4) of such Code is amend-
19 ed—

20 (A) by striking “section 871(h)(4)” and in-
21 serting “section 871(h) (3) or (4)”, and

22 (B) in the heading, by striking “CONTIN-
23 GENT”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to interest received after December

1 31, 1995, with respect to obligations issued after such
2 date.

3 **SEC. 106. TERMINATION OF EXCLUSION OF CERTAIN IN-**
4 **COME OF CITIZENS OR RESIDENTS OF UNIT-**
5 **ED STATES LIVING ABROAD.**

6 (a) IN GENERAL.—Section 911 of the Internal Reve-
7 nue Code of 1986 (relating to citizens or residents of the
8 United States living abroad) is amended by redesignating
9 subsection (f) as subsection (g) and by inserting after sub-
10 section (e) the following new subsection:

11 “(f) TERMINATION.—This section shall not apply to
12 any taxable year beginning after December 31, 1995.”

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

16 **SEC. 107. ELIMINATION OF EXCLUSION OF CERTAIN IN-**
17 **COME OF FOREIGN SALES CORPORATIONS.**

18 (a) IN GENERAL.—Section 921 of the Internal Reve-
19 nue Code of 1986 (relating to exempt foreign trade income
20 excluded from gross income) is amended by adding at the
21 end the following new subsection:

22 “(e) TERMINATION.—This section shall not apply to
23 any taxable year beginning after December 31, 1995.”

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

4 **SEC. 108. REPEAL OF DEFERRAL OF INCOME OF CON-**
5 **TROLLED FOREIGN CORPORATIONS.**

6 (a) GENERAL RULE.—Subpart F of part III of sub-
7 chapter N of chapter 1 of the Internal Revenue Code of
8 1986 is amended by striking sections 952, 953, and 954
9 and inserting the following new sections:

10 **“SEC. 952. SUBPART F INCOME.**

11 “(a) GENERAL RULE.—For purposes of this subpart,
12 the term ‘subpart F income’ means the earnings and prof-
13 its of the controlled foreign corporation for the taxable
14 year computed with the following adjustments:

15 “(1) There shall be excluded the amount of the
16 earnings and profits which are attributable to in-
17 come from sources within the United States which
18 is effectively connected with the conduct by the con-
19 trolled foreign corporation of a trade or business
20 within the United States, except to the extent such
21 income is exempt from taxation (or subject to a re-
22 duced rate of tax) pursuant to a treaty obligation of
23 the United States. For purposes of the preceding
24 sentence, income described in paragraph (2) or (3)

1 of section 921(d) shall be treated as derived from
2 sources within the United States.

3 “(2) In determining earnings and profits (or
4 the deficit in earnings and profits), the amount of
5 any illegal bribe, kickback, or other payment (within
6 the meaning of section 162(c), except as otherwise
7 provided in this paragraph) shall not be taken into
8 account to decrease such earnings and profits or to
9 increase such deficit. The payments referred to in
10 the preceding sentence include payments which
11 would be unlawful under the Foreign Corrupt Prac-
12 tices Act of 1977 if the payor were a United States
13 person.

14 “(3) Under regulations prescribed by the Sec-
15 retary, there shall be excluded any part of any earn-
16 ings and profits if it is established to the satisfaction
17 of the Secretary that such part could not have been
18 distributed by the controlled foreign corporation to
19 United States shareholders who own (within the
20 meaning of section 958(a)) stock of such controlled
21 foreign corporation because of currency or other re-
22 strictions or limitations imposed under the laws of
23 any foreign country.

24 “(4) Earnings and profits shall be determined
25 without regard to paragraphs (4), (5), and (6) of

1 section 312(n). Under regulations, the preceding
2 sentence shall not apply to the extent it would in-
3 crease earnings and profits by an amount which was
4 previously distributed by the controlled foreign cor-
5 poration.

6 Except as provided in this subsection and section
7 312(k)(4), the earnings and profits of any foreign corpora-
8 tion, and the deficit and earnings and profits of any for-
9 eign corporation for any taxable year shall be determined
10 according to rules similar to those applicable to domestic
11 corporations, under regulations prescribed by the Sec-
12 retary.

13 “(b) CERTAIN DEFICITS MAY BE TAKEN INTO AC-
14 COUNT.—

15 “(1) TREATMENT OF CERTAIN PRIOR YEAR
16 DEFICITS.—

17 “(A) IN GENERAL.—The amount included
18 in the gross income of any United States share-
19 holder under section 951(a)(1)(A)(i) for any
20 taxable year with respect to any controlled for-
21 eign corporation shall be reduced by the amount
22 of such shareholder’s pro rata share of any
23 qualified deficit of such controlled foreign cor-
24 poration.

1 “(B) QUALIFIED DEFICIT.—For purposes
2 of this paragraph—

3 “(i) IN GENERAL.—The term ‘quali-
4 fied deficit’ means any deficit in the earn-
5 ings and profits of the controlled foreign
6 corporation for any prior taxable year
7 which began after December 31, 1995, and
8 for which such corporation was a con-
9 trolled foreign corporation, but only to the
10 extent such deficit has not previously been
11 taken into account under this paragraph.

12 “(ii) SPECIAL RULE FOR DEFICITS
13 BEFORE 1996.—The term ‘qualified deficit’
14 includes any deficit in earnings and profits
15 for any taxable year beginning before Jan-
16 uary 1, 1996, to the extent that such defi-
17 cit qualified as a qualified deficit under
18 subsection (c)(1)(B) of this section (as in
19 effect on the day before the date of the en-
20 actment of this subsection); except that
21 any such deficit may be taken into account
22 under this paragraph only to offset
23 amounts attributable to the same activity
24 as the activity giving rise to such deficit.

1 “(C) PRO RATA SHARE.—For purposes of
2 this paragraph, the shareholder’s pro rata share
3 of any deficit shall be determined under rules
4 similar to the rules of section 951(a)(2) for
5 whichever of the following yields the smallest
6 share:

7 “(i) the close of the taxable year, or

8 “(ii) the close of the taxable year in
9 which the deficit arose.

10 “(2) CERTAIN DEFICITS OF MEMBER OF THE
11 SAME CHAIN OF CORPORATIONS MAY BE TAKEN
12 INTO ACCOUNT.—

13 “(A) IN GENERAL.—A controlled foreign
14 corporation may elect to reduce the amount of
15 its subpart F income for any taxable year by
16 the amount of any deficit in earnings and prof-
17 its of a qualified chain member for a taxable
18 year ending with (or within) the taxable year of
19 such controlled foreign corporation. To the ex-
20 tent any deficit reduces subpart F income
21 under the preceding sentence, such deficit shall
22 not be taken into account under paragraph (1).

23 “(B) QUALIFIED CHAIN MEMBER.—For
24 purposes of this paragraph, the term ‘qualified
25 chain member’ means, with respect to any con-

1 trolled foreign corporation, any other corpora-
2 tion which is created or organized under the
3 laws of the same foreign country as the con-
4 trolled foreign corporation but only if—

5 “(i) all the stock of such other cor-
6 poration (other than directors’ qualifying
7 shares) is owned at all times during the
8 taxable year in which the deficit arose (di-
9 rectly or through 1 or more corporations
10 other than the common parent) by such
11 controlled foreign corporation, or

12 “(ii) all the stock of such controlled
13 foreign corporation (other than directors’
14 qualifying shares) is owned at all times
15 during the taxable year in which the deficit
16 arose (directly or through 1 or more cor-
17 porations other than the common parent)
18 by such other corporation.

19 “(C) COORDINATION.—This paragraph
20 shall be applied after paragraph (1).

21 “(3) DETERMINATION OF DEFICIT.—In deter-
22 mining the amount of any deficit in earnings and
23 profits, the adjustments set forth in subsection (a)
24 shall apply.

1 **“SEC. 953. SPECIAL RULES FOR CERTAIN INSURANCE COM-**
2 **PANIES.**

3 “(a) SPECIAL RULE FOR CERTAIN CAPTIVE INSUR-
4 ANCE COMPANIES.—

5 “(1) IN GENERAL.—For purposes only of tak-
6 ing into account subpart F income which is attrib-
7 utable to related person insurance income—

8 “(A) the term ‘United States shareholder’
9 means, with respect to any foreign corporation,
10 a United States person (as defined in section
11 957(c)) who owns (within the meaning of sec-
12 tion 958(a)) any stock of the foreign corpora-
13 tion,

14 “(B) the term ‘controlled foreign corpora-
15 tion’ has the meaning given to such term by
16 section 957(a) determined by substituting ‘25
17 percent or more’ for ‘more than 50 percent’,
18 and

19 “(C) the pro rata share referred to in sec-
20 tion 951(a)(1)(A)(i) shall be determined under
21 paragraph (5) of this subsection.

22 “(2) RELATED PERSON INSURANCE INCOME.—
23 For purposes of this subsection, the term ‘related
24 person insurance income’ means any insurance in-
25 come (within the meaning of subsection (c)) attrib-
26 utable to a policy of insurance or reinsurance with

1 respect to which the person (directly or indirectly)
2 insured is a United States shareholder in the foreign
3 corporation or a related person to such a share-
4 holder.

5 “(3) EXCEPTIONS.—

6 “(A) CORPORATIONS NOT HELD BY
7 INSUREDS.—Paragraph (1) shall not apply to
8 any foreign corporation if at all times during
9 the taxable year of such foreign corporation—

10 “(i) less than 20 percent of the total
11 combined voting power of all classes of
12 stock of such corporation entitled to vote,
13 and

14 “(ii) less than 20 percent of the total
15 value of such corporation,

16 is owned (directly or indirectly) under the prin-
17 ciples of section 883(c)(4) by persons who are
18 (directly or indirectly) insured under any policy
19 of insurance or reinsurance issued by such cor-
20 poration or who are related persons to any such
21 person.

22 “(B) DE MINIMIS EXCEPTION.—Paragraph
23 (1) shall not apply to any foreign corporation
24 for a taxable year of such corporation if the re-
25 lated person insurance income (determined on a

1 gross basis) of such corporation for such tax-
2 able year is less than 20 percent of its insur-
3 ance income (as so determined) for such taxable
4 year determined without regard to those provi-
5 sions of subsection (c)(1) which limit insurance
6 income to income from countries other than the
7 country in which the corporation was created or
8 organized.

9 “(C) ELECTION TO TREAT INCOME AS EF-
10 FECTIVELY CONNECTED.—Paragraph (1) shall
11 not apply to any foreign corporation for any
12 taxable year if—

13 “(i) such corporation elects (at such
14 time and in such manner as the Secretary
15 may prescribe)—

16 “(I) to treat its related person in-
17 surance income for such taxable year
18 as income effectively connected with
19 the conduct of a trade or business in
20 the United States, and

21 “(II) to waive all benefits (other
22 than with respect to section 884) with
23 respect to related person insurance in-
24 come granted by the United States

1 under any treaty between the United
2 States and any foreign country, and
3 “(ii) such corporation meets such re-
4 quirements as the Secretary shall prescribe
5 to ensure that the tax imposed by this
6 chapter on such income is paid.

7 An election under this subparagraph made for
8 any taxable year shall not be effective if the
9 corporation (or any predecessor thereof) was a
10 disqualified corporation for the taxable year for
11 which the election was made or for any prior
12 taxable year beginning after 1986.

13 “(D) SPECIAL RULES FOR SUBPARAGRAPH
14 (C).—

15 “(i) PERIOD DURING WHICH ELEC-
16 TION IN EFFECT.—

17 “(I) IN GENERAL.—Except as
18 provided in subclause (II), any elec-
19 tion under subparagraph (C) shall
20 apply to the taxable year for which
21 made and all subsequent taxable years
22 unless revoked with the consent of the
23 Secretary.

24 “(II) TERMINATION.—If a for-
25 eign corporation which made an elec-

1 tion under subparagraph (C) for any
2 taxable year is a disqualified corpora-
3 tion for any subsequent taxable year,
4 such election shall not apply to any
5 taxable year beginning after such sub-
6 sequent taxable year.

7 “(ii) EXEMPTION FROM TAX IMPOSED
8 BY SECTION 4371.—The tax imposed by
9 section 4371 shall not apply with respect
10 to any related person insurance income
11 treated as effectively connected with the
12 conduct of a trade or business within the
13 United States under subparagraph (C).

14 “(E) DISQUALIFIED CORPORATION.—For
15 purposes of this paragraph the term ‘disquali-
16 fied corporation’ means, with respect to any
17 taxable year, any foreign corporation which is a
18 controlled foreign corporation for an uninter-
19 rupted period of 30 days or more during such
20 taxable year (determined without regard to this
21 subsection) but only if a United States share-
22 holder (determined without regard to this sub-
23 section) owns (within the meaning of section
24 958(a)) stock in such corporation at some time
25 during such taxable year.

1 “(4) TREATMENT OF MUTUAL INSURANCE COM-
2 PANIES.—In the case of a mutual insurance com-
3 pany—

4 “(A) this subsection shall apply,

5 “(B) policyholders of such company shall
6 be treated as shareholders, and

7 “(C) appropriate adjustments in the appli-
8 cation of this subpart shall be made under reg-
9 ulations prescribed by the Secretary.

10 “(5) DETERMINATION OF PRO RATA SHARE.—

11 “(A) IN GENERAL.—The pro rata share
12 determined under this paragraph for any Unit-
13 ed States shareholder is the lesser of—

14 “(i) the amount which would be deter-
15 mined under paragraph (2) of section
16 951(a) if—

17 “(I) only related person insur-
18 ance income were taken into account,

19 “(II) stock owned (within the
20 meaning of section 958(a)) by United
21 States shareholders on the last day of
22 the taxable year were the only stock
23 in the foreign corporation, and

24 “(III) only distributions received
25 by United States shareholders were

1 taken into account under subpara-
2 graph (B) of such paragraph (2), or

3 “(ii) the amount which would be de-
4 termined under paragraph (2) of section
5 951(a) on the basis of the entire subpart
6 F income of the foreign corporation for the
7 taxable year.

8 “(B) COORDINATION WITH OTHER PROVI-
9 SIONS.—The Secretary shall prescribe regula-
10 tions providing for such modifications to the
11 provisions of this subpart as may be necessary
12 or appropriate by reason of subparagraph (A).

13 “(6) RELATED PERSON.—For purposes of this
14 subsection—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), the term ‘related person’ has
17 the meaning given such term by section 964(a).

18 “(B) TREATMENT OF CERTAIN LIABILITY
19 INSURANCE POLICIES.—In the case of any pol-
20 icy of insurance covering liability arising from
21 services performed as a director, officer, or em-
22 ployee of a corporation or as a partner or em-
23 ployee of a partnership, the person performing
24 such services and the entity for which such

1 services are performed shall be treated as relat-
2 ed persons.

3 “(7) COORDINATION WITH SECTION 1248.—For
4 purposes of section 1248, if any person is (or would
5 be but for paragraph (3)) treated under paragraph
6 (1) as a United States shareholder with respect to
7 any foreign corporation which would be taxed under
8 subchapter L if it were a domestic corporation and
9 which is (or would be but for paragraph (3)) treated
10 under paragraph (1) as a controlled foreign corpora-
11 tion—

12 “(A) such person shall be treated as meet-
13 ing the stock ownership requirements of section
14 1248(a)(2) with respect to such foreign cor-
15 poration, and

16 “(B) such foreign corporation shall be
17 treated as a controlled foreign corporation.

18 “(8) REGULATIONS.—The Secretary shall pre-
19 scribe such regulations as may be necessary to carry
20 out the purposes of this subsection, including—

21 “(A) regulations preventing the avoidance
22 of this subsection through cross insurance ar-
23 rangements or otherwise, and

24 “(B) regulations which may provide that a
25 person will not be treated as a United States

1 shareholder under paragraph (1) with respect
2 to any foreign corporation if neither such per-
3 son (nor any related person to such person) is
4 (directly or indirectly) insured under any policy
5 of insurance or reinsurance issued by such for-
6 eign corporation.

7 “(b) ELECTION BY FOREIGN INSURANCE COMPANY
8 TO BE TREATED AS DOMESTIC CORPORATION.—

9 “(1) IN GENERAL.—If—

10 “(A) a foreign corporation is a controlled
11 foreign corporation (as defined in section
12 957(a) by substituting ‘25 percent or more’ for
13 ‘more than 50 percent’ and by using the defini-
14 tion of United States shareholder under sub-
15 section (a)(1)(A) of this section),

16 “(B) such foreign corporation would qual-
17 ify under part I or II of subchapter L for the
18 taxable year if it were a domestic corporation,

19 “(C) such foreign corporation meets such
20 requirements as the Secretary shall prescribe to
21 ensure that the taxes imposed by this chapter
22 on such foreign corporation are paid, and

23 “(D) such foreign corporation makes an
24 election to have this paragraph apply and

1 waives all benefits to such corporation granted
2 by the United States under any treaty,
3 for purposes of this title, such corporation shall be
4 treated as a domestic corporation.

5 “(2) PERIOD DURING WHICH ELECTION IS IN
6 EFFECT.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), an election under paragraph
9 (1) shall apply to the taxable year for which
10 made and all subsequent taxable years unless
11 revoked with the consent of the Secretary.

12 “(B) TERMINATION.—If a corporation
13 which made an election under paragraph (1) for
14 any taxable year fails to meet the requirements
15 of subparagraph (A), (B), or (C) of paragraph
16 (1) for any subsequent taxable year, such elec-
17 tion shall not apply to any taxable year begin-
18 ning after such subsequent taxable year.

19 “(3) TREATMENT OF LOSSES.—If any corpora-
20 tion treated as a domestic corporation under this
21 subsection is treated as a member of an affiliated
22 group for purposes of chapter 6 (relating to consoli-
23 dated returns), any loss of such corporation shall be
24 treated as a dual consolidated loss for purposes of

1 section 1503(d) without regard to paragraph (2)(B)
2 thereof.

3 “(4) EFFECT OF ELECTION.—

4 “(A) IN GENERAL.—For purposes of sec-
5 tion 367, any foreign corporation making an
6 election under paragraph (1) shall be treated as
7 transferring (as the 1st day of the 1st taxable
8 year to which such election applies) all of its as-
9 sets to a domestic corporation in connection
10 with an exchange to which section 354 applies.

11 “(B) EXCEPTION FOR PRE-1988 EARNINGS
12 AND PROFIT.—

13 “(i) IN GENERAL.—Earnings and
14 profits of the foreign corporation accumu-
15 lated in taxable years beginning before
16 January 1, 1988, shall not be included in
17 the gross income of the persons holding
18 stock in such corporation by reason of sub-
19 paragraph (A).

20 “(ii) TREATMENT OF DISTRIBUTI-
21 ONS.—For purposes of this title, any dis-
22 tribution made by a corporation to which
23 an election under paragraph (1) applies
24 out of earnings and profits accumulated in
25 taxable years beginning before January 1,

1 1988, shall be treated as a distribution
2 made by a foreign corporation.

3 “(iii) CERTAIN RULES TO CONTINUE
4 TO APPLY TO PRE-1988 EARNINGS.—The
5 provisions specified in clause (iv) shall be
6 applied without regard to paragraph (1),
7 except that, in the case of a corporation to
8 which an election under paragraph (1) ap-
9 plies, only earnings and profits accumu-
10 lated in taxable years beginning before
11 January 1, 1988, shall be taken into ac-
12 count.

13 “(iv) SPECIFIED PROVISIONS.—The
14 provisions specified in this clause are:

15 “(I) Section 1248 (relating to
16 gain from certain sales or exchanges
17 of stock in certain foreign corpora-
18 tions).

19 “(II) This subpart to the extent
20 such subpart relates to earnings in-
21 vested in United States property or
22 amounts referred to in clause (ii) or
23 (iii) of section 951(a)(1)(A).

24 “(III) Section 884 to the extent
25 the foreign corporation reinvested

1 1987 earnings and profits in United
2 States assets.

3 “(5) EFFECT OF TERMINATION.—For purposes
4 of section 367, if—

5 “(A) an election is made by a corporation
6 under paragraph (1) for any taxable year, and

7 “(B) such election ceases to apply for any
8 subsequent taxable year,

9 such corporation shall be treated as a domestic cor-
10 poration transferring (as of the 1st day of such sub-
11 sequent taxable year) all of its property to a foreign
12 corporation in connection with an exchange to which
13 section 354 applies.

14 “(6) ADDITIONAL TAX ON CORPORATION MAK-
15 ING ELECTION.—

16 “(A) IN GENERAL.—If a corporation
17 makes an election under paragraph (1), the
18 amount of tax imposed by this chapter for the
19 1st taxable year to which such election applies
20 shall be increased by the amount determined
21 under subparagraph (B).

22 “(B) AMOUNT OF TAX.—The amount of
23 tax determined under this paragraph shall be
24 equal to the lesser of—

1 “(i) $\frac{3}{4}$ of 1 percent of the aggregate
2 amount of capital and accumulated surplus
3 of the corporation as of December 31,
4 1987, or

5 “(ii) \$1,500,000.

6 “(c) INSURANCE INCOME DEFINED.—For purposes
7 of this section, the term ‘insurance income’ means any in-
8 come which—

9 “(1) is attributable to the issuing (or reinsur-
10 ing) of any insurance or annuity contract—

11 “(A) in connection with property in, liabil-
12 ity arising out of activity in, or in connection
13 with the lives or health of residents of, a coun-
14 try other than the country under the laws of
15 which the controlled foreign corporation is cre-
16 ated or organized, or

17 “(B) in connection with risks not described
18 in subparagraph (A) as the result of any ar-
19 rangement whereby another corporation receives
20 a substantially equal amount of premiums or
21 other consideration in respect of issuing (or re-
22 insuring) a contract described in subparagraph
23 (A), and

24 “(2) would (subject to the modifications pro-
25 vided by paragraphs (1) and (2) of subsection (d))

1 be taxed under subchapter L of this chapter if such
2 income were the income of a domestic insurance
3 company.

4 “(d) SPECIAL RULES.—In determining the amount
5 of insurance income—

6 “(1) The following provisions of subchapter L
7 shall not apply:

8 “(A) The small life insurance company de-
9 duction.

10 “(B) Section 805(a)(5) (relating to oper-
11 ations loss deduction).

12 “(C) Section 832(c)(5) (relating to certain
13 capital losses).

14 “(2) The items referred to in—

15 “(A) section 803(a)(1) (relating to gross
16 amount of premiums and other considerations),

17 “(B) section 803(a)(2) (relating to net de-
18 crease in reserves),

19 “(C) section 805(a)(2) (relating to net in-
20 crease in reserves), and

21 “(D) section 832(b)(4) (relating to pre-
22 miums earned on insurance contracts),

23 shall be taken into account only to the extent they
24 are in respect of any reinsurance or the issuing of

1 any insurance or annuity contract described in sub-
2 section (a)(1).

3 “(3) All items of income, expenses, losses, and
4 deductions shall be properly allocated or apportioned
5 under regulations prescribed by the Secretary.”

6 (b) REPEAL OF EXPORT TRADE CORPORATION PRO-
7 VISIONS.—Subpart G of part III of subchapter N of chap-
8 ter 1 of such Code (relating to export trade corporations)
9 is hereby repealed.

10 (c) CONFORMING AMENDMENTS TO SUBPART F.—

11 (1) Subparagraph (A) of section 955(a)(1) of
12 such Code is amended by inserting “(as in effect for
13 taxable years beginning before 1987)” after “section
14 954(b)(2)”.

15 (2) Subsection (b) of section 955 of such Code
16 is amended by striking “within the meaning of sec-
17 tion 954(d)(3)” and inserting “within the meaning
18 of section 964(a)”.

19 (3) Paragraph (2) of section 956(c) of such
20 Code is amended—

21 (A) by striking “section 953(a)(1)” in sub-
22 paragraph (E) and inserting “section
23 953(c)(1)”, and

24 (B) by inserting “(as in effect on the day
25 before the date of the enactment of this par-

1 enthetical) or under section 952(a)(1)” after
2 “section 952(b)” in subparagraph (H).

3 (4) Subsection (b) of section 957 of such Code
4 is amended—

5 (A) by striking “income described in sec-
6 tion 953(a)” and inserting “subpart F income
7 attributable to income described in section
8 953(c)”, and

9 (B) by striking “section 953(a)(1)” and in-
10 serting “section 953(c)(1)”.

11 (5) Subsection (b) of section 958 of such Code
12 is amended—

13 (A) by striking “954(d)(3), 956(b)(2), and
14 957” and inserting “956(b)(2), 957, and
15 964(a)”, and

16 (B) by striking “954(d)(3)” the second
17 place it appears and inserting “964(a)”.

18 (6) Subsection (b) of section 959 of such Code
19 is amended by striking “be also included in the gross
20 income” and inserting “be also included in the sub-
21 part F income”.

22 (7) Subsection (a) of section 964 of such Code
23 is amended to read as follows:

1 “(a) RELATED PERSON.—For purposes of this part,
2 a person is a related person with respect to a controlled
3 foreign corporation, if—

4 “(1) such person is an individual, corporation,
5 partnership, trust, or estate which controls, or is
6 controlled by, the controlled foreign corporation, or

7 “(2) such person is a corporation, partnership,
8 trust, or estate which is controlled by the same per-
9 son or persons which control the controlled foreign
10 corporation.

11 For purposes of the preceding sentence, control means,
12 with respect to a corporation, the ownership, directly or
13 indirectly, of stock possessing more than 50 percent of the
14 total voting power of all classes of stock entitled to vote
15 or of the total value of stock of such corporation. In the
16 case of a partnership, trust, or estate, control means the
17 ownership, directly or indirectly, more than 50 percent (by
18 value) of the beneficial interests in such partnership, trust,
19 or estate. For purposes of this paragraph, rules similar
20 to the rules of section 958 shall apply.”

21 (8) Section 964 of such Code is amended by
22 striking subsection (b).

23 (9) The table of sections for subpart F of part
24 III of subchapter N of chapter 1 of such Code is

1 amended by striking the items relating to sections
2 952, 953 and 954 and inserting the following:

“Sec. 952. Subpart F income.

“Sec. 953. Special rules for certain insurance companies.”

3 (f) OTHER CONFORMING AMENDMENTS.—

4 (1) Paragraph (2) of section 552(c) of such
5 Code is amended—

6 (A) by amending subparagraph (A) to read
7 as follows:

8 “(A) is received from a related person
9 which (i) is a corporation created or organized
10 under the laws of the same foreign country
11 under the laws of which the foreign corporation
12 involved was created or organized, and (ii) has
13 a substantial part of its assets used in its trade
14 or business located in such same foreign coun-
15 try, and”, and

16 (B) by striking “954(d)(3)” and inserting
17 “964(a)”.

18 (2) Subparagraph (B) of section 861(c)(2) of
19 such Code is amended by striking “954(d)(3)” and
20 inserting “964(a)”.

21 (3) Subparagraph (A) of section 864(d)(5) of
22 such Code is amended by striking clauses (ii), (iii),
23 and (iv).

1 (4) Subparagraph (A) of section 881(c)(5) of
2 such Code is hereby repealed.

3 (5) Subparagraph (D) of section 884(d)(2) of
4 such Code is amended by striking “953(c)(3)(C)”
5 and inserting “953(a)(3)(C)”.

6 (6) Subparagraph (A) of section 898(b)(3) of
7 such Code is amended—

8 (A) by striking “953(c)(2)” and inserting
9 “953(a)(2)”, and

10 (B) by striking “953(c)(1) and inserting
11 “953(a)(1)”.

12 (7) Clause (i) of section 904(d)(2)(A) of such
13 Code is amended by inserting “, as in effect on the
14 day before the date of the repeal of such section”
15 after “section 954(c)”.

16 (8) Subclause (III) of section 904(d)(2)(C)(ii)
17 of such Code is amended by striking “953(a)” and
18 inserting “953(c)”.

19 (9) Subparagraph (D) of section 904(d)(2) of
20 such Code is amended—

21 (A) by inserting “, as in effect on the day
22 before the date of the repeal of such section”
23 after “954(f)”, and

24 (B) by inserting “or passive income” be-
25 fore the period at the end thereof.

1 (10) Subparagraph (H) of section 904(d)(2) of
2 such Code is amended by striking “954(d)(3)” and
3 inserting “964(a)”.

4 (11) Subparagraph (E) of section 904(d)(3) of
5 such Code is hereby repealed.

6 (12) Subparagraph (C) of section 988(a)(3) of
7 such Code is amended by striking “954(d)(3)” and
8 inserting “964(a)”.

9 (13) Subsection (c) of section 999 of such Code
10 is amended—

11 (A) by striking “, 952(a)(3),” in para-
12 graph (1), and

13 (B) by striking “, the addition to subpart
14 F income under section 952(a)(3),” in para-
15 graph (2).

16 (14) Subsection (a) of section 6046 of such
17 Code is amended by striking “953(c)” and inserting
18 “953(a)”.

19 (15) The table of subparts for part III of sub-
20 chapter M of chapter 1 of such Code is amended by
21 striking the item relating to subpart G.

22 (g) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years of controlled for-
24 eign corporations beginning after December 31, 1995, and
25 to the taxable years of United States shareholders with

1 which (or in which) such taxable years of controlled for-
2 eign corporations end.

3 **SEC. 109. EXTENSION OF STATUTE OF LIMITATIONS FOR**
4 **CERTAIN FOREIGN-RELATED DEFICIENCIES.**

5 (a) GENERAL RULE—Subsection (c) of section 6501
6 of the Internal Revenue Code of 1986 (relating to limita-
7 tions on assessment and collection) is amended by adding
8 at the end thereof the following new paragraph:

9 “(10) CERTAIN FOREIGN-RELATED DEFICI-
10 CIENCIES.—

11 “(A) IN GENERAL.—If, before the expira-
12 tion of the time prescribed by this section for
13 the assessment of any foreign-related deficiency
14 (determined with regard to extensions under
15 paragraph (4))—

16 “(i) the Secretary determines that
17 such deficiency cannot be accurately as-
18 sessed before the expiration of such period
19 by reason of delay or other actions of the
20 taxpayer which prevented the timely as-
21 sessment of such deficiency, and

22 “(ii) The Secretary sends by certified
23 or registered mail a notice of such deter-
24 mination to the taxpayer,

1 the Secretary may extend the period during
2 which such deficiency may be assessed by an
3 additional period of not more than 3 years. Not
4 more than 1 extension may be made under the
5 preceding sentence with respect to any defi-
6 ciency.

7 “(B) FOREIGN-RELATED DEFICIENCY.—

8 For purposes of subparagraph (A), the term
9 ‘foreign-related deficiency’ means—

10 “(i) any deficiency of a domestic cor-
11 poration which is 25-percent foreign-owned
12 to the extent such deficiency is attributable
13 to a transaction directly or indirectly with
14 a related party who is a foreign person,
15 and

16 “(ii) any deficiency of a foreign cor-
17 poration with respect to the taxes imposed
18 pursuant to sections 882 and 884.

19 “(C) JUDICIAL PROCEEDINGS.—

20 “(i) REVIEW.—Notwithstanding any
21 law or rule of law, any taxpayer to which
22 a notice of a determination under subpara-
23 graph (A) has been mailed shall have the
24 right to begin a proceeding to review such
25 determination not later than the 90th day

1 after the day on which such notice was
2 mailed. If such a proceeding is not begun
3 on or before such 90th day, such deter-
4 mination by the Secretary shall be binding
5 and shall not be reviewed by any court.

6 “(ii) JURISDICTION.—The United
7 States district court for the district in
8 which the taxpayer resides or is found
9 shall have jurisdiction to hear any proceed-
10 ing brought under clause (i). Any order or
11 other determination in such a proceeding
12 shall be treated as a final order which may
13 be appealed.

14 “(iii) SUSPENSION OF STATUTE OF
15 LIMITATIONS.—If the taxpayer brings a
16 proceeding under clause (i), the running of
17 any period of limitations under this section
18 or section 6531 with respect to the defi-
19 ciency to which the proceeding relates shall
20 be suspended for the period beginning on
21 the date on which the notice under sub-
22 paragraph (A) was mailed and ending on
23 the date on which there is a final deter-
24 mination in the proceeding. In no event
25 shall any such period expire before the

1 90th day after the day on which there is
2 a final determination in such proceeding.

3 “(D) DEFINITIONS.—For purposes of this
4 paragraph, the terms ‘25-percent foreign-
5 owned’, ‘foreign person’, and ‘related party’
6 have the respective meanings given such terms
7 by section 6038A(c).”

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply to any deficiency—

10 (1) for any taxable year ending after the date
11 of the enactment of this Act, or

12 (2) any taxable year ending on or before such
13 date of enactment if the period during which such
14 deficiency may be assessed under section 6501 of the
15 Internal Revenue Code of 1986 (determined without
16 regard to the amendments made by subsection (a))
17 has not expired before such date of the enactment.

18 **TITLE II—AGRICULTURAL AND** 19 **GRAZING SUBSIDIES**

20 **SEC. 201. PAYMENT LIMITATIONS UNDER FARM COMMOD-** 21 **ITY PROGRAMS.**

22 Section 1001 of the Food Security Act of 1985 (7
23 U.S.C. 1308) is amended—

24 (1) in paragraph (1)—

25 (A) by striking “(A)”; and

1 (B) by striking subparagraph (B); and
2 (2) in paragraph (2), by striking “\$250,000”
3 and inserting “\$50,000”.

4 **SEC. 202. REPEAL OF TITLE III OF AGRICULTURAL TRADE**
5 **ACT OF 1978.**

6 Title III of the Agricultural Trade Act of 1978 (7
7 U.S.C. 5651 et seq.) is repealed.

8 **SEC. 203. ELIMINATION OF TOBACCO PRICE SUPPORT AND**
9 **PRODUCTION ADJUSTMENT PROGRAMS.**

10 (a) PRICE SUPPORT PROGRAM.—

11 (1) PARITY PRICE SUPPORT.—Section 101 of
12 the Agricultural Act of 1949 (7 U.S.C. 1441) is
13 amended—

14 (A) in the first sentence of subsection (a),
15 by striking “tobacco (except as otherwise pro-
16 vided herein), corn,” and inserting “corn”;

17 (B) by striking subsection (c); and

18 (C) in subsection (d)(3)—

19 (i) by striking “, except tobacco,”;

20 and

21 (ii) by striking “and no price support
22 shall be made available for any crop of to-
23 bacco for which marketing quotas have
24 been disapproved by producers;”.

1 (2) NO NET COST PROVISIONS.—Sections 106,
2 106A, and 106B of such Act (7 U.S.C. 1445, 1445–
3 1, and 1445–2) are repealed.

4 (3) DEFINITION OF BASIC AGRICULTURAL COM-
5 MODITY.—Section 408(c) of such Act (7 U.S.C.
6 1428(c)) is amended by striking “tobacco,”.

7 (4) REVIEW OF BURLEY TOBACCO IMPORTS.—
8 Section 3 of Public Law 98–59 (7 U.S.C. 625) is re-
9 pealed.

10 (5) POWERS OF COMMODITY CREDIT CORPORA-
11 TION.—Section 5(a) of the Commodity Credit Cor-
12 poration Charter Act (15 U.S.C. 714c(a)) is amend-
13 ed by inserting after “agricultural commodities” the
14 following: “(other than tobacco)”.

15 (b) ACREAGE ALLOTMENTS AND MARKETING
16 QUOTAS.—

17 (1) DECLARATION OF POLICY.—Section 2 of
18 the Agricultural Adjustment Act of 1938 (7 U.S.C.
19 1282) is amended by striking “tobacco,”.

20 (2) DEFINITIONS.—Section 301(b) of such Act
21 (7 U.S.C. 1301(b)) is amended—

22 (A) in paragraph (3), by striking subpara-
23 graph (C);

24 (B) in paragraph (6)(A), by striking “to-
25 bacco,”;

1 (C) in paragraph (7), by striking the fol-
2 lowing:

3 “Tobacco (flue-cured), July 1–June 30;

4 “Tobacco (other than flue-cured), October
5 1–September 30;”;

6 (D) in paragraph (10), by striking sub-
7 paragraph (B);

8 (E) in paragraph (11)(B), by striking “and
9 tobacco”;

10 (F) in paragraph (12), by striking “to-
11 bacco,”;

12 (G) in paragraph (14)—

13 (i) by striking “(A)”; and

14 (ii) by striking subparagraphs (B),
15 (C), and (D);

16 (H) by striking paragraph (15); and

17 (I) in paragraph (16), by striking subpara-
18 graph (B); and

19 (3) PARITY PAYMENTS.—Section 303 of such
20 Act (7 U.S.C. 1303) is amended by striking “rice,
21 or tobacco,” and inserting “or rice,”.

22 (4) MARKETING QUOTAS.—Part I of subtitle B
23 of title III of such Act (7 U.S.C. 1311–1314i) is re-
24 pealed.

1 (5) ADMINISTRATIVE PROVISIONS.—Section 361
2 of such Act (7 U.S.C. 1361) is amended by striking
3 “tobacco,”.

4 (6) ADJUSTMENT OF QUOTAS.—Section 371 of
5 such Act (7 U.S.C. 1371) is amended—

6 (A) in subsection (a), by striking “peanuts,
7 or tobacco” and inserting “or peanuts”; and

8 (B) in subsection (b), by striking “peanuts
9 or tobacco” and inserting “or peanuts”.

10 (7) REPORTS AND RECORDS.—Section 373 of
11 such Act (7 U.S.C. 1373) is amended—

12 (A) by striking “peanuts, or tobacco” each
13 place it appears in subsections (a) and (b) and
14 inserting “or peanuts”; and

15 (B) in subsection (a)—

16 (i) in the first sentence, by striking
17 “all persons engaged in the business of
18 redrying, prizing, or stemming tobacco for
19 producers,”; and

20 (ii) in the last sentence, by striking
21 “\$500;” and all that follows through the
22 period at the end of the sentence and in-
23 serting “\$500.”.

1 (8) REGULATIONS.—Section 375(a) of such Act
2 (7 U.S.C. 1375(a)) is amended by striking “peanuts,
3 or tobacco” and inserting “or peanuts”.

4 (9) EMINENT DOMAIN.—Section 378 of such
5 Act (7 U.S.C. 1378) is amended—

6 (A) in the first sentence of subsection (c),
7 by striking “cotton, tobacco, and peanuts” and
8 inserting “cotton and peanuts”; and

9 (B) by striking subsections (d), (e), and
10 (f).

11 (10) BURLEY TOBACCO FARM RECONSTITU-
12 TION.—Section 379 of such Act (7 U.S.C. 1379) is
13 amended—

14 (A) in subsection (a)—

15 (i) by striking “(a)”; and

16 (ii) in paragraph (6), by striking “,
17 but this clause (6) shall not be applicable
18 in the case of burley tobacco”; and

19 (B) by striking subsections (b) and (c).

20 (11) ACREAGE-POUNDAGE QUOTAS.—Section 4
21 of Public Law 89–12 (7 U.S.C. 1314c note), is re-
22 pealed.

23 (12) BURLEY TOBACCO ACREAGE ALLOT-
24 MENTS.—The Act of July 12, 1952 (7 U.S.C. 1315),
25 is repealed.

1 (13) TRANSFER OF ALLOTMENTS.—Section 703
2 of Public Law 89–321 (7 U.S.C. 1316) is repealed.

3 (c) TRANSITION PROVISIONS.—

4 (1) LIABILITY.—The amendments made by this
5 section shall not affect the liability of any person
6 under any provision of law as in effect before the
7 date of the enactment of this Act.

8 (2) TOBACCO STOCKS AND LOANS.—As soon as
9 possible after the date of the enactment of this Act,
10 the Secretary of Agriculture shall provide for—

11 (A) the orderly disposition of tobacco
12 stocks; and

13 (B) the repayment of all tobacco price sup-
14 port loans outstanding on such date by not
15 later than one year after such date.

16 (3) TOBACCO PRODUCER ASSOCIATIONS.—As
17 soon as possible after the date of the enactment of
18 this Act, the Secretary of Agriculture shall terminate
19 all loan agreements entered into with tobacco pro-
20 ducer associations under section 106A of the Agri-
21 cultural Adjustment Act of 1938 and provide for the
22 disposal of all funds in the No Net Cost Tobacco
23 Fund of those associations and the No Net Cost To-
24 bacco Account of the Commodity Credit Corpora-
25 tion.

1 (d) PROHIBITION ON SUBSEQUENT LOANS OR PAY-
2 MENTS.—After the date of the enactment of this Act, the
3 Secretary of Agriculture may not provide, using funds of
4 the Commodity Credit Corporation or under the authority
5 of any law, loans or price support payments for tobacco.

6 **SEC. 204. REPEAL OF SECTION 203 OF AGRICULTURAL**
7 **TRADE ACT OF 1978.**

8 Section 203 of the Agricultural Trade Act of 1978
9 (7 U.S.C. 5623) is repealed.

10 **SEC. 205. GRAZING FEES AT FAIR MARKET VALUE.**

11 (a) IN GENERAL.—Notwithstanding any other provi-
12 sion of law, the Secretary of Agriculture, with respect to
13 National Forest lands in the 16 contiguous Western
14 States (except National Grasslands) administered by the
15 United States Forest Service where domestic livestock
16 grazing is permitted under applicable law, and the Sec-
17 retary of the Interior with respect to public domain lands
18 administered by the Bureau of Land Management where
19 domestic livestock grazing is permitted under applicable
20 law, shall establish beginning with the grazing season
21 which commences on March 1, 1996, an annual domestic
22 livestock grazing fee equal to fair market value.

23 (b) NONAPPLICABILITY OF EXECUTIVE ORDER.—Ex-
24 ecutive Order No. 12548, dated February 14, 1986, shall
25 not apply to grazing fees established pursuant to this Act.

1 **TITLE III—AEROSPACE AND**
2 **HIGH-TECHNOLOGY INDUS-**
3 **TRY SUBSIDIES**

4 **SEC. 301. TERMINATION OF FEDERAL ASSISTANCE FOR**
5 **SEMATECH.**

6 Section 272 of the National Defense Authorization
7 Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4602)
8 is amended by striking subsection (d) and inserting the
9 following new subsection:

10 “(d) **TERMINATION OF GRANT AUTHORITY.**—After
11 September 30, 1998, the Secretary of Defense may not
12 make grants to Sematech under the authority of this sec-
13 tion.”.

14 **SEC. 302. TERMINATION OF FEDERAL ASSISTANCE UNDER**
15 **DEFENSE TECHNOLOGY REINVESTMENT**
16 **PROGRAMS.**

17 (a) **TERMINATION.**—(1) Subchapter II of chapter
18 148 of title 10, United States Code, is amended by insert-
19 ing after section 2503 the following new section:

20 **“§ 2504. Termination of authority to provide assist-**
21 **ance**

22 “(a) **TERMINATION OF AUTHORITY.**—After Septem-
23 ber 30, 1998, the Secretary of Defense may not make
24 grants, enter into contracts or cooperative agreements, or
25 otherwise provide assistance under the authority of the de-

1 fense technology reinvestment programs described in sub-
2 section (b).

3 “(b) DEFENSE TECHNOLOGY REINVESTMENT PRO-
4 GRAMS COVERED.—The defense technology reinvestment
5 programs covered by subsection (a) are as follows:

6 “(1) Defense dual-use critical technology part-
7 nerships under section 2511 of this title.

8 “(2) Commercial-military integration partner-
9 ships under section 2512 of this title.

10 “(3) Defense regional technology alliances
11 under section 2513 of this title.

12 “(4) Defense advanced manufacturing tech-
13 nology partnerships under section 2522 of this title.

14 “(5) The manufacturing extension program
15 under section 2523 of this title.

16 “(6) The defense dual-use extension program
17 under section 2524 of this title, including the loan
18 guarantee authority provided by subsection (b)(3) of
19 such section.

20 “(7) The Federal Defense Laboratory Diver-
21 sification Program under section 2519 of this title.

22 “(8) The Navy Reinvestment Program under
23 section 2520 of this title.

24 “(9) The maritime technology development pro-
25 gram under section 1352(c)(2) of the National Ship-

1 building and Shipyard Conversion Act of 1993 (sub-
2 title D of title XIII of Public Law 103–160; 10
3 U.S.C. 2501 note).

4 “(10) The agile manufacturing/enterprise inte-
5 gration program.

6 “(11) The advanced materials synthesis and
7 processing partnership program.”.

8 (2) The table of sections at the beginning of such sub-
9 chapter is amended by inserting after the item relating
10 to section 2503 the following new item:

“2504. Termination of authority to provide assistance.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) DEFENSE MANUFACTURING ENGINEERING
13 EDUCATION GRANTS.—Section 2196 of such title is
14 amended by adding at the end the following new
15 subsection:

16 “(l) TERMINATION OF GRANT AUTHORITY.—After
17 September 30, 1998, the Secretary of Defense may not
18 make grants under the authority of this section.”.

19 (2) MANAGEMENT TRAINING PROGRAM IN JAPA-
20 NESE LANGUAGE AND CULTURE.—Section 2198 of
21 such title is amended by adding at the end the fol-
22 lowing new subsection:

23 “(d) After September 30, 1998, the Secretary of De-
24 fense may not make grants under the authority of this
25 section.”.

1 **SEC. 303. SPACE STATION PROGRAM.**

2 The United States shall not obligate any funds for
3 the space station program, except as necessary to termi-
4 nate the program in an orderly manner.

5 **TITLE IV—NATIONAL PARKS**
6 **CONCESSION REFORM**

7 **SEC. 401. FINDINGS.**

8 The Congress finds that the right to provide public
9 accommodations, facilities, and services within the na-
10 tional park system should be based on competitive bidding
11 without preferences which may result in subsidies to exist-
12 ing concession contract holders or permittees and that
13 minimum franchise fees should be established for all busi-
14 nesses operating within the national park system.

15 **SEC. 402. DEFINITIONS.**

16 As used in this title:

17 (1) The term “concessioner” means a person,
18 corporation, or other entity to whom a concessions
19 contract has been awarded.

20 (2) The term “concessions contract” means a
21 contract or permit authorizing any person to provide
22 facilities or services, or both, at a park.

23 (3) The term “facilities” means improvements
24 to real property within a park used to provide ac-
25 commodation, facilities, or services to park visitors.

1 (4) The term “park” means a unit of the Na-
2 tional Park System.

3 (5) The term “proposal” means the complete
4 proposal for a concessions contract offered by a po-
5 tential or existing concessioner in response to the
6 minimum requirements for the contract established
7 by the Secretary.

8 (6) The term “Secretary” means the Secretary
9 of the Interior.

10 **SEC. 403. REPEAL OF CONCESSIONS POLICY ACT OF 1965.**

11 The Act of October 9, 1965, Public Law 89–249 (79
12 Stat. 969, 16 U.S.C. 20–20g), entitled “An Act relating
13 to the establishment of concession policies administered in
14 the areas administered by the National Park Service and
15 for other purposes”, is hereby repealed. The repeal of such
16 Act shall not affect the validity of any contract entered
17 into under such Act, but the provisions of this Act shall
18 apply to any such contract except to the extent such provi-
19 sions are inconsistent with the express terms and condi-
20 tions of the contract.

21 **SEC. 404. CONCESSIONS POLICY.**

22 Upon a determination by the Secretary that facilities
23 or services are necessary and appropriate for the accom-
24 modation of visitors at a park, the Secretary shall, consist-
25 ent with the provisions of this Act, laws relating generally

1 to the administration and management of units of the Na-
2 tional Park System, and the park's general management
3 plan, concessions plan, or other applicable plans, authorize
4 private persons, corporations, or other entities to provide
5 and operate such facilities or services as the Secretary
6 deems necessary and appropriate.

7 **SEC. 405. COMPETITIVE SELECTION PROCESS.**

8 (a) IN GENERAL.—(1) Except as provided in sub-
9 section (b), and consistent with the provisions of sub-
10 section (g), any concessions contract entered into pursuant
11 to this Act shall be awarded to the person submitting the
12 best proposal as determined by the Secretary, through a
13 competitive selection process.

14 (2) Within 180 days after the date of enactment of
15 this Act, the Secretary shall promulgate appropriate regu-
16 lations establishing such process. The regulations shall in-
17 clude provisions for establishing a method or procedure
18 for the resolution of disputes between the Secretary and
19 a concessioner in those instances where the Secretary has
20 been unable to meet conditions or requirements or provide
21 such services, if any, as set forth in a prospectus pursuant
22 to subsections (b).

23 (b) PROSPECTUS.—(1) Prior to soliciting proposals
24 for a concessions contract at a park, the Secretary shall
25 publish a notice of availability for a prospectus soliciting

1 proposals at least once in local or national newspapers or
2 trade publications, as appropriate, and shall make such
3 prospectus available upon request to all interested parties.

4 (2) The prospectus shall include, but need not be lim-
5 ited to, the following information:

6 (A) The minimum requirements for such con-
7 tract, as set forth in subsection (c).

8 (B) The terms and conditions of the existing
9 concessions contract awarded for such park, if any,
10 including all fees and other forms of compensation
11 provided to the United States by the concessioner.

12 (C) Other authorized facilities or services which
13 may be provided in a proposal.

14 (D) Facilities and services to be provided by the
15 Secretary to the concessioner, if any, including but
16 not limited to, public access, utilities, and buildings.

17 (E) Minimum public services to be offered with-
18 in a park by the Secretary, including but not limited
19 to, interpretive programs, campsites, and visitor cen-
20 ters.

21 (F) Such other information related to the pro-
22 posed concessions operation as is not privileged or
23 otherwise exempt from disclosure under Federal law
24 as the Secretary determines is necessary to allow for
25 the submission of competitive proposals.

1 (c) MINIMUM PROPOSAL REQUIREMENTS.—(1) No
2 proposal shall be considered which fails to meet the mini-
3 mum requirements as determined by the Secretary. Such
4 minimum requirements shall include, but need not be lim-
5 ited to, the minimum acceptable franchise fee, the dura-
6 tion of the contract, facilities, services, or capital invest-
7 ment required to be provided by the concessioner, and
8 measures needed to ensure the protection and preservation
9 of park resources.

10 (2) The Secretary may reject any proposal, notwith-
11 standing the amount of franchise fee offered, if the Sec-
12 retary determines that the person, corporation, or entity
13 is not qualified, is likely to provide unsatisfactory service,
14 or that the proposal is not responsive to the objectives of
15 protecting and preserving park resources and of providing
16 necessary and appropriate facilities or services to the pub-
17 lic at reasonable rates.

18 (3) If all proposals submitted to the Secretary either
19 fail to meet the minimum requirements or are rejected by
20 the Secretary, the Secretary shall establish new minimum
21 contract requirements and re-initiate the competitive se-
22 lection process pursuant to this section.

23 (d) SELECTION OF BEST PROPOSAL.—In selecting
24 the best proposal, the Secretary shall consider the follow-
25 ing principal factors:

1 (1) The proposed franchise fee.

2 (2) The responsiveness of the proposal to the
3 objectives of protecting and preserving park re-
4 sources and of providing necessary and appropriate
5 facilities and services to the public at reasonable
6 rates.

7 (3) The experience and related background of
8 the person, corporation, or entity submitting the
9 proposal.

10 (4) The financial capability of the person, cor-
11 poration, or entity submitting the proposal.

12 (5) Such secondary factors as the Secretary
13 deems appropriate.

14 (e) NO PREFERENTIAL RIGHTS RENEWAL.—The
15 Secretary shall not grant a preferential right to a conces-
16 sioner to renew a concessions contract executed pursuant
17 to this Act. The Secretary shall not grant a preferential
18 right to a concessioner to provide new or additional serv-
19 ices at a park.

20 **SEC. 406. FRANCHISE FEES.**

21 (a) IN GENERAL.—Franchise fees, however stated,
22 shall not be less than the minimum fee established by the
23 Secretary for each contract. The minimum fee shall be de-
24 termined in a manner that will provide the concessioner
25 with a reasonable opportunity to realize a profit on the

1 operation as a whole, commensurate with the capital in-
2 vested and the obligations assumed.

3 (b) **MULTIPLE CONTRACTS WITHIN A PARK.**—If
4 multiple concessions contracts are awarded to authorize
5 concessioners to provide the same or similar outfitting,
6 guide, river running, or other similar services at the same
7 approximate location or resource within a specific park,
8 the Secretary shall establish an identical franchise fee for
9 all such contracts. Such fee shall reflect fair market value,
10 as determined by the Secretary.

11 **SEC. 407. DURATION OF CONTRACT.**

12 A concessions contract entered into pursuant to this
13 Act shall be awarded for a term not to exceed 10 years.

14 **SEC. 408. TRANSFER OF CONTRACT.**

15 No concessions contract may be transferred, as-
16 signed, sold, or otherwise conveyed by a concessioner with-
17 out prior written notification to, and approval of the Sec-
18 retary. The Secretary shall not approve the transfer of a
19 concessions contract to any individual, corporation or
20 other entity if the Secretary determines that—

21 (1) such individual, corporation or entity is, or
22 is likely to be, unable to completely satisfy all of the
23 requirements, terms, and conditions of the contract;
24 or

1 (2) such transfer, assignment, sale or convey-
2 ance is not consistent with the objectives of protect-
3 ing and preserving park resources, and of providing
4 necessary and appropriate facilities or services to the
5 public at reasonable rates.

6 **SEC. 409. STRUCTURES AND FACILITIES.**

7 (a) EXISTING STRUCTURES.—(1) A concessioner who
8 before the date of the enactment of this Act has acquired
9 or constructed, or is required under an existing conces-
10 sions contract to commence acquisition or construction of
11 any structure, fixture, or improvement upon land owned
12 by the United States within a park, pursuant to a conces-
13 sions contract, shall have a possessory interest therein, to
14 the extent provided by such contract.

15 (2) The provisions of this subsection shall not apply
16 to a concessioner whose contract in effect on the date of
17 enactment of this Act does not include recognition of a
18 possessory interest.

19 (3) For any concessions contract entered into on or
20 after the date of enactment of this Act, the provisions of
21 subsection (b) shall apply to any existing structure, fix-
22 ture, or improvement as defined in paragraph (1), except
23 that the value of the possessory interest as of the termi-
24 nation date of the first contract expiring after the date
25 of enactment of this Act shall be used as the basis for

1 depreciation, in lieu of the actual original cost of such
2 structure, fixture, or improvement.

3 (b) NEW STRUCTURES.—(1) On or after the date of
4 enactment of this Act, if a concessioner constructs or ac-
5 quires a new, additional, or replacement structure, fixture,
6 or improvement upon land owned by the United States
7 within a park, pursuant to a concessions contract, title to
8 any such structure, fixture, or improvement shall be vested
9 in the United States but the concessioner shall have an
10 interest in such structure, fixture, or improvement equiva-
11 lent to the actual original cost of acquiring or constructing
12 such structure, fixture, or improvement, less straight line
13 depreciation over the estimated useful life of the asset ac-
14 cording to Generally Accepted Accounting Principles. In
15 no event shall the estimated useful life of such asset ex-
16 ceed the depreciation period used for such asset for Fed-
17 eral income tax purposes.

18 (2) When any contract expires or is terminated, the
19 concessioner shall be entitled to receive from the United
20 States or the successor concessioner payment equal to the
21 remaining value, if any, of the concessioner's interest in
22 any structure, fixture, or improvement at the time of such
23 termination or expiration. A successor concessioner may
24 not revalue the interest in such structure, fixture, or im-

1 provement, the method of depreciation, or the estimated
2 useful life of the asset.

3 (c) INSURANCE, MAINTENANCE AND REPAIR.—Noth-
4 ing in this section shall affect the obligation of a conces-
5 sioner to insure, maintain, and repair any structure, fix-
6 ture, or improvement assigned to such concessioner and
7 to insure that such structure, fixture, or improvement
8 fully complies with applicable safety and health laws and
9 regulations.

10 **SEC. 410. RECORDKEEPING REQUIREMENTS.**

11 (a) IN GENERAL.—Each concessioner shall keep such
12 records as the Secretary may prescribe to enable the Sec-
13 retary to determine that all terms of the concessioner’s
14 contract have been, and are being faithfully performed,
15 and the Secretary or any of the Secretary’s duly author-
16 ized representatives shall, for the purpose of audit and ex-
17 amination, have access to such records and to other books,
18 documents and papers of the concessioner pertinent to the
19 contract and all the terms and conditions thereof as the
20 Secretary deems necessary.

21 (b) GENERAL ACCOUNTING OFFICE REVIEW.—The
22 Comptroller General of the United States or any of his
23 or her duly authorized representatives shall, until the expi-
24 ration of five calendar years after the close of the business
25 year for each concessioner, have access to and the right

1 to examine any pertinent books, documents, papers, and
2 records of the concessioner related to the contracts or con-
3 tracts involved.

4 **SEC. 411. EXEMPTION FROM CERTAIN LEASE REQUIRE-**
5 **MENTS.**

6 The provisions of section 321 of the Act of June 30,
7 1932 (47 Stat. 412; 40 U.S.C. 303b), relating to the leas-
8 ing of buildings and properties of the United States, shall
9 not apply to contracts awarded by the Secretary pursuant
10 to this Act.

11 **SEC. 412. EFFECTIVE DATE.**

12 This title shall take effect on October 1, 1995.

13 **TITLE V—MISCELLANEOUS**
14 **INDUSTRY SUBSIDIES**

15 **SEC. 501. FAIR MARKET VALUE SALES OF PETROLEUM**
16 **FROM NAVAL PETROLEUM RESERVES.**

17 Section 7430 of title 10, United States Code, is
18 amended by striking subsection (b) and inserting the fol-
19 lowing new subsection:

20 “(b) Notwithstanding any other provision of law, each
21 sale of the United States share of petroleum produced
22 from the naval petroleum reserves shall be made by the
23 Secretary to the highest qualified bidder at a price not
24 less than the prevailing local market price of comparable
25 petroleum. Each sale shall be open to the public and shall

1 be conducted at such times, after such advertising, and
2 involve such amounts of petroleum as the Secretary con-
3 siders proper, without regard to Federal, State, or local
4 regulations controlling sales or allocation of petroleum
5 products. Each sale of the United States share of petro-
6 leum shall be for periods of not more than one year, except
7 that a sale of natural gas may be made for a period of
8 more than one year.”.

9 **SEC. 502. TOKAMAK PHYSICS EXPERIMENT PROGRAM.**

10 The United States shall not obligate any funds for
11 the Tokamak Physics Experiment program of the Depart-
12 ment of Energy, except as necessary to terminate the pro-
13 gram in an orderly manner.

14 **SEC. 503. ELIMINATION OF FUNDING FOR HIGHWAY DEM-**
15 **ONSTRATION PROJECTS.**

16 (a) REPEAL OF AUTHORIZATION OF APPROPRIA-
17 TIONS.—Sections 1103(b), 1104(b), 1105(f), 1106(a)(2),
18 1106(b)(2), 1107(b), and 1108(b) of the Intermodal Sur-
19 face Transportation Efficiency Act of 1991 (105 Stat.
20 2027–2063) are each amended by striking “through
21 1997” and inserting “through 1995”.

22 (b) CONFORMING AMENDMENTS.—Sections 1103(c),
23 1104(c), 1105(g)(2), 1106(a)(3), 1106(b)(3), 1107(c),
24 and 1108(c) of such Act are each amended by striking
25 “1995, 1996, and 1997” and inserting “and 1995”.

1 **SEC. 504. USE OF FEES FROM GAMING ACTIVITIES TO FUND**
2 **NATIONAL INDIAN GAMING COMMISSION.**

3 (a) INCREASE IN CAP ON AMOUNTS COLLECTED.—
4 Section 18(a)(2)(B) of the Indian Gaming Regulatory Act
5 (25 U.S.C. 2717(a)(2)(B)) is amended by striking
6 “\$1,500,000” and inserting “\$3,000,000”.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) IN GENERAL.—Section 19 of the Indian
9 Gaming Regulatory Act (25 U.S.C. 2718) is amend-
10 ed to read as follows:

11 “RESTRICTIONS ON APPROPRIATIONS
12 “SEC. 19. Except as provided in section 18, amounts
13 may not be appropriated for or otherwise made available
14 for the operation of the Commission.”.

15 (2) EFFECTIVE DATE.—The amendment made
16 be paragraph (1) shall take effect 90 days after the
17 date of the enactment of this Act and amounts ap-
18 propriated or otherwise made available for the Na-
19 tional Indian Gaming Commission (other than
20 amounts made available under section 18 of the In-
21 dian Gaming Regulatory Act (25 U.S.C. 2717) may
22 not be obligated after such 90 days.

1 **SEC. 505. REDUCTION OF OUTSTANDING LOAN, GUARAN-**
2 **TEE, AND INSURANCE AUTHORITY OF THE**
3 **EXPORT-IMPORT BANK OF THE UNITED**
4 **STATES.**

5 (a) IN GENERAL.—Section 6(a) of the Export-Import
6 Bank Act of 1945 (12 U.S.C. 635e(a)) is amended by
7 striking “\$75,000,000,000” and inserting
8 “\$37,500,000,000”.

9 (b) AUTHORITY TO IMPOSE FINANCING FEES BASED
10 ON CREDIT RISK.—Section 2 of the Export-Import Bank
11 Act of 1945 (12 U.S.C. 635) is amended by adding at
12 the end the following:

13 “(f) IMPOSITION OF FINANCING FEES BASED ON
14 CREDIT RISK.—The Bank shall charge and collect a fee
15 for the provision of a guarantee, the provision of insur-
16 ance, the extension of credit, or the participation of the
17 Bank in an extension of credit, under this Act, which shall
18 be—

19 “(1) based on the credit risk associated with
20 the transaction involved; and

21 “(2) not less than the fee that would be
22 charged for similar purposes in an arms-length
23 transaction in the private sector.”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on October 1, 1995.

1 **SEC. 506. ABOLITION OF OVERSEAS PRIVATE INVESTMENT**
2 **CORPORATION.**

3 (a) ABOLITION.—The Overseas Private Investment
4 Corporation is abolished, effective October 1, 1995.

5 (b) ADMINISTRATION OF EXISTING OBLIGATIONS.—
6 The Secretary of State shall carry out the functions per-
7 formed on September 30, 1995, by the Overseas Private
8 Investment Corporation only for purposes of administering
9 insurance, reinsurance, financing, and other contracts or
10 agreements issued or entered into by the Corporation that
11 are effective on October 1, 1995. Such functions shall ter-
12minate when all such insurance, reinsurance, financing,
13 and other contracts or agreements expire.

14 (c) TERMINATION OF PROVISIONS.—Title IV of chap-
15 ter 2 of part I of the Foreign Assistance Act of 1961 (22
16 U.S.C. 2191 and following) shall cease to be effective on
17 October 1, 1995, except that such title shall continue in
18 effect with respect to the functions performed by the Sec-
19 retary of State under subsection (b).

20 (d) TERMINATION OF AFFAIRS.—The Director of the
21 Office of Management and Budget shall take the nec-
22 essary steps to terminate the affairs of the Overseas Pri-
23 vate Investment Corporation.

1 **SEC. 507. TERMINATION OF NUCLEAR WEAPONS ACTIVI-**
2 **TIES.**

3 The United States may not obligate, in fiscal year
4 1996 or any fiscal year thereafter, any funds for activities
5 of the Department of Energy described under the heading
6 “Weapons Activities” under “Atomic Energy Defense Ac-
7 tivities” in title III of the Energy and Water Development
8 Appropriations Act, 1995 (Public Law 103–316; 108 Stat.
9 1717), except to the extent necessary to terminate such
10 activities in an orderly manner.

11 **SEC. 508. FOSSIL AND NUCLEAR RESEARCH AND DEVELOP-**
12 **MENT.**

13 The United States shall not obligate any funds for
14 carrying out fossil and nuclear energy research and devel-
15 opment for any fiscal year after fiscal year 1997.

16 **SEC. 509. REQUIREMENTS RELATING TO RECOUPMENT OF**
17 **NONRECURRING COSTS FOR CERTAIN SALES**
18 **OF MAJOR DEFENSE EQUIPMENT.**

19 (a) RECOUPMENT OF COSTS IN COMMERCIAL EX-
20 PORT SALES.—

21 (1) IN GENERAL.—Section 38 of the Arms Ex-
22 port Control Act (22 U.S.C. 2778) is amended by
23 adding at the end the following new subsection:

24 “(i)(1) Any sale involving the export of major defense
25 equipment pursuant to a license or other approval granted
26 under this section shall include an appropriate charge for

1 a proportionate amount of the nonrecurring costs incurred
2 by the United States in the research, development, and
3 production of such equipment. Such charge shall be com-
4 parable to the charge imposed pursuant to section
5 21(e)(1)(B) of this Act relating to government-to-govern-
6 ment sales of major defense equipment.

7 “(2) The charge provided for in paragraph (1) shall
8 not apply with respect to major defense equipment that
9 is at least 90 percent paid for from funds transferred
10 under section 503(a)(3) of the Foreign Assistance Act of
11 1961 or from funds made available on a grant or other
12 nonrepayable basis under section 23 of this Act.”.

13 (2) EFFECTIVE DATE.—Section 38(i) of the
14 Arms Export Control Act, as added by paragraph
15 (1), applies with respect to major defense equipment
16 sold pursuant to a contract entered into on or after
17 the date of the enactment of this Act.

18 (b) ELIMINATION OF AUTHORITY TO REDUCE OR
19 WAIVE CHARGES FOR COSTS IN FOREIGN MILITARY
20 SALES FOR NATO MEMBER COUNTRIES AND CERTAIN
21 OTHER COUNTRIES.—Paragraph (2) of section 21(e) of
22 such Act (22 U.S.C. 2761(e)) is repealed.

1 **TITLE VI—EFFECTIVE DATES**

2 **SEC. 601. EFFECTIVE DATES.**

3 Except as otherwise specified in this Act, the amend-
4 ments made by this Act shall take effect on October 1,
5 1995.

○

HR 2534 IH—2

HR 2534 IH—3

HR 2534 IH—4

HR 2534 IH—5

HR 2534 IH—6

HR 2534 IH—7