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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, we want to live this entire day with a sure sense of Your presence. We desire to do every task for Your glory and speak every word knowing You are listening. Remind us that every thought, feeling, and attitude we have is open to Your scrutiny. We commit ourselves to work for You with excellence so that, when this day is done, we will have that sheer delight of knowing we did our best for You.

Help us to use things and love people rather than using people and loving things. Grant us the ability to communicate esteem and affirmation to the people with whom we work all through this day. Help us to take time to express our gratitude for who people are, not just for what they do. Make us sensitive to those burdened with worries, problems, or heartaches and help us to make time to listen to them. May we take no one for granted. In the name of our blessed Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Georgia, is recognized.

Mr. COVERDELL. Thank you, Mr. President.

SCHEDULE

Mr. COVERDELL. Mr. President, this morning the Senate will be in a period of morning business, to accommodate a number of Members who have requested time to speak, until 11:30 a.m.

Under a previous agreement, at 11:30 a.m., the Senate will proceed to executive session to resume consideration of the NATO expansion treaty. All Senators with amendments to the resolution of ratification are encouraged to contact the managers of the treaty with their amendments with the hope of making considerable progress on the treaty during today's session.

Also, as under a previous consent, at 4:45 p.m., the Senate will begin 30 minutes of debate relative to H.R. 2646, the Coverdell A+ education bill, prior to the previously scheduled 5:15 p.m. cloture vote on the bill. As a reminder to all Members, first-degree amendments to H.R. 2646 must be filed by 1 p.m. today and second-degree amendments must be filed by 4:15 p.m.

In addition, the Senate may consider any other legislative or executive business cleared for Senate action. Therefore, Members can anticipate rollcall votes throughout today's session of the Senate.

Mr. President, it is my understanding that the next 30 minutes are under my control or my designee's.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. BROWNBACK). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak for not to exceed 5 minutes each.

Under the previous order, the hour of 9:30 a.m. having arrived, the Senator from Georgia, or his designee, is recognized to speak for up to 30 minutes.

THE A+ EDUCATION BILL

Mr. COVERDELL. Mr. President, this morning's Washington Post, and I am sure papers across the country and the electronic media outlets, were reporting on the President's assertion that our side of the aisle has somehow shortchanged education.

I find this to be exceedingly ironic as I stand here in the midst of the fourth filibuster over the last several months orchestrated by the President and his administration to block massive education proposals that vast majorities of the American people support.

We weathered a filibuster to get to the bill. Now, we have made offers to the other side so that they can bring their package for an open debate. They do not want to do that. Then we said, well, let us try to bring order to the process and have the amendments pertain strictly to the education issue. They rejected that.

So basically you have a strategy, through two events, to not allow us to end the filibuster or to just go from amendment to amendment, many of which have nothing to do whatsoever with education.

So on the front page we have the President saying that our side of the aisle is not stepping forward on education, but in the Halls of Congress and here where we are doing the people's business, he is orchestrating a filibuster. And it is the fourth or fifth one on education proposals.

People might rightly ask, well, what is the cost of this filibuster? What happens if the President is successful in blocking these education proposals?

Well, first and foremost, 14 million American families with children in school—most of which are in public schools, many of which are in private or home schools—will be denied if this filibuster continues. If we cannot end it, 14 million American families with children in school who would be given an education savings account as a tool to help them deal with their children's needs will be blocked dead.

There will be no account, which means that these American families

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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will be denied an opportunity to save upwards to $10 billion-plus over the next 8 years. So billions of dollars that would come to the support of children in classrooms all across the country, which everybody acknowledges is a problem, will never appear, not a dime. Those savings will not occur, and that support will not occur.

So some 20 million children will miss this opportunity to be helped to get a home computer, to be helped to get a tutor, a special-education requirement, after-school transportation, a school band uniform, you name it. All of those things that those billions of dollars would buy are not going to happen if this filibuster continues.

Everybody has read week in and week out a report about the problems we are having in grades kindergarten through high school. And everybody is reading about how difficult it is to pay for college. ''So let us filibuster an attempt to bring all these resources together and deny the American people the opportunity to do it.''

If the filibuster succeeds, one million students who will benefit from tax relief on State prepaid tuition plans—State prepaid tuition plans are plans where families can buy their child's college tuition in advance. States led the way almost a decade ago in this idea to help families, to guarantee education at quality State universities.

One million students who are in these plans, when they draw the money out, will be taxed on it if the filibuster continues. Twenty-one States have these plans: Alabama, Alaska, Colorado, Florida, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Ohio, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

Seventeen more States are putting these plans in place: Arizona, Arkansas, California, Connecticut, Delaware, Maine, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, and Rhode Island.

This movement to help States, help their students get good quality university educations in these quality university systems—it will not happen. And it will slow down the States that do it. And those that do have these plans and the student gets the money, they are going to be taxed, so they will have less resources.

One million workers in America, including 250,000 graduate students, would benefit from tax-free employer-provided education assistance. In other words, an employer in America could pay up to $5,250 for one of their employees to advance their education or to upscale it or to improve it. And the money would go to the employee without being taxed as if it were income, which is what happens now. That isn't going to happen if the filibuster continues. These one million workers and these 250,000 graduates will just be in tough luck. The money is not going to come to them. If it does, it is taxed.

I think, given the President's comments, this last point is very salient. If the filibuster continues, $3 billion in new tax-exempt private activity bonds, which would build schools all across our land—and if I have heard that once, I have heard it a thousand times here: we need to be concerned about building new schools, and there are dilapidated schools. The Senator from North Dakota was talking about it yesterday. Well, with the guidance of Senator GRAHAM of Florida, this provision that is being filibustered would make available $3 billion—$3 billion—in new construction possibilities across the land. And 186 school districts all across the country that are crunched by rapid growth would be denied a supplemental activity to build these schools for these fast-growing communities.

Fourteen million families, 20 million children, 1 million students in college State prepaid tuition plans, 21 States, 17 new States, 1 million workers, 250,000 graduate students, and $3 billion for new schools—none of it will happen, zero—zero, a flat straight line. And it will rest at the feet of the President of the United States. He has consciously tried to block this provision for well over a year.

Now, the obvious question is, why? Why would anybody stand in the way of 14 million families, 20 million students, these 21 States, 1 million workers? What in the world would anybody do that for? This is it. No matter what is said, how much smoke and mirrors we have around it, it is because he is wedded to the status quo and the National Education Association does not want this to happen. Kind of hard to believe. You would think that an organization dedicated to education would want all these millions of families to take advantage of it.

But here is the point. We really ought to call it a pinhead or a sliver the width of a hair, the fact that some families, some of these 14 million families, which have to be statistically insignificant, but some of them will take the money they have put in the account—remember, everybody, it is their money. This is not tax money; this is their money that they put in the savings account to help their children. It has been voluntary. We have not had to raise taxes a dime to do any of these things. We have just encouraged Americans to do it for themselves.

Several thousand of them will take the money in the savings account and will pay tuition for their child to go to a different school. For that reason, we are in the fourth or fifth filibuster and we are going to stop all of these things. We are going to stop savings, we are going to stop the tax relief, we are going to hinder the State setting up the State tuition plans, we are going to stop the million workers, we are going to stop the $3 billion in school construction, because a handful of families might use their own money to make a decision for a child to go from a public school to a private school.

I just have to say on the ledger of events, that is insane. It is utterly incredible, an egregious burden to put on an attempt to help so many and so easily. I have been surprised at how little an incentive is required to cause Americans to save. It is staggering. These billions of dollars that would go into the savings account are going in there because they will save taxes on the interest buildup. So, over the next 5 years, we will leave $750 million—less than $1 billion—in these savings accounts. We won't tax that. That will cause 14 million families to open an account and to save over $5 billion. There are not many things we can do around this town that leverage themselves that well. That is 15 to 1. I wish we could do this all day long.

These education savings accounts, 70 percent of the families who use them will have children in public schools, 30 percent will have children in private or home schools. The Joint Tax Committee says that the money will probably be about evenly divided, $2.5 billion supporting students in public, $2.5 billion supporting students in private. That is probably initially the case, because it costs more to go to a private school and those families will probably save more; they will try harder, because they are paying for public education through their property tax base and the private school has to be put on top of it. So they probably will save a little more initially.

The one thing that the Joint Tax Committee has not evaluated as yet, and in my closing minutes here I want to talk about, is that probably more important than the money is that every time a family opens a savings account, there is a switch that goes on. That family suddenly has a financial instrument that is dedicated to their child's education, and from that point forward every time they get that slip that tells them how much is in the account, they are going to be thinking about how they will use that account and what problem is their child having that needs attention.

I know this personally because years and years ago my father and I opened a savings account for two sets of twins. To this day, we still get a slip from the savings and loan association that tells us how much is left in it and how much it built up. It was all used for education. If this had been the case, my dad and I would have had twice the money that we ultimately saved. From that point on, we were reminded over and over and over about that situation because of that account. Clearly, it adds a new focus. It is like a massive PTA, so to speak.

Now, the other feature that is equally important is that, unlike any other savings account of this type, sponsors can contribute to the child's savings. Not just the family, but when grandmother comes to the birthday, instead of a gift that is tossed away as old 24 hours later, she can contribute to the

savings account, which will last a lifetime. And they will, and so will uncles and aunts, even neighbors.

Every time I talk about these savings accounts, corporations, you can see the wheels start to turn, because they are saying to themselves, ''I could watch my employees, and we can both contribute to those savings accounts. This would be a good thing for our company to do.'' Or labor unions or churches, benevolent associations—it is limitless, the imagination of the American people. We have read about these philanthropists using scholarships to help elementary schools: ''We will give them a new school.'' These philanthropists will be able to open these savings accounts early on and assure a quality college education. The ideas that will come around these savings accounts, in that they allow sponsors, have yet to be fully thought of, because Americans are so ingenious.

And none of the value of those sponsors is in any of the financial estimates. It will be billions, billions in dollars, creating one of the largest new—all of this is new money, not redirected; this is volunteered money, coming forward from a family's own checking accounts—no property taxes having to be raised, no taxes having to be raised at the Federal level. These are folks coming forward on their own, so it is all new. And it is smart money. It is smart money because it is directed right at the child's need. Public dollars have a hard time doing that.

Public dollars have a hard time finding that tutor for the math-deficient student, but the parents know what the problem is, or should, and hopefully this will help them think about it. They can put the money right on target. The child has dyslexia. Then we have a special education tutor. The child can't get to the after-school programs. We can arrange for that to happen through these accounts. Eighty-five percent of inner-city children in America today do not have a home computer. As my good colleague Senator TORRICELLI often says, how could anyone even envision coming to the new century without a home computer? Forty percent of the students in general don't have home computers, but it is 85 percent in inner-city schools.

It has been interesting to me to watch leaders in inner-city communities say, ''We want these savings accounts.'' The sacrifices they are having to make and the problems they are having to face, all of these things help them, in particular. I might add, because every now and then I hear from the other side, ''This just goes to the wealthy,'' 75 percent of all these resources go to families earning $75,000 or less—or less. I might also add that the criteria for who can use the account are identical to the little college savings account that the President signed last year.

Again, Mr. President, the hour draws near. It is duplicitous and cynical, when you are orchestrating a filibuster that denies millions of American families an advantage in education, to go out on the stage and point the finger at our side of the aisle and say we are not doing anything for education. No wonder this town reeks with cynicism. No wonder. I am trying, I say to the chaplain, to be conscious of the prayer, which was beautiful. But that is cynical.

I cannot think of a single loser in this legislation, not one; everybody is a winner. That doesn't happen around here very often. Usually on tax policy and the like, somebody is a winner at the expense of somebody else. Any child in America, no matter where they go to school, no matter the family circumstances, they have a chance to create a new tool to help deal with the educational needs of their children.

And it helps confront the high costs of college in two ways. Savings accounts could be kept until college. We protect the tax relief tuition plans in 21 States, with 17 States coming behind it, 1 million workers getting back into education, 250,000 graduate students, $3 billion in new school construction—$3 billion. And there is not a single loser. We would throw it all away, throw it all out, because some few families would use their savings account, which is their money, to pay tuition in another school. That is incredible and disappointing and cynical and denying of real benefits to the people of our Nation suffering a massive, massive problem.

Let me conclude by saying this: This has been a very strong bipartisan effort. My cosponsor is Senator ROBERT TORRICELLI from New Jersey, from the other side of the aisle. He had been tireless in his effort to make the same case, many times much more adroitly than I. Senator LIEBERMAN of Connecticut, Senator BREAUX of Louisiana, Senator GRAHAM of Florida who designed many of these provisions, Senator MOYNIHAN who designed some of the provisions of this proposal. As a matter of fact, almost 80 percent of the costs associated with the bill are on provisions associated with the other side of the aisle. I thank those Members very much for their assistance. I hope they will continue to be attentive to the dynamics of what is happening here.

The suggestion being made by the other side of the aisle that there has not been a fair balance on debate does not hold water. We are trying to keep the debate focused on education and not extraneous matters. I think that is appropriate. We are not trying to turn this into a Christmas tree. We are trying to talk about education, an education proposal. I hope we will be successful in cutting off this fourth debate later this afternoon.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I thank the Chair.

CHILDREN'S HEALTH PRESERVATION AND TOBACCO ADVERTISING COMPLIANCE ACT

Mr. REED. Mr. President, I rise today to discuss my legislation S. 1755, legislation that would amend the Internal Revenue Code to deny tobacco companies any tax deduction for their advertising and promotional expenses when those expenses are directed at the most impressionable group in our society, children.

In a recent editorial in the Journal of the American Medical Association, Doctors C. Everett Koop, David Kessler, and George Lundberg wrote, ''For years the tobacco industry has marketed products that it knew caused serious disease and death. Yet, it intentionally hid this truth from the public, carried out a deceitful campaign designed to undermine the public's appreciation of these risks, and marketed its addictive products to children.''

Numerous studies have implicated the tobacco industry, their advertising and promotional activities, as a major cause in the continued increase in youth smoking throughout the United States in recent years. Research on smoking demonstrates that increases in youth smoking directly coincide with effective tobacco promotional activities.

My legislation, S. 1755, addresses this key element in an ongoing public debate about controlling youth smoking in the United States. My legislation could stand on its own, or it can easily be incorporated into comprehensive legislation, which is beginning to be considered here in the Senate. With or without congressional action on the Attorney General's proposal and suggested settlement which took place last summer, it is time for Congress to act now to stop the tobacco industry's practice of luring children into untimely disease and death.

I am pleased to have join me as cosponsors Senator BOXER, Senator CHAFEE, and Senator CONRAD. I also want to recognize the leadership over many years of my colleagues, Senator TOM HARKIN, along with former Senator Bill Bradley, who have in the past called for the total elimination of tax deductions for tobacco advertisers. While I concur with Senator HARKIN that the deduction is a questionable use of our tax dollars, I would also like to emphasize that my legislation does not go that far.

My legislation is designed to eliminate this deduction if it is used deliberately, explicitly, and consciously to attract young people, children, to smoking. Limiting the access of children to smoking is a critical part of

any comprehensive tobacco settlement. My approach is a constitutionally sound way to do this. We have had discussions about the first amendment and the fact that the industry and others claim that only voluntary controls would be permissible under the first amendment. But it is quite clear under the first amendment that Congress has the authority and ability to limit tax deductions. So my legislation not only gets at one of the major issues involved in the debate over tobacco, it does so in a way which is completely consistent with the Constitution.

Now, the advertising restrictions I am talking about are generally those that were agreed to by the industry in their discussions with the Attorneys General. These restrictions have been incorporated in legislation which Senator CONRAD introduced, and I joined as a cosponsor, along with 29 other Senators. S. 1638, provides for and codifies those restrictions that will go a long, long way in preventing youth access to smoking.

Now, under my legislation, if the manufacturers do not comply with these restrictions, if they choose to conduct the kind of reckless advertising campaigns they have in the past, then they would forfeit the deductibility of these expenses. Now, these restrictions are appropriately tailored to prevent the advertising and marketing of tobacco directed at young people in our society. These restrictions are very similar to those proposed by the Food and Drug Administration. Indeed, they are very close to those agreed to by the industry in the June 20 proposed settlement.

Key components of these restrictions are, first, a prohibition on point-of-sale advertising, except in adult-only stores and tobacco outlets; second, a ban on outdoor advertising; third, a prohibition on brand-name sponsorship of sporting or entertainment events; fourth, a prohibition on the use of human images, cartoon characters and cartoon-type characters in their advertising; fifth, no payments for ''glamorizing'' tobacco use in performances or in media that appeals to minors; sixth, requiring black and white text advertising and labeling so as not to heighten the appeal of cigarette products on the shelf; seventh, a prohibition on tobacco product identification on entries and teams in sporting events; finally, a prohibition on Internet advertising. These are very sensible, very thoughtful restrictions and, I must emphasize, should be essentially agreed to by the industry as their way of meeting the challenge of limiting access to cigarettes by young people in this society.

On numerous occasions, the industry has said: Well, unless we get full immunity, we will not voluntarily give up our right to advertise to children. Well, today I am offering an alternative that I think would persuade them that they should stop this advertising to children. This enforcement mechanism does not rely on their voluntary compliance. It simply recognizes the bottom line of these companies and says: If you want to persist in advertising to minors, then you will forfeit the ability to deduct these expenses from your tax bill.

Now, Mr. President, the importance of this issue is enormous. The facts speak for themselves. Today, some 50 million Americans are addicted to tobacco. One out of every three of these individuals will die prematurely because of their tobacco addiction. Three-fourths of present smokers today want to quit, but they can't because it is an addiction. Less than a quarter are able successfully to quit.

Tobacco is costly in terms of lives lost and in terms of the amount of resources consumed every year in this society, which literally goes up in smoke. It is estimated that in the United States alone over $100 billion a year is expended in health care costs and lost productivity.

Each pack of cigarettes sold generates about $3.90 in smoking-related costs to society. Tobacco accounts to more than $10 billion in costs a year to the Medicare system and $5 billion each year in terms of costs to the Medicaid system. In my home State of Rhode Island, the smallest State in the Union, health expenses related to smoking were estimated at about $186 million in 1996. These are staggering totals. The cost of smoking and lives lost and resources consumed is a serious, serious issue in this country. This problem clearly starts with children.

Ninety percent of adult smokers began to smoke before they were 18 years old. The average youth smoker begins at the age of 13 and becomes a daily smoker by the age 14½. You have young people as early as 13 beginning to smoke and within a year and a half many of them are hooked for the rest of their lives.

Each year, 1 million American children become smokers, and one-third of them will die from lung cancer, emphysema, and similar tobacco-related illnesses. Unless current trends are reversed, 5 million kids who are 18 and younger today will die prematurely because of smoking. You know, there has been a lot of attention has been paid to smoking, and we are finally seeing some positive results. There are many signs that adults are beginning to realize the dangers of smoking.

In my home State of Rhode Island, the adult rate of smoking is stabilizing. But, shockingly, smoking among high school students has increased by 25 percent. This is not an accident—the tobacco industry has targeted its advertising to lure children to smoke. It is a dilemma that companies face, when every year your customers die—and many die because of your products—you have to find replacements. For generations, the industry has targeted efficiently the children of this country.

Mr. President, this is a real nationwide public health crisis. I have a chart that depicts ''students who reported smoking,'' prepared by the University of Michigan. They found that daily smoking among seniors in high school increased from 17.2 percent in 1992 to 22.2 percent in 1996. It continued to climb to 24.6 percent in 1997, representing a 43 percent increase in daily smoking among our Nation's high school seniors over the past 5 years. At a time when we are all appalled at the health consequences of smoking, we are seeing an increase in smoking among high school seniors.

It is far too easy for children to buy these products. It is against the law in every State in this country to sell tobacco products to minors. Yet, it has been estimated that children buy $1.26 billion worth of cigarettes and other tobacco products each year.

More and more, we are learning that these children are beginning to smoke because of industry advertising and promotional efforts. A recent study by John Pierce and some of his colleagues in a Journal of the American Medical Association article found clear evidence that tobacco industry advertising and promotional activities can decisively influence children who have never smoked before, to begin smoking.

Among the findings, they found that tobacco industry promotional activities in the mid-1990s will influence almost 20 percent of those who turn 17 years of age each year to try smoking. At least 34 percent of youth experimentation with cigarettes is attributed to the advertising and promotion efforts of the tobacco industry.

They surveyed nonsmokers who were in high school, and they found that among nonsmokers, 56 percent had a favorite cigarette advertisement. They have been programmed—preprogrammed, if you will—to begin to smoke. Eighty-three percent of those nominated either Camel or Marlboro as their favorite ad. In fact, Camel was the favorite among children ages 12 and 13. Again, it is no wonder, because, as we all know, companies rely on cartoon characters like Joe Camel, giveaways of hats, T-shirts, and key chains, and promote recreational activities and sporting activities, targeting much of their efforts toward young people.

Industry advertising is consistent with the history of the tobacco industry, in terms of trying to deceptively promote their products, to make of their products appear to be something they never were and never will be. They are spending huge amounts of money to do so, and they have been doing it consistently. This is an industry whose record is one of irresponsibility toward children in our society. They have said in the settlement with the Attorneys General that they want to change their culture. They recognize the bad old days and they want to do something different. I think we have to seriously question whether or not this will take place, whether or not they

will do this, unless we impose significant restrictions on their ability to influence the young people of this country.

Now, the story of the tobacco industry is, in many cases, a story of advertising in the United States. If you approach someone my age and ask them, ''What does LSMFT mean?—and I see Senator TORRICELLI here, who probably would say of course he knows—younger people might think that it is gibberish. We all know that it means ''Lucky Strike Means Fine Tobacco.'' Now, to pull that out of your subconscious, if you are 40 years or older, just like that, is because it was drummed into us persistently through tobacco advertising. It was a little jingle or acronym that kids would recognize. Then, of course, we all remember, going back years, the slogan ''sold American.'' All of these are part of our culture. All of them program young people in particular to be receptive and welcoming to the suggestion that they should smoke.

(Mr. SMITH of Oregon assumed the chair.)

If you go back to the 1950s, the industry at that time was trying to suggest that tobacco was a healthy product. They advertised, for example, ''More doctors smoke Camels than any other cigarette.'' Of course, they have someone that looks like a doctor with a cigarette. And the suggestion is pretty clear: These are good for you. If doctors smoke them, they must be great for you. We all know that is absolute nonsense.

We know, and the industry knew then, that smoking could cause serious health problems and not would benefit your health.

In 1953, another tobacco company had a slogan: ''This is it. L&M filters are just what the doctor ordered.'' This line of suggestion led consumers to the misleading conclusion that smoking was good for you.

Again, we today know as they knew then that this is precisely what a doctor would tell you not to do. But their deception and their advertisements live on. I do not know if they have really changed their culture. Today, we have Winston ads which are attempting to sound like tobacco is a health food, with promotional claims saying ''no additives.'' Of course, tobacco contains formaldehyde and chemicals that would kill you, and will kill you, if you smoke cigarettes long enough.

We also have the Camel advertisements. They have abandoned Joe Camel, the cartoon character, but now have ''Live Out Loud''—a very attractive ad, designed to appeal not to any rational decision about smoking. It is designed to be suggestive, particularly to young people, that this is a sexy thing to do, that it is an adult thing to do, it is something that has style and panache, the things young people want to have in their lives, to be grown up.

So we have an industry now that is still catering to the young people of our country.

Recently released documents from the tobacco industry trial shed much more light on what has been taking place for years. And the conclusion is inescapable. These companies have been targeting the young people of America. News reports recently disclosed that an RJR researcher named Claude Teague wrote in a 1973 memo, ''if our company is to survive and prosper, over the long-term we must get our share of the youth market.''

Documents obtained through the Mangini litigation further document these efforts. A presentation from a C.A. Tucker, vice president of marketing, to the board of directors of RJR Industries in 1974 concluded: ''This young adult market''—let me stop for a moment. ''This young adult market''—if you ask me who is the young adult—I would say a young adult is 24, 25, 26. What does the industry think a young adult is?

> This young adult market, the 14–24 age group . . . represent(s) tomorrow's cigarette business.

That same presentation said:

> For Salem, significant improvements have been made in the advertising, designed for more youth adult appeal under its greenery/refreshment theme. These include: More true-to-life young adult situations. More dominant visuals. A greater spirit of fun . . . for Camel filter, we . . . will have pinpointed efforts against young adults through its sponsorship of sports car racing and motorcycling.

That is a 1974 memo. Contemporary advertisements for another brand, Kool, has the same strategy, same approach; exciting young themes; auto racing; green, cool, clear colors; excitement; vitality; robust—all of the things that ultimately are the exact opposite of long-term cigarette smoking; again, very attractive; deliberately targeted to attract a wide audience, but certainly to attract young people to smoke.

The Mangini documents also indicate that RJR had been secretly conducting extensive surveys on the smoking habits of young people for years and years.

A 1990 document on ''Camel Brand Promotion Opportunities'' states that, ''(t)arget smokers are approaching adulthood . . . their key interests include girls, cars, music, sports, and dancing''—again, heightening the appeal to the youth market. You can see it reflected in advertisements. What could be more exciting and dramatic than a race car driver?

In 1982, the chairman and chief executive officer of R.J. Reynolds Tobacco Company, Edward Horrigan, testified before the House Commerce Committee that, ''(p)eer pressure and not our advertising provides the impetus for smoking among young people.''

And this is a consistent argument that the industry makes: It is not advertising, it is just peer pressure among young people wanting to be like their buddy. That was 1982.

A 1986 memo on the new Joe Camel advertising campaign—Joe Camel, a product of R.J. Reynolds Tobacco Company—said:

> Camel advertising will be directed toward using peer acceptance/influence to provide the motivation for target smokers to select Camel. Specifically, advertising will be developed with the objective of convincing target smokers that by selecting Camel as their usual brand they will project an image that will enhance their acceptance among their peers.

What could be more cynical? What could be more hypocritical than standing before the House Commerce Committee, and saying, ''It is not our advertising, it is peer pressure,'' and then conducting campaigns that are deliberately designed to create that peer pressure?

As I said before, if you look at these documents, they persistently refer to the ''young adult smoker.'' So the industry will say, ''Well, of course we are trying to get customers, but they are young adults.'' But their vision of the young adult is much different than my vision, and I think any reasonable person, because it became a code word for teen smokers.

For example, a 1987 document discussing ''Project LF'' Camel Wides, states, ''Project LF is a wider circumference non-menthol cigarette targeted at younger adult male smokers, primarily 13–24 year old male Marlboro smokers.''

Another document suggested, as a way of operating within advertising restrictions, ''transfer(ing) Old Joe (Camel's) irreverent, fun loving personality to other creative properties which do not rely on models or cartoon depictions.''

Again, the beat goes on. The excuses change. The rationalizations change. The characters change. Old Joe Camel takes a seat on the bench. But another fun-filled, irreverent theme designed similarly to attract young people takes its place.

Given this record, I am deeply skeptical that this industry will truly reform. Unless we have strong provisions which make it in their economic best interests to change, they will not change. That is, once again, why I think this legislation is very, very important.

This industry spends a huge amount of money each year to try to hook kids on tobacco. We know from the documents and from the research, that this is one of the major motivating factors. We know that advertising plays a pivotal role in the decision of young people to smoke. We know they try to use peer pressure. We know that for years they have tried to attract generation after generation of young people to smoking.

We know the advertising pays off. Eighty-six percent of underage smokers prefer one of the most heavily advertised brands—Marlboro, Newport, or Camel. The barrage of advertising has a devastating and deadly effect on our children.

One of the advertising campaigns that has been most subject to scrutiny in the last few years has been the Joe Camel campaign by R.J. Reynolds.

When they began this campaign Camel's market share among underaged smokers was 3 percent. Within 3 years of Joe Camel, the cartoon character, the giveaways, the promotional items, underage market share jumped to 13 percent—13 percent who would likely become long-term smokers.

Although Congress banned television advertising in 1970, the companies routinely get around it through the sponsorship of televised sporting events.

Marlboro did an analysis of an automobile race they sponsored. Again, it is against the law to advertise on TV. It was found that the Marlboro logo was seen 5,093 times during this televised broadcast race, accounting for a total of 46 minutes of exposure during a 93-minute program. That is probably better than if they were buying 30-second spots to sponsor the show directly.

Data from the Federal Trade Commission shows how much the industry spends, which has increased dramatically over the last twenty years.

In 1975, the industry spent $491 million. In 1995 alone, tobacco manufacturers spent $4.9 billion—$491 million in 1975; by 1995, $4.9 billion. On Tuesday, the Federal Trade Commission released their most recent numbers from 1996 showing that advertising expenditures increased 4 percent over 1995. The industry spent in 1996 over $5 billion.

We are helping, however, because the industry is able to deduct these expenses. Generally, they can deduct 35 percent of these expenses through their business operations. In 1995, this subsidy—our contribution to hooking kids—amounted to $1.6 billion in lost revenue to the Federal Treasury.

This is not an insignificant amount of money. In fact, year by year, the amount of tax expenditures on advertising that the industry has won through this provision of the Internal Revenue Code has increased. In effect, we are subsidizing them to conduct Joe Camel campaigns. We are subsidizing them to build peer acceptance and peer pressure for young people to smoke. In 1995, the cost of the cigarette advertising deduction covered the total amount the industry spent on coupons, multipack promotions, and retail value-added items, like key chains and giveaways, in addition to point of sale. In fact, many of these items are the things that kids like the most—the jackets, the T-shirts, and the hats. The things that are trendy among young people are effectively paid for by the tax deduction.

Over the last few decades, the industry has changed some of their tactics, but their goal remains the same. With the demise of television advertisements—I must point out at this time that there are some commentators who suggest that the reason the industry was so cooperative in ending television advertising at that time, the late 1960s, was because there were good antismoking commercials on TV that began to have an effect—that people, when confronted with a good countercampaign, begin to think twice. But, nevertheless, the industry is off the air. But what they have done is shift their approach.

You can see from this chart, which depicts various categories of advertising, that biggest jump—from 1985 to 1995—was in the area of specialty items. These include shirts, caps, sunglasses, key chains, calendars. In 1985, the industry spent $211 million. By 1995, they were spending $665 million.

Again, these are the types of promotional items that are most appealing to young people. The industry has increased their expenditures on public entertainment. Public entertainment includes the sporting events and other public events, which mean exposure to a wide audience, but is significantly comprised of children.

Spending has declined in newspaper and magazine advertising. Once again, this is a changing strategy, but a very consistent goal; to fill the ranks of dying smokers each year with a new generation of Americans.

Now, let us put this in perspective. The industry is spending $4.9 billion on advertising. That is double the Federal Government appropriations for the National Cancer Institute and four times the appropriation for the National Heart, Lung and Blood Institute. In 1995, the tobacco industry spent, as I said, $4.9 billion on advertising, 40 times the amount we are spending on lung cancer research.

There are issues before us with respect to the Constitution, the first amendment. Indeed, I think my legislation is within our province. Clearly, it does not run afoul of the first amendment, which none of us in this Chamber would like to do. I believe the restrictions in Senator CONRAD's bill would stand constitutional muster. It is clear these provisions, removing the deduction, stand strongly in support of the first amendment.

Mr. President, we have to act, and we have to act promptly. There are literally thousands of children each day who are becoming addicted to tobacco. They will die prematurely. We can save many of them if we act. The industry has demonstrated through many, many years that they are dedicated to the bottom line and are indifferent to the health of the American children. It is our responsibility to protect the children of this country. We should have no illusion. They will only stop targeting children when it costs them money. We should ensure, at a minimum, that we do not subsidize their appeal to children, we do not support their efforts to target children, and that we will disallow their deduction if they do not change their practices and begin to advertise responsibly to the adults of this country and not the children of this country.

Mr. President, I yield back the remainder of my time.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to use up to 15 minutes of the time Senator HAGEL was allotted this morning.

The PRESIDING OFFICER. (Mr. SMITH of Oregon). Without objection, it is so ordered.

RELIGIOUS PRISONERS CONGRESSIONAL TASK FORCE

Mr. BROWNBACK. Mr. President, I take this opportunity to introduce to the Senate and to the United States the formation of the Religious Prisoners Congressional Task Force, which will advocate for religious prisoners suffering persecution from foreign governments.

This bicameral, bipartisan task force was founded by Representative JOE PITTS, from Pennsylvania, who has been the leading force on this, and myself. We are also joined by Senator JOE LIEBERMAN, from Connecticut, and Representative TONY HALL, from Ohio, on this joint task force. I would also note at the very outset that many Members are active in this work and have been for a number of years, such Members as FRANK WOLF, from Virginia, who for years has advocated for those who have no voice, who are prisoners of conscience in dirty cells and jails around the world; people like Senator LUGAR in this body, who has done so quietly and effectively with many leaders of Government as have other leaders as well. And there are many ongoing efforts along with this task force we are announcing here today.

As leaders in a nation which ardently values religious freedom—indeed, our Nation was founded upon the principle of religious freedom—we take this opportunity to intervene at the highest levels for those whose greatest crime is to express a belief in the divine, in God. It is my personal conviction that what one does with one's own soul is the most fundamental of human rights. I believe this is a fundamental liberty with which people throughout the world are endowed, the inherent right to do this, to freely express their faith. Yet national governments routinely breach this right and wrongfully silence peaceful minority faith communities and jail their leaders.

The statistics are striking. Fully one-half of the world's religious believers are restrained by oppressive governments from freely expressing their religious convictions. One-third to one-half of the world's believers are forced to meet clandestinely in underground cell groups or home churches, such as occurs frequently in China and Iran and many other places around the world.

Religious persecution is waged internationally from the highest levels of government, particularly Communist and ultranationalist countries. One successful strategy is to intimidate and control believing communities by incarcerating respected religious leaders, bringing the full weight of a national government against key individuals. These prisoners suffer abuses including beatings, torture, extended incarceration and even death unless intervention is made. Such violations strike at

the heart of the religious communities while blatantly breaching international treaties and fundamental human rights standards. We have the legal mandate for this action.

Through this task force, we will appeal to heads of state, both to obtain release of key religious prisoners and to help change antagonistic policies. Individual prisoners will be assigned to individual task force members through this advocacy adoption program.

When congressional Members petition Government leaders, the lives of religious prisoners change. Experienced human rights groups confirm this as well as some of our task force members such as TONY HALL and JOE PITTS, who confirm that such intervention improves prison conditions, stops torture and, most importantly, results in prisoner releases.

Ultimately, the joint effort of several Members can influence hostile national policies for the good. Moreover, task force members will engage in joint protests with members from the British Parliament who have implemented a similar prisoner adoption program, providing further weight to this advocacy.

As I speak to you today, thousands are sitting in cramped and dirty cells, for no other reason than that they peacefully expressed their religious beliefs. Most are nameless and lack advocates, yet they are the Sakharovs and the Solzhenitsyns of our day, and they deserve our help.

The national cases that we will advocate involve advocacy for embattled religious leaders in the Sudan, Pakistan, China, Iran, and Tibet and include persecuted Christians, Tibetan Buddhists and Bahais. The following case profiles of incarcerated believers worldwide illustrate the extremities faced by these communities.

In China, one of the people we will initially be advocating for is Bishop Su. He is a 65-year-old Catholic bishop who has already spent 20 years—20 years—in jails and work camps. His crime is that he believed in papal authority, which is prohibited by the Government, and refuses to join the state-authorized Catholic Church, which rejects the Vatican. Previously he was severely tortured but continues to refuse to recant his faith.

Also in China, Pastor Peter Xu, the Protestant leader of a 3- to 4-million member Christian movement, has been sentenced to 3 years in a forced labor camp for his peaceful but unofficial religious activities. His case highlights the plight of unregistered Christian groups which are forced to meet clandestinely to avoid arrest and harassment. Such house churches remain unregistered so that they can freely practice their faith without Government control and censorship. These underground movements constitute a majority of practicing Christians in China, and their leaders constantly face arrest and incarceration.

In Iran, the task force has targeted four Bahais leaders who have been sentenced to death for the simple reason of their religious associations. They are presently incarcerated and awaiting execution. The death sentence is no idle threat. Over 200 Bahais have been executed, including women and teenage girls. And this just since 1979.

In Pakistan, four Christians have been falsely charged with blasphemy against the Prophet Muhammed. If convicted, they will be executed. Blasphemy charges are potent weapons of intimidation and control of minority Christian communities in Pakistan. Sometimes violence erupts against entire towns. For example, last year in Shantinagar, a Christian town—we have a picture of this that I would like to show the body—20,000 were rendered homeless after a mob looted and ravaged for 2 days as police stood by and watched.

This is a picture here that we have of a family in that community that was dislocated when the mob violence came and the police stood idly by.

In Tibet, the 11th Panchen Lama of Tibet, a 6-year old boy, has ''disappeared'' and most likely is being held by the Chinese Government along with his family, in an attempt to control the Tibetan Buddhists. This is a deep assault on the Buddhist faith which honors this figure as second only to the Dalai Lama, who is now also outlawed. Tibetan Buddhists are suffering a systematic policy of eradication with monasteries being razed and monks and nuns incarcerated. One prison alone boasts over 100 monks and nuns who are presently jailed just for their faith. This does not include the unknown numbers incarcerated in the other six prisons.

I want to show some pictures to the body of people who have been incarcerated, penalized, and attacked by governments for simply practicing their faith. We remember those people pictured in various places throughout the world that you can see, pictures of individuals who are being persecuted for their faith.

This is another picture of people who are practicing their faith clandestinely at a place in the world where they cannot practice their faith in the open.

The gentleman's picture over here to the far right is also a true case of an individual blindfolded and being attacked for his own faith. Even though he is blindfolded and you cannot see his eyes, you can sense in his face that here is a man of faith who knows what he is facing, knowing that death is potential, and still standing for his faith, for that simple right to do with his own soul what he sees fit. Isn't it right for us to advocate for those who cannot advocate for themselves? Isn't it up to this body and many others to say that this is a fundamental human right, that this man should have an advocate, that we should be standing with him as he stands there for the simple reason of his own faith, whatever that faith might be? This is a foundational human right. It is time we stood up, stepped forward and spoke out around the world to the world's governments where half of the people live who cannot practice their faith freely. This is the time for us to do that. I hate to think that we will not step up or we will not be up to the cause of the moment, people such as this gentleman, who stands and faces so much more.

Mr. President, in conclusion, we hope that the Religious Prisoners Congressional Task Force, along with many other efforts, will be a voice for religious freedom internationally. Our goal is the release of prisoners who have taken a stand for religious liberty, those who have paid the high price of loss of freedom and threat to life and even death. They deserve our advocacy for this most personal of human rights, this most important of human rights, to freely express a belief in God.

With that, Mr. President, I yield the floor.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CORPS OF ENGINEERS SWEEPSTAKES II

Mr. GORTON. Mr. President, these remarks are the second in a series that I call ''The Corps of Engineers Sweepstakes.'' Two or 3 weeks ago I was on the floor to speak about a series of foot-dragging and irrational decisions on the part of the Corps of Engineers in an area that affects not only your State and mine, including its proposal to bury an archeological site on which a 9,000-year-old human skeleton had been found. Because of the wishy-washy answers on that subject from the corps, there is now included in the supplemental appropriations bill about to be discussed on this floor a prohibition against the corps destroying that archeological site.

But the corps is at it again, another installment in the comedy of errors. The bureaucrats in the Army Corps of Engineers office in Walla Walla, WA, have taken it upon themselves to promote and publish a survey of public opinion on the removal of four dams on the lower Snake River. The corps right now, today, is in the process of distributing this survey to some 12,000 people. Sending out a survey to 12,000 people to determine what they think about removing dams is one thing. But if you are the winner in this sweepstakes and get one of the surveys in the mail, out of the envelope drops a $2 bill. The corps is using $24,000 in taxpayers' money just to put $2 bills in the envelope that contains the survey.

But that is not all. You get $2 for being the passive recipient of the survey. If you fill it out and send it back

to the Corps of Engineers, they will send you another $10. That is much better than the odds in any of the multitude of sweepstakes we receive that say you may be a winner if you send it in, with odds of 100 billion to 1. Everybody gets the $2, and everybody who sends the survey in gets the additional $10. If they all answer, that is $144,000 of the taxpayers' money.

Mr. President, both you and I are constantly on the backs of the corps to engage in constructive projects that really mean something for us. I am sure you have received the same reaction that I have, on a number of occasions, that ''We just don't have enough money to do that. You are going to have to appropriate more.'' Here is $144,000, plus the cost of the survey, designing it and totaling it up. That simply is a waste of money. Am I to believe that the Corps of Engineers is truly broke when it is littering mailboxes in my State with $2 bills and promises of more? Last night, when I was discussing this with a friend, he laughed and said that he had recently gotten a survey from Lexus about luxury automobiles. In dealing with automobiles that cost more than $35,000, Lexus promised that if you sent in the survey they would send you $1. Luxury automobiles, $1 per survey; the Corps of Engineers on removing dams, $12 per survey. This is just not the way in which to spend taxpayer money. This is not going to increase confidence in the way that our Government spends our money.

This is such a totally outrageous use of the taxpayers' money that I cannot resist the temptation to make more than one set of remarks on the floor on the subject, so I can promise you, Mr. President, that I will be back next week to tell you what is in the survey. If you are shocked about free $2 bills and free $10 bills from your friendly neighborhood Corps of Engineers office, wait until you, as a Senator from Oregon, see the totally distorted way in which the corps seeks your views, completely stacked toward one set of answers to the questions rather than an objective survey. But that is for another time.

For this morning, the sole remark is: Here is this Government agency, constantly crying poverty to us when we have constructive activities for it to engage in, dropping $2 bills in mailboxes across southeastern Washington, and maybe a part of Oregon, for all I know, and promising $10 more for 5 minutes' worth of work in filling out a phony survey.

This is not the way we should be spending our taxpayers' money.

WIDESPREAD EDITORIAL SUPPORT FOR INCREASING THE H–1B CAP

Mr. ABRAHAM. Mr. President, I rise today to draw the Senate's attention to several editorials from across the country that endorse an increase in the number of skilled professionals who are allowed in on H–1B visas.

The American Competitiveness Act, which I have introduced along with Senators HATCH, MCCAIN, DEWINE, SPECTER, GRAMS, and BROWNBACK, approaches the shortage of high-tech workers problem in both the short and long term. The bill will increase the annual number of H–1B visas that awarded to foreign-born professionals by approximately 25,000 this year, and will create 20,000 scholarships a year for U.S. students to study math, engineering, and computer science.

The cap of 65,000 on these visas will likely be reached in May, four months before the end of the fiscal year. This will cause considerable disruption at U.S. companies and universities. Without legislative action, this problem will worsen each year until companies will no longer be able to count on access to key personnel that help fuel growth.

If American companies cannot find home grown talent, and if they cannot bring talent to this country, a large number are likely to move key operations overseas, sending those and related jobs currently held by Americans with them. We do not want that to happen.

Mr. President, I ask unanimous consent that these articles be printed in the RECORD.

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

HIGH-TECH TALENT: DON'T BOLT THE GOLDEN DOOR

(By Howard Gleckman)

Perhaps she's named Irina—a brilliant computer engineer from Kiev. She wants to come to the U.S. and bring her dreams of developing the next breaththrough in communications software. But if she doesn't make it in the next few weeks, she probably will be turned away.

That's the sad result of bad immigration policy. In 1991, Congress set quotas that allow only 65,000 high-tech workers to enter the country annually. The cap was part of a larger scheme to stem the flow of immigrants, legal and illegal. But with American companies scrambling to find programmers, engineers, and other highly skilled workers in a tight labor market, business fears the 1998 quota could be filled by May.

ON THE CHEAP

The high-tech industry is working with Senator Spencer Abraham (R-Mich.) to raise the annual quota of these so-called H1-B visas to 90,000. But companies are getting a chilly response from the Clinton White House, which argues that U.S. employers are trying to get foreign workers on the cheap when they should be investing more money in educating and training the domestic workforce. ''Companies shouldn't be able to say, 'We'll use immigration law as our way out,'" says White House economic policy coordinator Gene B. Sperling.

The debate over wages and education misses the main point: The U.S. shouldn't bar entry to skilled and creative people at all. At the same time, there's no question that U.S. businesses must support and generate efforts to raise the quality of math and science schooling to ensure a sufficient domestic crop of programmers and engineers in the future.

But such educational reform will take years. In the meantime, skilled immigrants who want to work in the U.S. should be welcomed with open arms. Top-notch workers, no matter what their nationality, stimulate an economy, creating wealth and improving living standards overall.

Indeed, the high-tech revolution now helping to fuel U.S. economic expansion might not have been so powerful without the drive and creativity of gifted immigrants. Everyone knows about Andrew S. Grove, the Hungarian who co-founded chip-making giant Intel Corp. But there are hundreds of others. Two of Sun Microsystems Inc.'s founding quartet were foreigners. At Cypress Semiconductor Corp., four of 10 vice-presidents are immigrants—from Britain, Germany, the Philippines, and Cuba. Says Cypress CEO T.J. Rodgers: ''What would [the U.S.] look like if the computer chip had been created in Europe because of our lousy immigration policy?''

Many immigrants arrive as students. Alan Gatherer, branch manager of wireless communications at Dallas-based Texas Instruments Inc., came from Scotland to study at Stanford University. Simon Fang, who now works on complex integrated circuits at TI, is originally from Taiwan. He also came to the U.S. to attend graduate school, and thanks to an H1–B visa, was able to stay.

WHIZ KIDS

The ivy path makes the current visa restrictions all the more perverse. Foreign students come to the U.S. to profit from the best graduate education in the world. Some take jobs here. But under H1–B visas, they must pack their bags six years later. Other countries get the benefit of these U.S.-trained engineers and scientists.

When these immigrants leave, the U.S. loses more than just their talents. An extraordinary number of their children achieve great success, too. Example: Of the 40 finalists in this year's prestigious Westinghouse Science Talent Search Award, 16 are either foreign-born or children of immigrants.

Critics say immigrants take jobs from native-born Americans. Maybe a few do. But articial barriers won't protect U.S. jobs for long. If U.S.-based companies can't get the skilled workers they need at home, they will set up shop elsewhere—be it Dublin or Kiev. ''We are disarming the economy of the United States if we don't allow skilled workers to come in,''argues Dell computer Corp. CEO Michael S. Dell.

That's why it is essential for the U.S. to nurture the best workforce in the world. It shouldn't matter whether these top-notch employees are born in New York or New Delhi. America, a nation of immigrants, should never turn its back on people who want to come here to work. They have too much to offer.

[From the Detroit News, Feb. 21, 1998]

CLOSING THE SKILLS GAP

Republican Sen. Spencer Abraham of Michigan is drafting a bill that would help neutralize what is perhaps the single biggest threat to America's economic boom: a shortage of high-tech workers. The bill, which will propose raising the 1990 cap on highly skilled temporary workers from abroad, deserves the support of all those who want to see continuing gains in American prosperity and standard of living.

The rapid pace of economic growth combined with record low unemployment have created a paradoxical situation: High-tech companies, the engine of much of the economic growth, cannot find enough skilled workers to sustain current growth levels. A study conducted by the Information Technology Association of America estimates that there are more than 346,000 unfilled positions for highly skilled workers in American companies.

Should his situation persist, the Indiana-based Hudson Institute, a prominent think tank, estimates that in just a few years it will cause a 5 percent drop in the growth rate of total economic activity, also known as gross domestic product. That means a whopping $200 billion loss in national output—nearly $1,000 for every American.

''It is as if America ran out of iron ore during the industrial revolution,'' one industry official notes.

The problem is particularly acute in Michigan, where high-tech needs are higher and the unemployment rate is lower than the national average. Indeed, so severe is the crunch of skilled workers here that many high-tech employers in Oakland County recently convened a conference to discuss ways of attracting more workers to the state.

Despite the burgeoning demand, the immigration ceiling for highly skilled immigrants has remained fixed at 65,000 for the past eight years. Indeed, for the first time in history, American employers last year reached this cap one month before the end of the fiscal year. This year they are expected to hit the limit even sooner.

Protectionists and nativists will no doubt denounce Sen. Abraham's bill as a threat to American workers. Many call for increased subsidies for ''job training'' programs. But such programs have seldom yielded the promised benefits.

The real threat to American workers is that companies will be forced to move abroad in search of talent.

[From the Seattle Times, Feb. 23, 1998]

END NATIVIST HIRING CAPS

For six years, Congress has mandated that the high-tech industry compete with one hand tied behind its back. It's time to loosen the cuffs.

The handicap comes in the form of an obscure immigration limit called the H–1B visa program. The product of a nativist backlash against highly skilled foreign workers, the law prevents software firms, tech companies and others from freely employing the best and brightest around the world. The 1990 provision set a national cap on visas for foreign professionals—including computer engineers, programmers, doctors and professors—of 65,000 a year. Demand has skyrocketed and the high-tech industry faces a critical labor shortage.

Supporters of the cap say imported workers are stealing jobs for native-born professionals. Nonsense. From its founding, this country's economic growth and intellectual achievements have been fueled by talented immigrants, not curtailed by them.

The domestic textile industry, space program, physical sciences, biotech and computer industry all gained from the contributions of immigrants—many of who become tax-paying American citizens, created thousands of new jobs for their fellow countrymen, and greatly increased the nation's stock of human capital. Just consider: A third of all American Nobel Prize winners were born overseas.

Twelve percent of the fastest-growing firms in the nation today were founded by immigrants. Andrew Grove, a Hungarian emigre, was the force behind Intel. Charles Wang, a Shanghai native, founded Computer Associates—a company employing thousands and generating millions of dollars each year. Eckhard Pfeiffer, CEO of powerhouse Compaq, is from Germany.

Microsoft relies on skilled immigrants for about 5 percent of its work force. At Seattle-based ZymoGenetics, two foreign recruits—one from India and one from Austria—collaborated on a new form of insulin that captured 45 percent of the world market and catapulted the local biotech firm to success. The stories of immigration-inspired innovation and job creation in the Puget Sound region are endless.

Certainly, the federal government should support efforts to train (or retrain) a home-grown, high-tech work force. But the key lesson here is that immigration is not a zero-sum game. Labor produces more labor; there is no finite number of jobs in any industry.

Next week, Congress will hold hearings to re-examine the H–1B visa limits. Nativist demagogues will protest loudly. But erecting barriers to a small but invaluable stream of skilled immigrants hurts no one but ourselves.

If lawmakers ignore employers, don't be surprised if high-powered high-techs move jobs overseas or contract out to foreign firms. By curtailing through foolish hiring restrictions the flexibility and growth of some of the nation's most dynamic industries, ''America First'' demagogues are putting America last.

[From the Fairfax Journal, Mar. 10, 1998]

JOBS GO BEGGING

Those who calculate such things say that more than 19,000 high-tech jobs are going begging in Northern Virginia. The situation is bad enough that firms offer bounties to employees who lure in others with particular skills. Meanwhile, a Virginia Tech study done for the Information Technology Association of America suggests that more than 340,000 highly skilled positions are unfilled around the country—more than the population of Arlington, Alexandria, Fairfax City and Falls Church combined.

Those numbers have spawned hurry-up efforts in Northern Virginia (Northern Virginia Community College and the Herndon-based Center for Innovative Technology are major players) and around the country to train more computer-savvy workers before American companies start to lose their competitive edge globally or the companies feel compelled to ship more work overseas.

But in addition to workforce training efforts, high-tech companies ought to be able to bring more of those foreign workers to our shores before they ship jobs elsewhere.

Bills introduced in Congress by Rep. Jim Moran, D–8th District, and Sen. Spencer Abraham, R-Michigan, would increase companies' access to foreign professionals. Abraham's bill, would increase the cap on ''H1–B'' visas to 90,000 workers a year from 65,000. The H1–B program allows companies to sponsor foreign professionals who generally get permission to stay for six years. In 1997 the 65,000 cap was reached in August and this year companies are expected to reach the cap in May—such is the demand.

Moran's bill, part of a package designed to train more high-tech workers, would allow the Secretary of Labor to grant permanent residency status to information technology professionals for three years without quotas, as is done now with nurses and physical therapists—as long as the efforts don't take away jobs or earnings from Americans. Indeed, the job vacancies suggest that no skilled worker, native-born or immigrant, is scrounging for work at the moment.

Moran's measure goes in the right direction, although anti-immigrant sentiment around the country is strong enough that he might have to resort to a cap of some sort as a political fallback. In any event, measures that open up American access to highly trained technology professionals deserve the support of the entire Northern Virginia delegation in Congress.

Allowing more foreign professionals into the U.S. makes all the sense in the world. It would help keep the economy humming in technology hubs such as Northern Virginia, and it would give companies second thoughts about taking jobs overseas. Further, these workers are anything but budding welfare cases. They have to be paid the prevailing wage for their skills—and the wages are darn good.

High-tech firms say that easing the worker shortage is critical to maintaining growth and competitiveness. Increasing the number of Americans who receive high-tech training, and bringing in more foreign workers who can do the work, are two parts to improving the situation. There are enough jobs going begging to try both approaches.

SPECIAL EDUCATION FUNDING

Mr. GREGG. Mr. President, I noted today that the President, speaking before his labor union leadership in Las Vegas, attacked the Republican budget and Members of the Republican Senate who voted for that budget, I being one, for underfunding his initiatives in education.

I believe that deserves a response because it is a duplicitous statement, to be kind. Let's talk about what has actually happened here. The President sent us a budget. It was a budget which was supposed to follow the agreements which we had reached last year under the 5-year budget agreement which reaches a balanced budget. But because new funds have been identified, according to the President, as a result of the tobacco settlement, he decided to change that.

Prior to sending us a budget, the President for days went out on the trail and proposed new program after new program after new program—140 I think is the number, $140 billion worth of new programs. Some of that was money on top of old programs, but the majority of it was on new programs, and all of it was outside the original budget agreement, and so he has sent us his budget which proposes all this new programming.

Now, what did the members of the Republican Budget Committee do, and what did the Republican membership of this Senate do in passing the budget out of committee last night? We did two things. One, we said we reached an agreement last year so let's stick with that agreement. Let's continue to work towards balancing this budget. That happens to be a priority.

In that context, we funded child care initiatives, new child care initiatives to the tune of $5 billion, bringing the total child care initiatives in this Congress being funded to somewhere in the vicinity of $74 billion. At the same time, we funded an expansion in NIH research activities, over $15 billion over the next 5 years, a huge expansion, a 40 percent increase in NIH funding.

We also said that if there is a tobacco settlement, the proper place to put that money is in the Medicare accounts. Why? Because as we have learned, Medicare is the most threatened major Government program that we have today. We know that Medicare

goes broke in the year 2005, 2007, somewhere in that range. It is essential that we fund that program so that senior citizens will have insurance.

What is one of the main drivers of the cost of Medicare? Tobacco smoking. In fact, a recent study—I think it was done at Harvard—concluded that it cost $24 billion a year in Medicare costs in order to address the issue of tobacco. And so it is appropriate that any tobacco settlement money should go to the Medicare accounts. And that is what we decided to do.

We also did something else, and this is on what I wanted to focus. We decided that the Congress should live up to its obligations in education to the special-needs children. Back in 1975, the Congress passed a law called the IDEA, 94–142, which said that children with special needs should have adequate education, and should be able to do it in the least restrictive environment. It was a good bill. It was an excellent law. As a result of that law, many children who had been shuttled off out of the local school systems, who had been put, unfortunately, in back rooms with teachers who had no experience and no skills to work with them, many children who simply because of their physical disability or their emotional problems were basically treated as pariahs within their school systems, were brought into the light and were given good educations.

It has been an extremely successful undertaking. But at the time that we passed that law we said to local school districts, listen, we know this is going to be very expensive. We as a Congress know we are asking you to do something that is very expensive, so we as a Congress will pay 40 percent of the cost of the education of that special-needs child.

Congress, acting as Congress unfortunately does so often, and the Presidency, acting also in concert, have not fulfilled their obligation to pay 40 percent. No. In fact, as of 2 years ago, the Federal share that was being paid was down to 6 percent of the cost of the education of the special-needs child.

So what had happened in the school systems? In local school systems across this country, special-needs children and their parents were being pitted against the parents and children who did not have need for the resources of those special-needs children.

What you had, I know very well, in school systems in New Hampshire was that over 20 percent of the local school dollars were going to support the special-needs child, and they still are. It was not unusual to cost $10,000 a year just for transportation of a special-needs child. Sometimes it would cost $30,000–$40,000 a year for the education of the child. And this was a situation where the special-needs child was not asking for something outrageous. They were asking for their rights under the law.

Unfortunately, in asking for those rights, they were finding themselves pitted against the parents of the other children in the school system and the local taxpayers.

Why was that? Well, because the Federal Government was not paying its fair share of the cost of that education. And the practical effect of that was that when the Federal Government failed to pay the 40 percent it was supposed to pay and was only paying 6 percent, the difference was having to be picked up at the local school district level. That meant that the money which the local school district may have wanted to spend on some other activity of education was being allocated to pay for the special-needs child.

Now, what happened here was that the special-needs child was being unfairly and inappropriately put in a position of conflict with other children in the school system. The special-needs parents at school meetings across the country were finding themselves confronted by other parents who were upset that they did not have adequate resources because resources were going to assist the special-needs child. Why? Because the Federal Government was not paying its share of the burden of the special-needs child's education. Instead of paying the 40 percent which we said we would pay, we were down to 6 percent.

So the Republican Senate, as the first act of taking control of this body, made the first bill which we put on the agenda a statement that we were going to try to put an end to this unfunded mandate activity, that we were going to try to right the situation, so that special-needs children would not be put in this intolerable position and their parents would not be put in this intolerable position, and so we would give relief to the local taxpayer, and so the Federal Government would live up to its obligations under the IDEA bill. That was S. 1. That was how high a priority we put on it here in the Senate as Republicans. We not only said it in the Senate and said it in the S. 1 bill—we did it.

In the first year we controlled the legislative process in this body under the leadership of Senator LOTT, with my support and the support of a lot of other people, we increased funding in the special-needs accounts, in the special-ed accounts, by $780 million. In the second year that we controlled the appropriating process, we increased funding in the special-ed accounts by $690 million. These were dramatic increases in those accounts, but nowhere near the increases that are necessary to reach the 40 percent. As a result of those initiatives, we now have funding for special education up to about 9.5 percent of the cost. It is a long way from 40 percent but a significant increase over the 6 percent where we started.

That is a long explanation that gets to the point of what the President has said yesterday and why what he said is so disingenuous. How much money do you think this administration put into the special-education accounts in its budget that it sent up here? Remember, they put $12 billion into new education programs, new school construction, after-school programs, and more teachers for smaller classroom size. How much money of that $140 billion of new program and new initiative did they put into the special-needs program? the special-ed program? Mr. President, $35 million—not billion, $35 million. Essentially zero, when you look at it in the context of the overall budget requirements. They essentially said that, as a matter of policy, this administration does not care what happens in the special-needs account. It does not care what happens to the special-needs child. Rather, they would like to start new programs that will create new political sound bites, that will pay off new, different political constituencies that happen to support them. But as far as special-needs kids are concerned—zippo, for them.

The practical effect of this is what is really insidious, because the $12 billion that they use to create new programs, new education programs, which basically pay off the teachers unions, gives them some sort of new initiative to talk about. Class size and building schools are two initiatives which the federal government actually has no role in, which have always been a local school responsibility. What more a local school responsibility and local school decision and discretion than what buildings a school has and how big their classes are? The administration took the two initiatives where there is no Federal role and they fund it with $12 billion. But in an area where there is a Federal role, where the Federal Government has said it has a 40 percent obligation, they put absolutely no money.

How are they able to do this expansion of these education initiatives in the area of classroom size and in the area of building buildings? The way they were able to do it—and this is, as I mentioned, what is truly inappropriate about their proposal—the way they were able to do it was they essentially robbed the money from special-needs kids. If they had taken the $12 billion of new initiatives—which are political in nature, in my opinion—and put it into the special-needs program for the kids who need it, they would have come very close to reaching the 40 percent which would be the funding levels that the Federal Government had committed to relative to special needs.

So they are essentially saying not only that they are not going to help special-education kids, but that they are going to take from special-education kids for the purpose of funding their initiatives instead of funding the special-education obligations which are already on the books. And the effect of doing this is as follows. Essentially, what they are saying is that we are going to create new categorical programs which require States and local

school systems to do what we want them to do here in Washington. Essentially they are saying you, the local school district, in order to get the money which you are owed by the Federal Government, you are going to have to spend it the way we—somebody down at the Department of Education or somebody at the National Education Association labor union—want you to spend it. You are not going to be able to make that decision at the local level. You are going to have to do what we tell you that you have to do here in Washington. Had they, on the other hand, taken that money and put it into the special-needs program, put it towards the special-education student, then they would have freed up money at the local level. Then they would have given the local communities the flexibility to say how they wanted to spend their local dollars. But, by not giving the local communities those dollars for special education, by, rather, setting up these categorical programs, they ratchet down the Federal control of the local school systems.

They are saying we are going to hit you with a double whammy, local school system. First, we are not going to fund your special-ed program so you have to take from your local tax base to do that, which doesn't allow you the flexibility to use your local taxes on the educational activities you want. If you want to build a building, you cannot do it under your own terms. If you want to add a science program, you cannot do it. If you want to add some sort of foreign language program, you cannot do it—because the dollars to do that are going to have to be spent to pay the Federal cost of special education. But if you want to get more money from the Federal Government, you have to do exactly what we want you to do in the area of class size and in the area of building buildings. It is, to say the least, a rather insidious approach to trying to take control over the local school systems. And it is a cynical approach, because the loser in this is the special-needs child, because the special-needs child is still left out there in the cold, to have to fight with the local school district in order to get the adequate funding to take care of his or her needs which should have been paid for by the Federal Government.

I think I was just delivered a chart which maybe makes this point a little more precisely. Let me read it first.

If you look at current funding for IDEA State grants, it is $3.8 billion. The funding that would bring the Federal Government to its promised 40 percent is $16 billion. The President's proposed funding for 5 years for educational programs which are not IDEA related is $12.34 billion. So, you can see fairly clearly from this chart what I have just pointed out, which is that if the President and his people were willing to fund the obligations of the special-needs children that are on the books instead of trying to create new programs which take more control over the local school systems, limits the flexibility of the local school systems, underfunds the special-needs children—if they were willing to live up to the obligation which they had made as a commitment under Federal law, funding 40 percent, a lot of the pressure would be taken off the local school systems and they would have the monies necessary to pay for special-needs kids and they would also have the flexibility to do whatever they wanted with the additional money that would be freed up from the local tax base.

So we come back to this budget and the fact that the President claims that his education initiatives were not properly addressed and the Republican budget doesn't adequately address education. The Republican budget does not take the President's approach. We put $2.5 billion of additional money into the IDEA program. No, we do not fund all the new initiatives that the President wants because we believe we should fund the initiatives that are on the books first. We believe we should take the special-needs child out from under the cloud of the Federal Government not fulfilling its obligations, free up the local taxpayer and the local school board so it has the money to make the decisions that are needed to be made at the local level rather than have the Federal Government not fund the special-needs programs but create new categorical programs which try to take control over the local school system.

So, the President, as I mentioned earlier, is at the least, to be kind, being disingenuous, inconsistent, and in this instance specifically not fulfilling the obligation of the Federal Government to the special-needs child. So I am perfectly happy, as we move forward on the debate on this budget, to put the Republican budget on education up against the Democratic budget on education—up against the President's proposals on education.

I come to this floor as someone who headed up a school for special-needs children and who recognizes, on a personal level, how important it is that we give these kids full and adequate education. I come to this floor speaking on behalf of Republicans on the Budget Committee who say we will make our stand, we will be happy to make our stand on fulfilling our obligation to the special-needs child, and we will be happy to debate with any member of the minority party who wants to come forward with the President's proposal and claim that new initiatives—which will take more control over the local school systems, which are basically sops to various political groups who support them, and which do absolutely nothing to fulfill our obligation to the special-needs child—take priority, take priority over the law as it has already passed that said we would pay 40 percent of the cost of those children but, more important, over the fact that we have, for too long, left these kids in the lurch and put them in the intolerable position of having to compete for resources to which they, under the law, have a right.

I yield the floor.

SUPPORT FOR MICHIGAN STATE UNIVERSITY IN THE NCAA MEN'S BASKETBALL TOURNAMENT

Mr. ABRAHAM. Mr. President, with the serious issue of NATO expansion out of the way, I want to draw my colleagues' attention to another topic with national implications. Tonite, Michigan State University will face the University of North Carolina in the semifinals of the NCAA Men's Basketball tournament.

In anticipation of this contest, I would like to announce a friendly agreement between myself and my colleague from North Carolina, Senator FAIRCLOTH. As an alumnus of Michigan State University, I have so much confidence that the Spartans will beat the Tar Heels that I have indicated to the Senator from North Carolina I will make available to him a bushel of the finest, fresh Michigan cherries in the event that somehow my expectations are dashed. It is my understanding that the Senator from North Carolina has promised, if I am correct, that Michigan will receive a product of North Carolina origin, specifically North Carolina peanuts, if we should win.

When the best of the Big Ten faces the best of the Atlantic Coast Conference, I will bet on the Big Ten every time, Mr. President. Michigan State may be the underdog on paper, but seeds and rankings mean nothing once the ball is tipped. I know that Coach Tom Izzo's squad is having their best season in years, and their ride isn't going to end just yet. I look forward to the result and reporting back to the Senate at my next opportunity.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that Mark Williams, Maria Piza-Ramos, and Jeff Pegler be accorded privilege of the floor for the pendency of the debate on Senator COVERDELL's legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Thank you, Mr. President.

PUBLIC SCHOOL CONSTRUCTION

Mr. GRAHAM. Mr. President, in this period for morning business, I would

like to discuss with my colleagues a provision which will be contained in the legislation introduced by the Senator from Georgia, Senator COVERDELL, relative to education. This provision relates to public school construction.

Mr. President, as you and others in this Chamber and millions of Americans know, we are facing a near crisis in terms of the construction of public school facilities. Too many communities in America have schools which are crumbling because of age and inattention. Other communities have dramatically oversized classrooms because they do not have the financing to build enough new schools to meet their exploding student population.

There is no simple answer to this issue. The General Accounting Office recently estimated that it would cost about $112 billion to repair our schools sufficiently to bring them into good condition. Additionally, although there is no single authoritative source of information on the need for new school construction, that cost is also estimated in the range of $110 billion to $120.

It is clear to me, and to others who have looked at this issue, that we need to look for opportunities to provide flexibility to school districts in responding to this massive need for school construction and repair. If I can quote Mr. Roger Cuevas, who is the superintendent of schools for Dade County, FL, when he recently wrote:

> It is important that financing options be defined in as flexible a manner as possible and especially not be limited to general obligation bonds . . . Flexibility in the choice of the type of eligible debt financing, as well as the capacity of the program to adapt to State-by-State differences are as critical to all school districts in the Nation as is its funding level.

The provision which will be contained in the legislation of Senator COVERDELL provides for public school construction the same opportunities which are currently available in a wide variety of other public-need areas; namely, airports, seaports, mass transit facilities, water and sewer facilities, solid waste disposal facilities, qualified residential rental projects, local furnishing of electric energy and gas, heating and cooling facilities, qualified hazardous waste facilities, high-speed inter-city rail facilities and environmental enhancements of hydroelectric generating facilities. In all of those 12 separate areas, the U.S. Congress has provided assistance in the financing through what is known as private activity bonds.

This legislation adds a 13th category for public schools. This new category builds upon the experience that already exists from using private activity bonds to finance transportation, energy, environmental, and housing projects.

What would be the essence of this proposal? This proposal would provide to each State the opportunity to issue tax-exempt private activity bonds to finance construction of public schools. These bonds would be administered at the State level, just as are the other 12 categories of private activity bonds. States containing school districts experiencing high growth would be allowed to issue bonds each year in an amount equal to $10 multiplied by the population of the State. For example, if a State with high-growth school districts has a population of 5 million, it could issue up to $50 million of bonds to finance school construction. A high-growth school district is defined as one with an enrollment of at least 5,000 students and the enrollment has grown by at least 20 percent during the five years previous to the year of bond issue. States without high-growth school districts would still receive $5 million of bond authority.

Potentially, this could provide to the Nation bonding capacity for public school construction of about $2.5 billion a year, if each State fully participates. That would be a noticeable contribution toward the enormous need that the Nation faces for financing the construction of new public schools and the rehabilitation of old ones.

More important, it would provide a new source of financing for public school construction, because the nature of private activity bonds involves a partnership between a public agency—in this case typically a local school district—and a private entity. A typical example of what would be anticipated under this legislation would be that a school district needing to build two new elementary schools would solicit requests from the private sector for the construction and financing of those schools. The school district would select which of the proposals that best served the interest of that school district. The school district would then enter into a leaseback arrangement where the private builder would construct the building, would be responsible for paying the indebtedness on the private activity bonds and, at the end of the lease term, would turn the facilities over to the school system with no additional consideration. This would allow the school district to take advantage of private sector innovation in design and construction, as well as the private sector involvement in financing.

I might say that I had an opportunity in October of last year during one of my monthly work days to work on McNiclo Middle School in Hollywood, FL, which was being built under this type of arrangement, although the financing was the conventional type of general obligation bond financing. In this case, because the contractor was doing a design-and-build project, the construction time and cost were less than they would have been under standard procedures.

There happened to even be a third benefit. This school was being built not only to meet educational standards, but also was being further strengthened so that it would serve as a community shelter in the event of a hurricane or other emergency situation. This legislation seeks to encourage and accelerate those kinds of innovative public-private relationships.

So, with this description, I hope that my colleagues will see the benefit of the flexibility and creativity that this provision will bring and the appropriateness of the Federal Government offering this degree of assistance to our public schools, just as it has in a whole variety of other public activities.

The Federal Government is not intruding into areas of curriculum or personnel or other aspects of education which are the appropriate responsibility of the local school district. But we are extending a hand to States and local governments to help them see that all American children go into a classroom which is safe, which is adequate, which meets modern educational needs and into a school in which there are sufficient classrooms so that there can be that relationship between the teacher and the student that will advance quality education.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, the Senator from Nevada is recognized to speak for up to 10 minutes.

Mr. BRYAN. I thank the Chair.

NUCLEAR WASTE DUMP SITE

Mr. BRYAN. Mr. President, I am dismayed to hear that there are continuing efforts to process through this Congress an ill-conceived piece of legislation that would establish a temporary nuclear waste dump in my State at the Nevada test site. I believe those efforts will be defeated, and I believe that the policy indications overwhelmingly indicate that is an ill-conceived piece of legislation.

Most of the debate that has occurred on this floor in this session and the previous session has been by my colleague Senator REID and I in discussing this with other Members of this body, and the issue has frequently been framed that it is Nevada versus the rest of the country.

I want to enlighten my colleagues this morning on some developments that I think are most interesting. The voices of the average citizen in America have not been heard in this debate. In fact, a recent poll commissioned by the University of Maryland indicates that slightly more than 35 percent of Americans, when questioned about this ill-conceived proposal, know anything about it at all. So my colleagues have not heard from the public.

The nuclear energy industry and its advocates and supporters have been a massive presence on Capitol Hill. Their voices have been heard. Their power and their influence through the Halls of Congress have been immense. I freely acknowledge that they are a frightening and impressive adversary in terms of the resources that they bring to bear. But again, about 35 percent of the American people are even aware of this proposal at all.

Under the commission survey by the University of Maryland, when Americans are told about this proposal, and they are asked about this concept of transporting high-level nuclear waste throughout the country, 66 percent express opposition. And of the 66 percent who expressed opposition, 75 percent were strongly opposed.

I hope, as this debate is likely to resume during the present Congress, that my colleagues will hear the voice of their constituents. They know that this is bad policy, they know it is unsafe, and they know that it is unnecessary once the facts are freely laid out for them.

Mr. President, you will recall, during the course of the debate we made the point here that in order to transport high-level nuclear waste to the so-called temporary site at the Nevada test site, it must pass through 43 States and that 50 million Americans live within a mile or less of the major rail and highway corridors in America. The red lines depicted on this map of the United States indicate the highway corridors. The blue lines indicate the rail corridors.

One does not have to be a student of geography to understand that these highway and rail corridor systems make their way through the major metropolitan centers of our country. Indeed, they are arteries of commerce that connect the major cities of our country. So in transporting high-level nuclear waste, that waste is going to go through the major metropolitan areas of our country. When citizens in those communities are made aware of this peril, they react without reference to partisanship but to strongly express their opposition.

We have communities such as St. Louis, Denver, Los Angeles, Santa Barbara, Philadelphia, and other communities that have passed ordinances expressing their strong opposition. What brings me to the floor this morning is that just earlier this week in Flagstaff, AZ, its city council passed a resolution expressing its strong opposition to this proposal.

It is unnecessary. It is opposed by the scientific community. It is opposed by the Department of Energy. It is opposed by sensible Americans who have looked at the issue because it is unnecessary. Transporting 70,000 tons of high-level nuclear waste across the country to a temporary facility makes no public policy sense at all. As we have pointed out time and time again on the floor, this is not a new proposal. The origin of this proposal can be traced to one group and one group only, and that is the nuclear utility industry. Two decades ago they came before the Congress and urged the Congress to pass what was then referred to as an away-from-reactor program to remove the nuclear waste from the reactor sites and place it in some other facility off-location, off-reactor, as it was referred to. But Congress wisely rejected that proposal two decades ago.

I might say that the arguments then, as now, are that catastrophe will occur in America if this is not transported to some temporary location away from reactor sites. In the 1980s, it was asserted that we would have a nuclear brownout, that these utilities would simply be unable to function because they did not have onsite storage if these shipments were not made. It is now two decades later. No nuclear utility in America has closed as a result of the absence of storage capacity onsite. Many have closed because they are unsafe. Others have closed because, from an economic point of view, to retrofit older reactors to bring them up to the safety standards that are required is simply uneconomical.

Many of my colleagues find it difficult to accept, but the nuclear industry is an energy dinosaur in America. No new reactors have been ordered or built in America in two decades. I think it is highly unlikely, in light of increased public knowledge and understanding of what is involved in siting a reactor in a community, that we will ever again have a new reactor built in America.

So when the public is presented with the facts—namely, are you aware that the Congress is considering in this session of the Congress a proposal to transport nuclear waste through 40 States, 50 million Americans within a mile or less; and what do you think of that proposal?—the overwhelming reaction, two-thirds, expressed strong opposition.

My point, Mr. President, in bringing this to the floor today is that I hope my colleagues will listen to their constituents and hear from them. We have heard the arguments of the nuclear utility industry. But the American public, by and large, because they did not know about this proposal, we have not heard their voices. I can tell you, having been to St. Louis and Denver, when you talk with citizens in those communities, and make them aware of what is involved here, they understand the risk and they express strong opposition to this proposal.

Mr. President, I yield the floor.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Thank you, Mr. President.

TAXPAYER FUNDS AND THE PRESIDENT'S PERSONAL LEGAL DEFENSE

Mr. CAMPBELL. Mr. President, I come to the floor today not only as a concerned citizen but also as a concerned lawmaker. As the chairman of the appropriations subcommittee which oversees the White House budget, I have some serious concerns about the taxpayer funds being used to pay for the President's personal legal defense.

In addition, I have to also state that I am concerned about the lack of response to committee requests. Specifically, on March 3, a request was made to the White House from this committee to provide responses to two simple questions: First, has the size of the legal staff within the Executive Office of the President, funded by appropriated money, changed significantly between fiscal year 1997 and fiscal year 1998? And, second, what is the current specific number of lawyers detailed to the Executive Office, and has that number changed significantly during this time?

In a recent report, Mr. President, it appears that the cadre of attorneys at the White House has ballooned from 4 to 39 in just the last year and a half or 2 years. Fully one-tenth, according to that newspaper article, one-tenth of the White House budget now goes to pay those attorneys. A number of them were transferred from other agencies. And in this year's budget request from those agencies, they are asking for a full FTE for those attorneys.

It appeared at the time that this information was both readily available and easy to provide, yet the White House has not given us any specifics. As of about a half an hour ago, we did get some partial answers but not nearly clear enough. During this same time, I continued to get Members and constituents asking me, as the chairman of the Treasury Subcommittee which appropriated the White House's budget, to provide them with some answers.

Finally, on this past Friday, March 13, I wrote a letter in an attempt to get a response from the White House. In that letter I requested that I receive the information by them by 12 o'clock yesterday, March 18. In that letter, I also asked the White House to provide me with a list of the total number of attorneys detailed to all of the Executive Office and from which agency they came. Yesterday, the subcommittee received a call from the General Counsel's Office stating that we would receive that information by 9 o'clock this morning. And as I have mentioned, we did receive a partial answer.

So now it is March 19, Mr. President, exactly 16 days after the initial request for information was made, and we still do not have the full answer. We are now preparing to do a hearing, as many of my colleagues know, Mr. President. I believe the American taxpayers have the right to ask some specific questions.

The 12 attorneys that were so-called ''borrowed'' from the other agencies to help the President with his personal legal problems command very good salaries for which we expect them to do work in keeping with the mission of their agency and for what they were hired to do.

What I would like to ask the Executive Office is, was the work of those attorneys in their agencies important? If it was important, then who is doing their work while they are temporarily borrowed or reassigned to the Executive Office? And if it was not important

enough to keep them at their job, why did we hire them in the first place in the agencies?

What concerns me here is that as an appropriator I have the responsibility to follow up on these matters, and I take that very seriously. I do not think we are asking anything unreasonable and certainly do not want to just pile on the President. But this is taxpayer money and we have a right to make sure it is being spent wisely. We need to verify that the White House is not using appropriated funds for the President's personal legal defense. It is already illegal for any Government entity to use appropriated funds for anything other than what Congress appropriated the money.

In addition, there are many Government regulations from the Office of Government Ethics and the Justice Department which support the position that Government attorneys are to provide their services for Government interests only and not personal ones. That seems pretty clear and pretty well cut and dry to me. I do not request the answers to the questions that I believe are unnecessary. And I do not make frivolous requests. These are very important questions, plain and simple.

Finally, Mr. President, I announce that our committee intends to hold a hearing on the Executive Office's fiscal year 1999 request before the Easter recess and fully expect their response to this inquiry prior to that hearing.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter that we did send to Mr. Erskine Bowles, the Chief of Staff to the President, on March 13, 1998.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, March 13, 1998.

Mr. ERSKINE B. BOWLES,
Chief of Staff to the President,
White House, Washington, DC

DEAR MR. BOWLES: This letter is in reference to the size of the legal staff at the Executive Office of the President (EXOP). As you are aware, there has been recent public concern about the use of appropriated funds for the private legal defense of the President.

As Chairman of the Subcommittee on Treasury and General Government, which funds the Executive Office of the President, I have a responsibility to respond to these concerns. I understand that my staff has made repeated requests to the Office of Administration for information relating to this issue, for which the office has not provided a response, but instead excuses and delays.

Specifically, my staff has requested that the following questions be answered: Has the size of the legal staff within all of EXOP, funded by appropriations, changed significantly during FY1997 and FY1998? And, what is the current number of Justice lawyers detailed to EXOP and has that number changed significantly during FY1997 and FY1998? In addition, I want to know the total number of lawyers detailed to all EXOP agencies and their detailing agency. Your responses should include all of the agencies falling under the EXOP and provide the specific FTE counts with a breakout of the employee and detail classification by EXOP agency.

I remind you that my staff acts on behalf of the Appropriations Committee and I expect that any request they make to you for information to be dealt with expeditiously. Because this request is now more than a week old, I expect that this information will be on my desk by March 18, 1998 at 12:00 p.m.

Sincerely,
BEN NIGHTHORSE CAMPBELL,
Chairman, Subcommittee on Treasury, and General Government.

Mr. CAMPBELL. Mr. President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair and ask unanimous consent that I may speak for 5, 6 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

NATO ENLARGEMENT

Mr. MURKOWSKI. Mr. President, I rise to express my strong support for the protocols of accession to NATO, specifically for Poland, Hungary, and the Czech Republic.

I think this is truly a historic decision in the sense that it shatters once and for all the artificial division of Europe that occurred at the end of the Second World War. Now, if history is any guide, it ensures and enhances the prospects for peace, prosperity, and harmony throughout Europe.

Mr. President, in the nearly 50 years of its existence, NATO has provided the military security umbrella that has permitted old enemies to heal the wounds of war and to build strong democracies and integrated free economies. Expanding NATO to include the emerging democracies of Eastern Europe will, I hope, produce the same results, that is, stronger and freer economies whose people can live in the same harmony as do the people of France and Germany.

I would also note that the prospect of NATO enlargement has already begun as seen by the process of harmonization in Central and Eastern Europe. Hungary has settled its border and minority questions with Slovakia and Romania. Poland has reached across an old divide to create joint peacekeeping battalions with Ukraine and Lithuania.

Mr. President, an expanded NATO will make the world safer simply because we are expanding the area where wars will not happen. As Secretary of State Albright testified last year before the Foreign Relations Committee, and I quote, ''This is the product paradox at NATO's heart: By imposing a price on aggression, it deters aggression.'' At the same time, we gain new allies, new friends who are committed to our common agenda for security in fighting terrorism and weapons proliferation, and to ensuring stability in places such as the former Yugoslavia.

There is no doubt in my mind that had Soviet troops not in 1945 occupied Poland, the Czech Republic, and Hungary, and installed puppet governments, the debate over whether these three countries should be members of NATO would have long ago been resolved in their favor.

The people of these countries have yearned to have freedom, democracy, and peace for more than 40 years, as evidenced by Poland particularly. The blood in the streets of Budapest in 1956, the demonstrations of the people in Prague in 1968 who confronted Soviet tanks, and the public confrontations of Solidarity throughout Poland beginning in the 1970s all laid the foundation for the collapse of communism, which we have seen in our lifetime.

Now as they begin to build institutions of democracy and free enterprise, as they move to further integrate their economies with the rest of Europe, they should participate in the collective security of the continent. I think this will bind these countries closer together far into the future and ensure stability and peace throughout the continent.

Mr. President, there have been expressions of concern by some people that expanding NATO is a mistake because it would somehow be perceived as a threat, a threat to Russia. I find that argument hard to accept. In my opinion, NATO has never been a threat to Russia. Even during the height of the Cold War, no one seriously considered that NATO threatened the Soviet Union. Quite the contrary. NATO stood to defend—defend—against any potential military threat to its members. There is a difference between defense and offense. And NATO is designed for defense. It was never designed as an alliance of aggression—rather, it is an alliance against aggression.

I think the same holds true today, Mr. President. The people of Russia, who are slowly trying to emerge from the darkness and terror of 70 years of communism, have nothing—I repeat, nothing—to fear from NATO. Our goal is not to isolate Russia but to engage and support her in her efforts to develop a lasting democracy and a free market.

The people in the evolving democracies of Poland, the Czech Republic, and Hungary have earned the right to become full partners in Europe and full partners in NATO. I hope my colleagues will support the dreams, hopes, and aspirations of these people who have struggled for freedom for so long, after so many decades in which they have lived without hope. They have that opportunity today.

NUCLEAR WASTE STORAGE

Mr. MURKOWSKI. Mr. President, I listened to my friend and colleague from the State of Nevada speak relative to the movement of high-level nuclear waste across various States. I think it is important to reflect on two points. I won't extend the debate at

this time, because we will have an opportunity to do that, hopefully, in the near future.

I point out that what we are advocating in the pending legislation is to authorize the storage of waste in a temporary repository in the general area of Yucca Mountain, where we have already expended more than $6 billion to develop a permanent waste repository. The idea of moving it there and putting it in temporary storage is simply to alleviate the situation in some of our nuclear power plants where they have reached the maximum storage capability allowed by their respective States and State regulations.

My purpose in bringing this up is simply to note that while we are attempting to move this material and get the authorization out to the Nevada test site, where we have had tests for some 50 years, high-level radioactive nuclear tests, the issue of moving is, I think, relative to the reality associated with when Yucca Mountain receives certification and licensing, then the waste will have to be moved and simply go there. By moving it now, we simply allow our nuclear industry to continue to provide the 22 percent of the power generation until we get the permanent repository licensed and certified.

The point is, we will move it sooner or later. So the question of moving it safely, while a legitimate point, eludes the reality that we have to move it. And whether we move it now or later is simply a matter of recognizing that the Government entered into a contract with the nuclear industry some 14, 15 years ago. The Government has collected about $14 million from ratepayers over that period of time, and the Government agreed to take the waste this year. So the Government is in violation of its contractual commitment. This is another full employment act for the lawyers here in Washington as they represent the various power companies that are suing the Federal Government for nonperformance of a contract to take the waste.

I encourage my colleagues to recognize that while efforts are being made to put the fear of God into the various States and communities where the waste would move, the reality is that at some point in time we will have to address the issue. We have been moving military waste and high-level waste throughout the country and throughout the world for many decades and can certainly do it safely.

I urge my colleagues to evaluate the merits of reality and recognize the contribution of the nuclear power industry.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the hour of 11:30 a.m. having arrived, the Senate will now go into executive session to resume consideration of treaty document 105–36.

PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Treaty document 105–36, Protocols to the North Atlantic Treaty of 1949 on Accession of Poland, Hungary and the Czech Republic.

The Senate resumed consideration of the treaty.

Mr. ALLARD. Mr. President, I rise in support of the NATO enlargement proposal of including Poland, Hungary, and the Czech Republic. I will make a few comments in that regard.

Many people will say that the cold war is over and then will continue to argue that we can now dismantle our defenses and look inward. I completely disagree with this assessment. I think that Secretary Albright, in testifying before the Armed Services Committee on April 23, 1997, made the proper statement in relating this to an insurance policy, saying ''If you don't see smoke, there is no real reason to stop paying for fire insurance.''

Because of President Reagan and his desire to see the Union of Soviet Socialist Republics put on the ashheap of history, the United States no longer faces the threat of the U.S.S.R. But this is no time to be complacent. U.S. interests are still being threatened by internal political and economic instabilities; the reemergence of ethnic, religious, and historic grievances; terrorism; and the proliferation of nuclear, biological, and chemical weapons.

However, for nearly 50 years, NATO has been the organization which has defended the territory of the countries in the North Atlantic area against all external threats and today we have an historic opportunity to recommit to this security. I believe we must not turn our back on this historic opportunity. We must embrace these new market democracies and say that the old ways are gone and that we welcome them into the free world. Relative peace should not stop us from being engaged for peace and freedom. I believe expanding NATO to the Poland, Hungary, and Czech Republic is the best way to ensure peace and stability.

Over the last few decades, much of the United States' focus has been on the Middle East, the Far East, and Russia. Throughout history, the United States has been closely linked to the stability of Europe. We have been through two world wars and one cold war in Europe. However, since the formation of NATO, not one major war or aggression has occurred against or between member states, except for Argentia's invasion of the British Falkland Islands. Adding these three deserving countries to NATO can do for all of Europe what it has done for Western Europe. It can strengthen emerging democracies, create conditions for continued prosperity, assist in preventing local rivalries, diminish the need for an arms buildup and destabilizing nationalistic policies, and foster common security interests.

Just as important, enlargement will signal the end of the cold war. It will further break down the Stalinistic wall. We will reassure the world that these once occupied nations are welcomed free countries. No longer will we validate the old lines of Communism but will begin to secure the historic gains of democracy in Central Europe. Unlike, the Warsaw Pact, these countries are voluntarily wishing to join NATO, without the coercion or force from any NATO member.

Not only will the Stalinist wall be gone, but the acceptance of these three countries will positively show that the West will not lock these countries out, but will lock in Central Europe's democracies. Enlargement will promote multinational defense structures and prevent the renationalization of these democracies. Enlargement will fill the security vacuum created with the fall of the Soviet Union. If this vacuum is not filled, there is concern that the area will begin to divide nationalistically and Central Europe could look like the former Yugoslavia.

However, just the possibility of membership into NATO has given these countries the incentive to peacefully resolve many of their border disputes. Since 1991, there have been 10 major accords settling differences and much of this progress is credited to the opportunity to join NATO. Even if some of the old disputes arise, NATO membership will help keep the peace, just as it has done in relation to the problems between NATO members Greece and Turkey. I do not believe the United Nations, the Organization for Security and Cooperation in Europe, the European Union, or any other international bodies have the ability to keep the peace and promote the stability needed that NATO can bring to the area.

We all know that there has been much concern about the Russian response to NATO enlargement. The Russian leaders have been very public in their displeasure about enlargement. I believe that this is do in part to their misperception that the Alliance poses a threat to Russia's security, NATO is not, and never has been an offensive alliance. NATO is a defensive alliance only.

We must respect Russia's concerns. But as my respected predecessor Senator Hank Brown has written, ''[W]orking closely with Russia in an attempt to allay their concerns makes sense. Slowing or altering NATO expansion . . . hands the Russian government a veto pen.'' Like Senator Brown,

I believe that this would be a mistake. An enlarged NATO only promotes security and stability in an area of Europe that is vital to Russian security. The invited states must clearly know that they are no longer ''eastern bloc nations'' but an integral of the circle of democratic countries.

Lastly, with any expansion there is a concern about the cost. There have been wide ranging estimates. The total amount is estimated at $27 to $35 billion for all current members and the invitees over 13 years, from 1997–2009. A bulk of this cost is to modernize and reform militaries and make them operable with NATO. However, with the United States already having the world's premier armed forces, the bulk of the cost will be incurred by our allies and the three invitees, as they upgrade their forces and facilities to meet those standards of the United States and NATO.

With the addition of these countries, the U.S. percentage share of the NATO budget will go down, and the resolution before us provides that U.S. costs will be kept under control and not be allowed to subsidize those members that are not putting forward their share of the funds. Adequate defense systems always cost money, but alliances make costs more evenly shared through the alliance.

Let me end with this: NATO enlargement is the Western World's way to show that the cold war is over and that we welcome these countries to freedom. The new threats we face can only be met by forming new alliances to ensure that these democracies do not fall prey to nationalistic or terrorist regimes. The Czech Republic, Poland, and Hungary, know life without freedom and now deserve the freedom and security that only NATO can provide.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I inquire whether we are operating under a time limit.

The PRESIDING OFFICER. There are no limitations on debate.

Mr. LEVIN. I thank the Chair.

Mr. President, I will support the accession of Poland, Hungary, and the Czech Republic into NATO. I do so with the realization that this represents, in its most basic meaning, a serious commitment by the United States to treat an armed attack on any of these nations as an attack on the United States.

NATO has been called the most successful alliance in the history of the world. It successfully deterred an attack by the former Soviet Union and also, very importantly, it helped to keep the peace among the nations of Western Europe. I am convinced that the accession of Poland, Hungary, and the Czech Republic to NATO will help ensure long-term stability and peace in Europe and will demonstrate our continuing engagement and leadership in transatlantic affairs.

The inclusion of these three nations that are willing and able to defend the common interests will strengthen the alliance. Each of these nations provided forces to the United States-led coalition during the Persian Gulf war. Their troops are serving with the NATO-led stabilization force in Bosnia. Hungary provides a staging and training base for U.S. forces in Bosnia. All three are prepared to contribute forces to the United States-led force presently deployed in the gulf, if that proves necessary. They have, thus, already demonstrated their commitment to burdensharing and to be not just consumers of security but also contributors to a more secure Europe.

Most important, I believe that a military invasion of Poland, or Hungary, or the Czech Republic would threaten the stability of Europe and involve the vital national security interests of the United States. All three of these countries have established good relations with their neighbors. For example, Poland and Ukraine concluded a declaration of reconciliation in December of 1997. Hungary ratified treaties on understanding, cooperation, and good neighborliness with Slovakia in March of 1995, and with Romania in September of 1996. The Czech Republic signed a formal reconciliation pact with Germany in January of 1997.

Several issues need to be addressed as part of this momentous debate. These issues include the impact that enlargement will have on Russia, the commitment of these three nations to the principles of the NATO treaty, the cost of NATO enlargement, whether the door to further enlargement should remain open after the accession of these three nations, and whether the accession of Poland, Hungary, and the Czech Republic should be delayed until they are admitted to the European Union.

First, the impact of enlargement on Russia. I start this with the sobering thought that Russia is the only country that could destroy the United States. Additionally, although Russia does not today pose a conventional threat to NATO, it is a large and resource-rich country, whose policies of democratization and movement to a market economy are very important to the U.S. and its NATO allies. It is, therefore, an important national security interest of the United States to do what we reasonably can to ensure that NATO enlargement does not contribute to a reversal of Russia's course toward democratization and a market economy, nor contribute to a Russian view of the United States as a hostile nation.

In a statement I made at the Armed Services Committee's first hearing after NATO's decision to enlarge, a hearing in April of 1997, in which Secretary of State Madeleine Albright and Secretary of Defense William Cohen testified, I said the following:

> I believe that we must do everything we reasonably can to enlarge NATO in a way that contributes to a greater, rather than less, stability in Europe. How we enlarge NATO is critically important, along with whether we enlarge NATO, since we do not want to contribute to the very instability that NATO enlargement is aimed at deterring.

Now, in May of 1997—and what is important is that this came subsequent to NATO's decision to expand—Russia's President, Boris Yeltsin, President Clinton, and leaders of other NATO countries, signed a founding act on mutual relations, cooperation, and security between NATO and the Russian Federation. I think it is important to read the second paragraph of that founding act, which succinctly states the relationship between NATO and Russia and the goal of the act. That paragraph reads as follows:

> NATO and Russia do not consider each other as adversaries. They share the goal of overcoming the vestiges of early confrontation and competition and of strengthening mutual trust and cooperation. The present Act reaffirms their determination—

That is NATO and Russia after the decision was made to expand, and now we have NATO, having made that decision, and Russia saying that they reaffirm their determination—

> to give concrete substance to our shared commitment to a stable, peaceful and undivided Europe, whole and free, to the benefit of all its peoples. By making this commitment at the highest political level, we mark the beginning of a fundamentally new relationship between NATO and Russia. They intend to develop, on the basis of common interest, reciprocity and transparency a strong, stable and enduring partnership.

Now, that was an action that was taken by Russia after the decision by NATO was made to expand. It sets up a NATO-Russia Permanent Joint Council to ''provide a mechanism for consultations, coordination, and to the maximum extent possible, where appropriate, for joint decisions and joint action with respect to security issues of common concern.''

The Founding Act further provides that ''The consultations will not extend to internal matters of either NATO, NATO member states, or Russia.'' Finally, it states—and this is important to all of us—''Provisions of this document do not provide NATO or Russia, at any stage, with a right of veto over the actions of the other, nor do they infringe upon or restrict the rights of NATO or Russia to independent decision making and action. They cannot be used as a means to disadvantage the interests of other states.''

Now, the signing of this partnership agreement between NATO and Russia after the announcement relative to expansion—and it doesn't, of course, mean that Russia is happy with NATO enlargement; they are not—at least many of the leaders are not, although I will get to a public opinion poll in a minute, which seems to imply that the majority of Russians are satisfied that Russia should expand; nonetheless, it is clear that the leaders in Russia, in the Duma, are not happy about NATO enlargement, but it does mean that Russia is willing to work with NATO for a

stable, peaceful, and undivided Europe. I think that the Clinton administration, which exercised leadership to move the alliance to enlarge, deserves much credit for also leading the alliance to enlarge in a way that a new relationship with Russia is possible.

The signing of this NATO-Russia Founding Act is evidence of the fact that Russia accepts, albeit grudgingly, the concept of NATO enlargement. The leadership in Russia has accepted the likelihood that Poland, Hungary, and the Czech Republic, former members of the Warsaw Pact, but independent nations, will join the NATO alliance. Based upon my meeting with Russian parliamentarians, indeed, Russian Ministers, I am convinced that Russia's political leaders, from all parties, want to develop a cooperative relationship with NATO and its members, particularly the United States.

Despite NATO enlargement on the horizon, Russian soldiers still serve side-by-side with American soldiers in Bosnia to create a secure environment in which the Dayton accords can be implemented. I have visited with United States and Russian troops in Bosnia. I witnessed firsthand how well they are working together. There has not even been a hint of ending Russia's military presence in Bosnia, despite NATO enlargement, even though the financial cost, by the way, of that presence is clearly a funding problem for the Russian Ministry of Defense. Other evidence of the fact that Russia, despite NATO enlargement, wants to work with NATO and work with the United States, is that Russia has recently agreed to more active participation in NATO's Partnership for Peace program. More evidence. Just last week, Prime Minister Victor Chernomyrdin publicly pledged at the end of his talks with Vice President Gore that the Russian Government will push hard in the Russian Duma for ratification of START II, despite NATO enlargement.

So we have actions here on the part of Russian leadership—staying in Bosnia, working with an expanded Partnership for Peace, signing an alliance agreement, an agreement with NATO to work with NATO. We have all of this evidence of a willingness on the part of the Russian leadership to work with NATO and the United States, despite this enlargement.

Again, interestingly, there was a Gallup poll taken in Moscow, released last week, that revealed that 57 percent of Muscovites supported the Czech Republic's bid to join NATO, 54 percent supported Hungary's admission, and 53 percent said Poland should be allowed to join NATO. More than a quarter of those polled had no views on the subject.

So, based in part on all of these factors, I am satisfied that NATO enlargement will not produce the unwanted effect of causing Russia to reverse its course toward democratization and a market economy, nor to view the United States as a hostile nation.

What about commitments to the principles of the NATO treaty, the Washington treaty? Article 10 of that treaty addresses the subject of the accession of new members to the alliance. It states, in pertinent part, the following:

> The Parties may, by unanimous agreement, invite any other European state in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this Treaty.

The principles in Article 10 can be summed up in the preamble to the NATO treaty, as follows:

> They (the NATO Parties) are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty, and the rule of law.

The first chapter of the alliance's September 1995 ''Study on NATO Enlargement,'' in addressing the criteria for candidates for accession, stated that candidates must:

> Conform to basic principles embodied in the Washington Treaty: democracy, individual liberty, and the rule of law.

Mr. President, I know that most of us have met with Cabinet-level officials and parliamentarians from Poland, Hungary, and the Czech Republic. As a member of the Senate NATO Observer Group, I have also been able to meet with those officials, as well as with NATO officials, including Secretary General Javier Solana; the Chairman of NATO's Military Committee, General Klaus Naumann; and other members of the military committee, and the Chiefs of Defense of the present alliance members.

I also have explored the important issue of the commitment of Poland, Hungary, and the Czech Republic to NATO'S basic principles: democracy, individual liberty, and a commitment to the rule of law.

It has been 9 years since the democratic revolutions of 1989 swept Eastern Europe. Poland established the first non-Communist-led government in the Warsaw Pact in April of 1989. I can still remember the feelings of admiration, respect, and, indeed, elation that we all experienced when we watched the Solidarity-led movement of Lech Walesa guide Poland into democracy. Hungary moved gradually and systematically toward democratic and market economic reforms and was generally viewed as a haven of stability in Eastern Europe. In Czechoslovakia, former dissident playwright, Vaclav Havel, was named President in December of 1989 and has guided first Czechoslovakia and, after the split, the Czech Republic, with a steady and inspiring hand ever since.

Many of us had the opportunity to be in Eastern Europe in 1989 and 1990 when these events took place. I remember my wife Barbara and I being in Prague when Havel, after elected, was about to assume the Presidency of that nation, and the inspiration that was provided by the people of Prague, protecting that election and protecting his movement to the castle, where he would serve, and how they would fill the streets protecting that free election and protecting their democracy.

After the freedom came, Poland, Hungary, and the Czech Republic signed association agreements with the European Union in 1991. The European Union leaders decided in March of 1998 to convene full accession negotiations with these three nations. Poland has held seven free and fair elections since 1989. Hungary has had two democratic changes of government since 1989 in fully free and fair elections. Since 1989, first Czechoslovakia and then the Czech Republic have had three free and fair elections. All three governments established civilian control over their military, and their Parliaments are increasingly active in overseeing military budgets and activity.

So I am satisfied with the commitments of Poland, Hungary, and the Czech Republic to democracy, individual liberty, and the rule of law. Indeed, I believe the people throughout the world can draw inspiration from the extraordinary accomplishments of these three formerly Communist-ruled nations.

What about the cost of NATO enlargement? It has perhaps been the most written about and the least understood aspect of NATO enlargement. It is an important subject, and it needs to be examined carefully.

Pursuant to congressional direction, the Clinton administration sent a report to Congress in February of 1997 on NATO enlargement that included an illustrative estimate of the cost in the range of $9 billion to $12 billion over 13 years. The term ''illustrative'' was necessary because the Department of Defense, which prepared the estimate, did not know which nations or even how many nations would be chosen for NATO membership and it, therefore, could not conduct a detailed and comprehensive analysis that would be required for a true cost estimate. That report estimated not only the costs that would be occasioned by NATO enlargement, but also the costs to present NATO members to implement the alliance's new strategic concept that requires reorientation from a static defense posture suitable during the cold war to a more flexible and mobile set of capabilities to respond to different types of threats.

So, the costs that were looked at related only in part to NATO enlargement and were illustrative, based on no knowledge as to how many or which nations would be added, but also included illustrative costs of an entirely new concept, a strategic concept for NATO, which didn't relate to the question of NATO enlargement at all, but which would occur whether or not NATO was enlarged.

This report provided a comprehensive look at some possible future costs, but it also added some confusion since it went beyond the common costs to

NATO members that are a direct result of NATO enlargement, which is the real issue that we must deal with in considering the accession of Poland, Hungary, and the Czech Republic. The really relevant aspect of the administration's cost assessment, the assessment of the costs for NATO members for the direct costs, is the figure $9 billion to $12 billion over 13 years. But that figure, again, included both costs that would be eligible for common funding and those that would have to be borne by the new member states.

There was a new cost assessment that was made in November of 1997. That was made by the NATO staff. The assessment was produced under the direction of NATO's Military Committee and has since been approved by the North Atlantic Council. It estimates the costs which will be eligible for common funding at $1.5 billion over 10 years. Those are the real costs as estimated carefully, knowing which countries would come into NATO which had been approved for accession and looking at just the direct cost of adding those countries and excluding other costs which are not directly related to that accession. The estimate, again, for all of the members was $1.5 billion over 10 years. The U.S. share would be about $400 million over 10 years. The Department of Defense reviewed the NATO study and has determined that its conclusions concerning enlargement requirements is thorough, militarily sound, and based upon a range of reasonable contingencies, and the Department concurred with the NATO cost assessment. The General Accounting Office evaluated the basis for NATO's cost estimate, reviewed the DOD assessment of that NATO cost estimate, and concluded that the approach used by NATO in determining the estimated direct enlargement cost for commonly funded requirements is reasonable. They also determined that the DOD assessment of the NATO cost study was reasonable.

Thus, the question is why was there such a discrepancy between that original estimate of $9 billion to $12 billion and NATO's estimate of $1.5 billion? The answer then lies in several of those factors.

First, the administration's estimate included both costs that would be eligible for common funding and those that would be needed to be borne by new member states. Deducting the cost that would have to be borne by new member states reduces the administration's original assessment, which was $9 billion to $12 billion, to $5.5 billion to $7 billion.

Second, the DOD assessment was based upon four new NATO members, not the three new members which were actually selected for accession to NATO. Had the administration made an assessment of the cost for three new members, that would have reduced its estimate to between $4.9 billion and $6.2 billion.

Additionally, NATO actually visited the facilities in new member countries that would need to be upgraded in order to extend NATO's communication links to new members; in order to conduct air defense, which reflects the integration of new members into NATO's air defense systems; in order to provide reinforcement reception facilities, which reflect upgrades for infrastructure, particularly airfields to receive NATO forces; and in order to carry out training and exercises. NATO found that those facilities were in better shape than the Department of Defense had assumed. The Department of Defense had not actually visited those facilities. NATO's staff did. In addition, NATO used the more limited funding eligibility for NATO common funding, NATO had more empirical data as to actual pricing, and there were some minor differences between NATO and the United States as to new member requirements.

So for all of those reasons, that original estimate of the administration was way off and it was way high, and the revised estimate done by NATO after on-site visits and looking only at the direct costs resulting from the increase in the size of NATO, that assessment has been approved by the GAO and by the DOD.

Next, should we have a pause? In the course of this debate the Senate will be dealing with an amendment that would, in essence, establish a 3-year pause, after the accession of Poland, Hungary and the Czech Republic, before NATO could consider the accession of any other nations to the alliance.

I have already cited article X of the NATO treaty. On July 8, 1997, NATO heads of state and government, in their Madrid Declaration on Euro-Atlantic Security and Cooperation, in which they announced their decision to invite Poland, Hungary, and the Czech Republic to begin accession talks, reaffirmed that ''NATO remains open to new members under article X of the North Atlantic Treaty.''

Since its inception in 1949, the alliance has been enlarged on three separate occasions to include Greece and Turkey in 1952, the Federal Republic of Germany in 1955, and Spain in 1982. All of these enlargement decisions, including the decision to invite Poland, Hungary, and the Czech Republic, have been the product of careful and comprehensive consideration. The alliance's 1995 ''Study on NATO Enlargement'' set out the criteria that was used for these three nations and that will be used for any consideration of future enlargement of the alliance. I am satisfied with the criteria and with the process that has been and will be used. I see no reason to mandate a pause, particularly since the desire to join the alliance has been such a productive force for candidate nations to proceed on the road to democracy and the rule of law and to reach accommodations with their neighbors.

Given the deliberative process that was involved in NATO's enlargement decision, it is clear that it will take some time before any new nations will be chosen for accession to NATO. But a 3-year mandated pause could actually imply too much. It could imply that, after 3 years, we will support more nations joining NATO, and that is not necessarily the result of the process which has been adopted.

It seems to me that mandating a pause is no more logical than mandating when the next round of NATO accessions should occur. Further enlargement of the alliance should be judged by the circumstances and developments that exist at the time and whether a candidate nation meets the criteria for NATO membership. That should not be decided arbitrarily in advance by either deciding that new members should not be taken in before a certain date or that new members will be taken in after a certain date.

No nation can be admitted to NATO without the advice and consent of this Senate. We do not need to condition our advice and consent on the admission of these three nations in order to establish that fact, the fact that we have control over who is admitted, and when, to NATO. So I would vote against such an amendment that would establish that arbitrary 3-year moratorium.

Mr. President, another issue that is going to come up is membership in the European Union and whether or not we should delay the accession of Poland, Hungary, and the Czech Republic until they are admitted into the European Union. I understand the positive motivating forces behind that amendment. There may even be some truth to the statement that in the present low-threat environment, Poland, Hungary, and the Czech Republic have a greater need for economic stability than for the added security that membership in the NATO alliance will bring.

I have discussed this issue with numerous visitors from the three countries with whom I have met. They have all stated their preference for joining NATO before joining the European Union. They want to be in the European Union, but they want to be in NATO even more, and they want it first. They cite the historical experience of their countries under foreign domination. They stress that they seek a closer relationship with the United States, a relationship to which NATO but not European Union membership is related.

When the experts speak of the contribution that NATO has made or that the U.S. military presence in Europe or the Far East has made, the first thing that is noted is the peace and security that allows economic development to then occur. Nations look to their external security first and then to their economic security, for without the former, you cannot have the latter.

During the Senate NATO observer group's meeting with NATO's military committee, I was struck by a statement by its chairman, General Klaus Naumann. He made the point that one

of the major benefits of NATO enlargement was to prevent the renationalization of defense in candidate countries. In other words, if Poland, Hungary, and the Czech Republic were not admitted to NATO, they would have to devote much more of their scarce resources to national defense. That would have a significant negative impact on their economies. And General Naumann could also have added that the burdensharing that membership in NATO provides allows NATO member nations not to build large military forces that could be perceived as threatening to their neighbors and prove destabilizing to the region.

But finally on this issue of whether we should condition accession of these three nations to their membership in the European Union, there is one other thought that I think we have to consider. If we condition our action on something that Europe does or must do, it seems to me that it would justify the perception in some quarters of Europe that we decide that we are determined to dominate our friends and our allies. We should not dictate membership in a partnership to which we do not belong.

I happen to favor that membership very strongly. And, again, in this low-threat environment, these three nations might be wiser to seek that membership before they seek membership in NATO, even though I think if we were in their position, we would put NATO first, too, because security physically of a nation, I think, instinctively is more important to people in that nation than economic security, as important as the latter is.

What troubles me about this relationship that is being attempted in European Union membership perhaps more than anything is that it would reinforce a perception that even though we are not a member of that partnership, we are trying somehow or other to dictate or to dominate that partnership. I do not think that perception is either accurate or we should give any credence to it by conditioning accession or our approval of accession of these three nations into NATO based upon their acceptance into the European Union. I just do not think it is healthy for our partnership and our relationship with our European allies for us to condition in that way.

So in conclusion, Mr. President, I believe the accession of these three nations will contribute to stability in Europe and is in the national interest of the United States.

I have carefully considered the strategic rationale for NATO enlargement and the impact that enlargement would have on the movement toward democratization and a market economy in Russia, the commitment of the three nations to the principles of the NATO treaty, and the cost of enlargement. I believe the three nations that have contributed forces to the Persian Gulf war and to the stabilization force in Bosnia are willing to do their part to defend the common interests and will strengthen the alliance. In my view, accession of these three nations will not contribute to a reversal of Russia's course toward democratization and a market economy nor to a Russian view of the United States as a hostile nation.

And again, we should consider carefully and thoroughly the impact on our relationship with Russia. It is an important relationship and we should not unwittingly damage it.

We should not in the effort to create stability in Europe unwittingly contribute to instability. But I don't think the accession of these three countries will have that effect. And I emphasize, after the announcement of NATO enlargement, Russia agreed to an expanded participation in the NATO Partnership for Peace program, signed an agreement with NATO providing for a special relationship between NATO and Russia—after the announcement of an expanded NATO, nonetheless agreed to a relationship with NATO.

With Mr. Chernomyrdin's, Prime Minister Chernomyrdin's, decision last week to go to the Duma and press for the ratification of START II in the Duma, all of these things are despite the increase in the size of NATO. Despite an enlarged NATO, these actions on the part of Russia show how important it is to Russia to relate to Europe and to relate to us. It is important to us, too. But I do not think that ratifying the expansion of NATO will jeopardize in any way our relationship with a democratic, market-oriented Russia, and their actions are more important in this respect than my words.

Their action in working out an agreement with NATO, participating in Bosnia—there has been no suggestion that they would no longer participate in Bosnia if NATO is enlarged. They are committed to that. I think all of these actions on their part indicate their acceptance of the idea that NATO will be enlarged.

Do they like it? The leadership doesn't like it. I mentioned a public opinion poll a little earlier, interestingly enough, just last week in Moscow, showing a majority of people in Moscow support the enlargement of NATO through the accession of Poland, Hungary, and the Czech Republic. To the extent that public opinion polls are things that we should be relying on, it is an interesting little footnote to this debate.

But for all of those reasons, Mr. President, I have concluded that the cost is affordable; for security and the stability it will provide in Europe it is the right thing for us to do.

I will end my comments by reading a quotation from the President of the Czech Republic, Vaclav Havel, who led the Czech democratic resistance under communism. This is what he stated about NATO enlargement.

Our wish to become a NATO Member grows out of a desire to shoulder some responsibility for the general state of affairs on our continent. We don't want to take without giving. We want an active role in the defense of European peace and democracy. Too often, we have had direct experience of where indifference to the fate of others can lead, and we are determined not to succumb to that kind of indifference ourselves.

For all those reasons, Mr. President, I will be supporting this resolution of accession.

I thank the Chair and yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, it was a great treat for me to listen to the very eloquent comments of the Senator from Michigan. A few years ago, Vice President Walter Mondale said to me ''When you go to the Senate, listen to CARL LEVIN; he is one of the most articulate and erudite Members of that body.'' After hearing his discussion of the NATO enlargement, I just want to say the Vice President was correct.

Mr. LEVIN. Let me thank my good friend from California. I doubt that he was correct in that one respect. In so many other ways he is wise, and I hope he is also wise here.

I thank the Senator.

Mrs. FEINSTEIN. I thank the Senator.

Mr. President, I rise as a member of the Foreign Relations Committee to support the legislation before us. I happen to believe that admitting Poland, Hungary, and the Czech Republic to NATO is a natural and logical response to the end of the cold war, and is a crucial element of a larger strategy to build a Europe that is at last undivided, democratic, and at peace. I support enlargement because, first, I believe there is a sound strategic rationale for enlargement; secondly, because I believe that Russian concerns that NATO expansion presents a threat or a challenge to the well-being of Russia are unfounded; and, thirdly, because I believe that costs of enlargement will not be an undue burden on the United States but, rather, will be shared among all members on a fair basis.

Let me speak briefly about each of these issues. For almost 50 years, the North Atlantic Treaty Organization has served as the centerpiece of American foreign policy in the European theater. NATO presented a firm committed alliance, a major deterrent to any aggressive thrust by the Soviet Union. It has been a successful military alliance, and it has served the national interests of the United States in preventing aggression in uncertain times.

When NATO was originally formed during the early days of the cold war, it was conceived as a purely defensive alliance, a static line protecting Western Europe from Soviet encroachment. But it has been more than 8 years since the Berlin wall came down. Today, the Soviet Union is gone and the sort of military threat for which NATO was originally conceived and designed, thankfully, no longer exists.

I believe that this new post-cold-war era calls for a new NATO, a NATO that is an alignment of like-thinking states committed to democratic values and mutual defense within a given geographic community. This new, enlarged NATO is not intended to be, nor do I believe it will be, a threat to any other State or group of States.

As our Secretary of State has put it, the strategic rationale for enlarging the Alliance is straightforward. Admitting Poland, Hungary, and the Czech Republic to NATO ''will make America safer, NATO stronger and Europe more peaceful and united.'' I believe that.

A larger NATO will make the world safer by expanding the area of Europe where wars do not happen. Twice in this century we have sent our sons and daughters across the Atlantic to Europe to fight and die in world wars which began in Europe. By reaffirming our commitment to an enlarged NATO, history teaches us that we make it less likely that we will be called to do so again. It has often been said that vigilance is the price of freedom. NATO remains a form of vigilance.

A larger NATO will also be a stronger NATO. To align themselves with NATO, Poland, Hungary and the Czech Republic have strengthened their democratic institutions and resolved ethnic and border disputes in the region. They are bringing their militaries into alignment with the requirements of NATO membership. They have met the requirements for application: democratic reform, development of free market economies, and that each country be able to make a substantial military commitment to the alliance.

The United States has important political, economic, security and, yes, moral and humanitarian interests in Europe. These interests demand continued active U.S. engagement in the transatlantic community. Just as NATO has for the past 50 years, I believe that an enlarged Alliance will provide an effective mechanism to maintain a more unified European community with shared values.

The second issue which I mentioned, the future of NATO-Russia relations, is one which I know is of great concern to many of our colleagues. Let me share my perspective on this issue.

I would agree with some who oppose enlargement that if it inflames ''the nationalistic, anti-western and militaristic tendencies in Russian opinion,'' as George Kennan recently wrote, then it truly would be a questionable course of action. But I do not really believe that NATO enlargement provides a realistic basis for this thinking.

In fact, for all the politicking against NATO enlargement inside Moscow's ring road, many thoughtful Russians, especially younger ones, realize that NATO enlargement is not a threat.

Russia now has a constructive relationship with NATO. Our troops are cooperating in Bosnia. Russia has requested that their troops be allowed to participate in all future Partnership for Peace exercises. And we are moving ahead with arms control. Russia is ahead of schedule under the START I treaty. Prime Minister Chernomyrdin has committed to Duma ratification of START II. And we have agreed on the outlines of a Start III treaty that will cut both United States and Russian nuclear arsenals to 80 percent below their cold war peak. Russia has joined us in banning nuclear testing and ratifying the treaty to outlaw chemical weapons.

Now, all this is not to say that future NATO-Russia or United States-Russia relations will be smooth and trouble free. There probably will be issues in the years ahead on which we will disagree and which we will have to work through. But if Russian policy and/or Russian-European relations should sour, it is my belief that it will be because of the internal dynamics of Russia itself, not because of NATO enlargement. In fact, it is my belief that enlargement of the Alliance and engagement with Russia may offer increased opportunity for the development of a democratic Russia and an even more productive relationship between Russia and the United States.

I strongly believe that a key and critical outcome of NATO enlargement must be a greater engagement with Russia to assure that NATO enlargement is not perceived as a threat nor as an act that in any way signals aggressive intent. It is this path, I believe, which offers the best hope for a peaceful and secure Europe in the decades ahead.

A third area of concern is questions which have been raised about the costs of enlargement.

NATO has estimated that the common fund cost for enlargement will be $1.5 billion over 10 years. The U.S. share of these enlargement costs is about $360 million, in proportion to the current 24 percent U.S. share for common-funded projects. I believe that this cost for the U.S. share of enlargement is reasonable.

In my mind, however, the critical cost issue is burdensharing. If we go forward and enlarge and adapt the Alliance, all NATO members must be willing to pay their fair shares.

I must say I was very concerned last year when French President Chirac commented, in effect, that France would not pay one more centime for the costs of enlargement.

During the hearings conducted by the Foreign Relations Committee, assurances were received from the administration that all allies will, in fact, pay their fair share. And, despite the earlier negative French comments, both the current members of NATO and the three prospective members have pledged that, indeed, they will meet their share of Alliance costs.

I have been reassured by these comments, and I have also worked with the chairman and ranking member of the Foreign Relations Committee to assure that strong, clear, and unambiguous language regarding costs and burdensharing has been included in the resolution of ratification. That in fact is now the case.

The language which we have included requires the President to certify that the inclusion of Poland, Hungary, and the Czech Republic will not increase the overall U.S. share of the NATO common budget, and that the United States is under no obligation to subsidize the costs of new members joining the Alliance. The President must also certify that enlargement will not undermine our ability to meet other security obligations.

Finally, the resolution of ratification also includes a reporting requirement which will provide Congress with detailed information on the national defense budgets of NATO members, their contributions to the common budget, and U.S. costs associated within enlargement.

So, as we proceed with the process of enlargement, this information will allow Congress to make a determination about the efforts that our allies are making and, if necessary, take action at the appropriate time to ensure that the burdens of the expanded alliance are fairly met.

In summary, I believe the inclusion of Poland, Hungary, and the Czech Republic in NATO will contribute to a stronger, more stable, and more secure Europe, one that is even a more reliable partner for the United States. Such a Europe is clearly in U.S. national interests, and I urge my colleagues to vote in favor of the resolution of ratification.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask that Corey Perman, who is a fellow in my office, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, it is my understanding—although I think really what we are doing here is just making opening statements on NATO expansion—and my hope, if not this week then when we come back to this discussion, that a number of us will have amendments on the floor and that we will have, hopefully, a sharper and more focused debate.

Mr. President, I speak on the floor of the Senate about a matter that I think is of great importance. I think the decision that we make here in the Senate about whether or not to support expansion of NATO will, as a matter of fact, crucially affect the quality or lack of quality of the lives of our children and our grandchildren. I have given this

matter a great deal of thought. For the last year I have had a lot of discussions, a lot of briefings with a lot of people on both sides of the question. I have done my very best as a U.S. Senator from Minnesota to inform myself. This is a very difficult decision to make.

There are thoughtful and knowledgeable Senators who are on the other side from where I am. Certainly there are thoughtful and knowledgeable Minnesotans, whom I respect greatly, who have urged me to vote in favor of expanding NATO. So have many of my colleagues. So has President Vaclav Havel from Czechoslovakia, who I believe is one of the giants of the 20th century, a playwright and former prisoner of conscience. When he speaks, with such passion, about the importance of expanding NATO, I listen. I will tell you, probably more than anything, I would like to cast a vote that would please President Havel.

Why, then, do I oppose the expansion of NATO? Because I have come to believe that it would lead to the redivision of Europe and that we would needlessly poison U.S. relations with Russia for years to come and increase the prospects that in the post-Yeltsin world—President Yeltsin will not be there forever—the ultranationalists and anti-U.S. forces, militaristic forces, will gain power.

Before I go into greater detail on the reasons for my opposition to enlarging NATO, just permit me to say a few words about the process that I have gone through to reach this decision. Again, I understand full well that our decision has enormous implications for our country and the world. I am a member of the Senate Foreign Relations Committee. We have had any number of different hearings on this. I have read as many articles as I can read and have talked with as many people as I can talk with. I want to assure my fellow Minnesotans and my colleagues that in reaching this decision I have done my homework.

That does not mean I am arrogant about it. That does not mean that I believe the people who take a different position have not done their homework. But there are a number of questions and doubts that I have. I have submitted questions in writing to Secretary of State Albright and to other key administration officials. Last June I sent a letter to President Clinton, cosigned by my distinguished colleague Senator HARKIN, where we raised a number of different questions. Unfortunately, at least from my point of view, a number of these questions are still out there and administration officials have not allayed my concerns about NATO expansion. So, as I give this matter a great deal of thought, carefully weighing the pros and the cons of NATO expansion and meeting with those who have strong expansionist viewpoints, I still believe that I must oppose NATO expansion.

Permit me to outline my concerns. The best way is for me to summarize questions that I have had and to talk about some of the answers that have been given but which I do not think are persuasive answers.

First, what military threat is NATO expansion intended to address? The Russian military has collapsed, the Russian Army's ability to quell tiny, ill-equipped Chechen forces raises doubts about Russia's capability to threaten its former Eastern bloc allies in the foreseeable future.

Second, arms control agreements signed between 1987 and 1993, that were pushed through by Presidents Reagan and Bush working with President Gorbachev, have helped to establish a new security structure that makes a surprise attack on Central Europe virtually impossible.

Third, there is peace between states in Europe, between nations in Europe, for the first time in centuries. We do not have a divided Europe, and I worry about a NATO expansion which could redivide Europe and again poison relations with Russia. Why, then, are we rushing to expand a military alliance into Central Europe?

How can Russia not feel threatened by, one, the prospect of NATO forces moving hundreds of miles closer to its borders and, two, the possibility of further NATO expansions, including even the Baltic States? This has all been left, as my colleague the distinguished Chair knows, open-ended.

Although the administration claims that extending NATO toward Russia's borders would not threaten Russia, there seems little doubt that many Russians feel threatened, especially, I argue, any number of the opinion leaders in Russia. Whatever explanation there is for the fact that Russian politicians, the reformers, the pro-Western democrats to the centrists to the Communists and even to the extreme nationalists, who may agree with us on little else, all strongly oppose NATO expansion.

In pursuing the NATO expansion, why is the administration disregarding the warnings of George Kennan and other distinguished Russian scholars that NATO expansion is likely to sow the seeds for a reemergence of antidemocratic and chauvinistic trends in Russia?

I am especially puzzled by this since it must be evident to both supporters and foes of NATO expansion that European security and stability—and I need to make this point twice—that European security and stability is greatly dependent on Russia's successful transition to democracy. That, I think, is the central point. A democratic Russia is unlikely to threaten its neighbors. I am worried, I am terribly worried. I think this is a profound mistake. I think this NATO expansion could threaten that democracy in Russia, and I think, if we do not have a successful transition to democracy in Russia, that, in turn, threatens European security and stability.

Why then are we considering a step that is apt to strike at Russian ultranationalists who oppose democracy? George Kennan, who is probably over 90 now, a great scholar—George Kennan is probably as wise and profound a thinker as we have in our country about Russia, about the former Soviet Union. I might add—and I have said this to friends—my father, who was born in the Ukraine, born in Odessa, his family then moved to Russia—they kept moving to stay one step ahead of the pogroms—he was a Jewish immigrant; he came over in 1914 at the age of 17. He never saw his family again. My father had the honor many times—he passed away in 1983—but he had the honor many times to speak with and meet with George Kennan. My father, who spoke 10 languages fluently—I am sorry to say I don't—but my father, who spoke 10 languages fluently, had such great respect for George Kennan's mastery of the language and his understanding of Russia.

George Kennan has said that expanding NATO ''may be expected to inflame nationalistic anti-Western and militaristic tendencies in Russian opinion and to have an adverse effect on the development of Russian democracy.''

I urge my colleagues to carefully consider George Kennan's words before they cast their votes on ratification of NATO expansion.

I want to say this about the process: I am in sharp disagreement with the majority leader on the way we are doing this. We had hearings in the Senate Foreign Relations Committee. I give Chairman HELMS full credit for that. He and Senator BIDEN—who takes a very different position than I do—have been very respectful about the need to have a debate. But the way we are doing this is we are doing it in bits and pieces. We should have been on the education bill, and we have just come back to NATO as filler until we get back to the education bill. It is a way of avoiding debate about education and education amendments.

This decision we are going to make about NATO expansion is as important a decision as we are ever going to make. But Senators coming out here, as I have, individually and then leaving after they give speeches is not enough. Yesterday, we had some good discussion. I hope next week, or whenever we take this back up, we will figure out a way to have Senators out here with amendments and we can have a give-and-take discussion and we can have an important debate about this.

What basis is there for Secretary Albright's claim that expanding NATO will produce an ''undivided'' Europe? Rather than creating an undivided Europe, my view is that NATO expansion would re-create a dividing line in Europe, only further to the east than the original cold war dividing line, and I do not consider that to be progress for the world.

In fact, President Clinton himself, before he decided to back NATO expansion, avowed that it would ''draw a new line through Europe just a little further east.'' This is hardly an academic

question, for I believe that a Europe without dividing lines is vital if the continent is to be peaceful, prosperous and secure. That is why I think we will be making a fateful mistake if we vote for the NATO expansion, if we support this.

Finally, Mr. President, I must ask whether it makes sense for the administration to contend that a key reason NATO expansion is necessary is that it will promote democracy, stability and economic reform in Central Europe. There are a whole lot of countries in the former Soviet Union for whom that challenge is out there. I am not even sure these countries would be the first countries by that criteria. But what I do know is that, if the administration really believes that a prime goal of NATO expansion is to solidify democracy and economic reform, then perhaps we ought to really think about other countries first. Yet I think that would be a mistake. And, most important of all, if we are going to be talking about expanding markets and expanding democracy, why don't we use our leverage—the United States of America—to promote membership in the European Union?

I think that is the single best way that our country could exert its leadership. The single best way that we could exert our leverage for Poland, for Hungary, for the Czech Republic, if the goal of this is to expand markets and democracy, would be for the United States to be the leader, the leading voice in calling for expansion in the European Union.

Let me simply say that I do not think a military alliance is the way to do that. I do not think a military alliance has as its primary goal expanding markets and democracy, and, moreover, I think we take a terrible risk.

In closing, I would like to quote from a New York Times op-ed written over a year ago by George Kennan, a man who, as I said, I have long admired for his remarkable contributions to American diplomacy and scholarship and keen insights into Russian history, politics and diplomacy:

> . . . something of the highest importance is at stake here. And perhaps it is not too late to advance a view, that, I believe, is not only mine alone but is shared by a number of others with extensive and in most instances more recent experience in Russian matters. The view, bluntly stated, is that expanding NATO would be the most fateful error of American policy in the post-cold-war era.

Mr. President, I say to my colleagues, let me repeat this. I am quoting a profound thinker. George Kennan states:

> The view, bluntly stated, is that expanding NATO would be the most fateful error of American policy in the entire post-cold-war era.
>
> Such a decision may be expected to . . . restore the atmosphere of the cold war in East-West relations, and to impel Russian foreign policy in directions decidedly not to our liking. And, last but not least, it might make it much more difficult, if not impossible, to secure the Russian Duma's ratification of the START II agreement and to achieve further reductions of nuclear weapons.

George Kennan's words have already proved to be prophetic. The START II agreement is stalled in the duma, and troubling frictions have developed with Russia on a number of other issues, ranging from U.S. policy toward Iraq to the management of Russia's nuclear materials.

I urge my colleagues to ponder George Kennan's powerful arguments and to join me in opposing ratification of NATO expansion.

Mr. President, I ask unanimous consent that the text of George Kennan's article be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WELLSTONE. Let me conclude on a personal note. What I have tried to say on the floor of the Senate, and I want to summarize, because, again, I actually believe, without being melodramatic, I can truthfully say this has been one of the most difficult decisions. I do not believe for a moment that people who favor NATO ratification are doing it because of simplistic thinking or because they have not thought this issue through, although I think all of us before we cast the final vote should inform ourselves.

Some people I have tremendous respect for strongly favor NATO ratification. I have met with people back in Minnesota—Czechs, Hungarians and Poles—people who feel so strongly about this, wonderful people, people who have been big supporters of me, and they are disappointed in me.

I want to say one more time, I have done my best to really be a scholar and to study this matter. I have tried to meet with people representing different points of view. But I very honestly and truthfully believe that this would be a terrible mistake. I think the way to expand democracy and market economies, which is a very important goal for Hungary, for the Czech Republic, for Poland, for other countries, is membership in the European Union. Our country should be using our leverage to make that happen.

I think there is no reason for NATO expansion. I see no military threat that calls for expansion of a military alliance. I think the downside is that we risk signing arms agreements with Russia, we risk poisoning relations with Russia, we risk putting the democratic forces in Russia in peril, and I think if we don't have a stable Russia, if we don't have a secure Russia, then all of Europe is threatened by that.

I had a chance to travel to Russia a few years ago. I wanted to visit where my father grew up since he could never go back because the Communists ruled. I went there full of hope, and I came back with less hope. Of course, I am an optimist; I am always hopeful. The reason I had less hope is because of all the economic disintegration, how difficult a transition it is for this nation to move from a totalitarian government, to move from Communist rule to democracy and, indeed, too much economic pain for too many people in the country.

I will never forget being on the Trans-Siberian Railroad and talking to a woman, I am sorry to say, through a translator and having her say to me, ''You can't eat freedom.''

What I worry about—I don't think this issue is the issue alone, and I know there have been public opinion polls recently taken—I am sure my colleague from Delaware, Senator BIDEN, has spoken about some of that—where a majority, not a large majority, but a majority says they favor NATO expansion. What I worry about is this can be a triggering event if things don't go well. I am worried if things do not go well economically; I am worried if there is a considerable amount of instability, if President Yeltsin should run into difficulty with an illness and should pass away; I am worried about what is going to happen in the future, not in the distant future but in the medium future and maybe in the near future. I do not think the benefits of NATO expansion come close when measured up against what I consider to be the very real dangers of doing this.

I think we are making a fateful decision. I said in the Senate Foreign Relations Committee—I like to say it because my father was my teacher. My father—I miss him, I wish he was alive. I wish he was here to provide me with advice. When I was growing up, I was a little embarrassed by my father because he was very ''old country.'' He was almost 50 when I was born. He wasn't cool and didn't fit in and really didn't fit in with my friends' parents. When I got to be high-school age, the age of some of the pages here, I realized what a treasure he was. For 3 years before I went away to the University of North Carolina, every night at 10 o'clock, except for the weekends, I would meet him in our kitchen and we would have sponge cake and hot tea, and he would talk about the world. For 3 years, I had a chance to just listen to my father and learn from him. I really believe that my father would say to me today that George Kennan is right and that we will make a fateful decision if we vote for ratification of this NATO agreement.

Mr. President, it is with strength and feeling very strongly about my position—but nevertheless it is a difficult decision—that I speak today on the floor. I urge my colleagues to oppose ratification of NATO expansion. I shall vote no, though I am hopeful that maybe we will be able to pass some amendment which I think will make a huge difference.

I yield the floor.

EXHIBIT 1

[From the New York Times, Feb. 5, 1997]

A FATEFUL ERROR

(By George F. Kennan)

In late 1996, the impression was allowed, or caused, to become prevalent that it had been

somehow and somewhere decided to expand NATO up to Russia's borders. This despite the fact that no formal decision can be made before the alliance's next summit meeting, in June.

The timing of this revelation—coinciding with the Presidential election and the pursuant changes in responsible personalities in Washington—did not make it easy for the outsider to know how or where to insert a modest word of comment. Nor did the assurance given to the public that the decision, however preliminary, was irrevocable encourage outside opinion.

But something of the highest importance is at stake here. And perhaps it is not too late to advance a view that, I believe, is not only mine alone but is shared by a number of others with extensive and in most instances more recent experience in Russian matters. The view, bluntly stated, is that expanding NATO would be the most fateful error of American policy in the entire post-cold-war era.

Such a decision may be expected to inflame the nationalistic, anti-Western and militaristic tendencies in Russian opinion; to have an adverse effect on the development of Russian democracy; to restore the atmosphere of the cold war to East-West relations, and to impel Russian foreign policy in directions decidedly not to our liking. And, last but not least, it might make it much more difficult, if not impossible, to secure the Russian Duma's ratification of the Start II agreement and to achieve further reductions of nuclear weaponry.

It is, of course, unfortunate that Russia should be confronted with such a challenge at a time when its executive power is in a state of high uncertainty and near-paralysis. And it is doubly unfortunate considering the total lack of any necessity for this move. Why, with all the hopeful possibilities engendered by the end of the cold war, should East-West relations become centered on the question of who would be allied with whom and, by implication, against whom in some fanciful, totally unforeseeable and most improbable future military conflict?

I am aware, of course, that NATO is conducting talks with the Russian authorities in hopes of making the idea of expansion tolerable and palatable to Russia. One can, in the existing circumstances, only wish these efforts success. But anyone who gives serious attention to the Russian press cannot fail to note that neither the public nor the Government is waiting for the proposed expansion to occur before reacting to it.

Russians are little impressed with American assurances that it reflects no hostile intentions. They would see their prestige (always uppermost in the Russian mind) and their security interests as adversely affected. They would, of course, have no choice but to accept expansion as a military fait accompli. But they would continue to regard it as a rebuff by the West and would likely look elsewhere for guarantees of a secure and hopeful future for themselves.

It will obviously not be easy to change a decision already made or tacitly accepted by the alliance's 16 member countries. But there are a few intervening months before the decision is to be made final; perhaps this period can be used to alter the proposed expansion in ways that would mitigate the unhappy effects it is already having on Russian opinion and policy.

Mr. BOND. Mr. President, NATO has been the keystone for Western Democracy for the past 50 years. It has stood solidly as a successful deterrent against the spread of Communism and as a community of democracies where markets have flourished and where differences are settled without drawing a sword against one another. NATO's key alliance was based upon a mutual pact of deterrence from external threats . . . and lets be honest—it was and I stress was, an alignment to offset the voracious behemoth called the Soviet Union. The Soviet Union is dead. We need to keep it so. Expansion of NATO to include nations who have struggled to extricate themselves from years of slavery under the yoke of Leninist/Stalinist dictatorial regimes will insure the eternal demise of a world-communist conspiracy.

NATO was a major contributor to the successful end of the Cold War and was in fact responsible for a 50 year period of peaceful coexistence in Western Europe; the longest such period in modern history. In order to continue to fulfill its purpose of ensuring peace and freedom, NATO needs to adapt to a new Europe, a Europe without a Soviet-alliance but a Europe which faces a myriad of other challenges.

As our country adapts to a changing world situation, a world without a Cold War, so must our alliances. NATO must change or become a mere relic of the Cold War. Those who advocate the status quo ask us to live in a non-existent past.

To those who claim that the expansion of NATO will be a threat to the Russian people, I note that the 50 years of relative peace on the European continent extended to the Russian border, as well. Stability in the region has been and will be stability for the Russians. NATO poses no offensive threat to any other nation. It is a gathering of countries who want to break the cycle of war.

For those who are afraid of Russians who threaten their neighbors because these nations desire peaceful alliances, I say, ''Do not bow to the will of a few radical extremists; stand up for those who strive to join a community of free and democratic nations who are our neighbors. Do not let the Russians run our foreign policy.''

For those who say that the nations of Central Europe face no threat today, I say that this expansion is the most likely way to preserve this situation.

For those who claim that this will dilute NATO, I say that Poland, Hungary and the Czech Republic, whose people have demonstrated their embrace of democracy, will add a renewed strength of purpose to the alliance.

Yes, there are questions which must be answered concerning the costs to the United States of this expansion. I have stated time and again that the costs must be defined and we will hold NATO to those numbers. Our coffers are not limitless. But any costs which insures peace and stability will be less than the costs of the anarchy and chaos of medieval conflicts or a resumption of the Cold War. To have set a list of conditions for admittance to the organization, and then to change our minds to those countries which have achieved those conditions is isolationist, elitist and shortsighted. It could drive them to make other alliances for their own collective protection and rather than resulting in a series of treaties the likes of which have fostered the most fruitful 50 years in history, we will set the stage for a complicated entanglement of alliances which will look curiously like those which precipitated World War One. We do not need to learn that lesson all over again.

I am very comfortable in joining the company of such individuals as General Collin Powell, General Norman Swartzkopf, Former Sec Def Richard Cheney, Former Secretaries Baker, Eagleburger, Haig, former Ambassador Kirkpatrick, and a host of other Secretaries, Generals, Admirals and other distinguished personages. So, I call upon my colleagues to support an expansion of freedom, democracy and peace vote to support including Poland, Hungary and the Czech Republic in the NATO family of nations.

Mr. WELLSTONE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. SMITH of Oregon. Today I wish to speak from the heart about a decision we will make as U.S. Senators about one of the most solemn issues that we will face, and that is whether or not we will expand NATO to include Poland, Hungary, and the Czech Republic.

I would like to put some personal context into what I am about to say. Like you, Mr. President, I grew up in a time when we could accurately be described as children of the cold war. Unlike you, I did not serve in Vietnam, but grew up under the threat of nuclear annihilation.

I remember as an elementary school child going through drills where the teacher would tell us to get under our desks and hope for the best. It was a time when, frankly, we were taught to be afraid.

I was too young to remember the Hungarian uprising in 1956, but I was old enough to remember the Prague Spring of 1968. I remember holding my breath as I watched the Solidarity movement develop in Poland and wondering how long it would be until Soviet tanks snuffed out that breath of freedom.

And I remember with amazement and with emotion the night when this Nation sat transfixed at the falling of the Berlin wall. I never thought that would happen in my lifetime, and yet it did. I remember how courageous I thought it was of President Ronald Reagan when he went there, like his predecessor, John Kennedy, and spoke about the

wall and challenged Mr. Gorbachev to tear it down.

As a child of the cold war, I now come, as a Senator from Oregon, to this decision about what we do in Europe, whether we now expand NATO. Though an Oregon Senator, I grew up fairly close to here in Bethesda, MD—my father and mother moved our family from Oregon to Maryland so my father could work for General Eisenhower, in his administration.

At the beginning of the Kennedy administration, my cousin, Stewart Udall, was nominated as Secretary of the Interior. And I suppose because of that correlation between a Republican and a Democrat administration and family ties that went across the aisle, my family participated in a number of the inaugural events for President John F. Kennedy.

I remember it was a very cold January day. I remember, with my family, hearing words that struck me then as important. John F. Kennedy called out to my generation—our generation, Mr. President—of Americans to accept the torch of liberty. At least that is what I heard. I was only 8 years old, but even though that young, I felt his words' impact. I would like to begin by quoting some of his words that he spoke that day just outside of this building.

> We dare not forget today that we are the heirs of that first revolution. Let the word go forth from this time and place, to friend and foe alike, that the torch has been passed to a new generation of Americans—born in this century, tempered by war, disciplined by a hard and bitter peace, proud of our ancient heritage—and unwilling to witness or permit the slow undoing of those human rights to which this Nation has always been committed, and to which we are committed today at home and around the world.
>
> Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, in order to assure the survival and the success of liberty.
>
> This much we pledge—and more.

Well, that set a standard for this country, a high water mark, if you will. And many criticized this as imperialistic rhetoric. But neither that President nor any since him have suggested that we aspire to territory—what we do aspire to is freedom.

Prior to winning the cold war, a hot one had ended. And then we won the Cold War.

As World War II ended, an agreement called Yalta was struck, signed by Churchill, Stalin, and Roosevelt. It promised newly liberated countries of Eastern and Central Europe that they would have a chance at freedom and free elections. Mr. Stalin broke his agreement and the countries of Poland, Czechoslovakia, Hungary, and many more were denied the promise offered at Yalta.

I suggest one of many reasons that we should expand NATO is that we have a moral obligation to live up to the terms that were made at Yalta but went unfulfilled, especially with these three countries, as I said, which openly rebelled against Soviet domination.

Whether you agree with expanding NATO or not, I believe the crux of the issue is two questions. As we stand at the end of this century I ask you, has human nature fundamentally changed from this century's beginning to its end? I ask you the second question: Is the world better because of the standing and position of the United States in the world as a leader of the free world? I suggest the answer to the first question is, human nature has not fundamentally changed but that the world is a better place because the United States of America has lived up to its international responsibilities.

I have been throughout my life a student of history. I have particularly enjoyed European history. As I look at the Balkans today and I see the turmoil and the terror that rage between the Balkans, the Croats and the Serbs, I am reminded that the Balkans are but a microcosm of Europe as a whole throughout its history. As I look at this century and European history, I see the United States of America as having twice been drawn into European civil wars over the first 50 years. But for the last 50 years we have been waging peace. And we have done it through the North Atlantic Treaty Organization.

And lest you think this does not matter anymore and it is over and we can go home, I remind you, looking further back in history, you will see since the 1600s when Europeans began to settle in America establishing colonies in Virginia, Massachusetts, and throughout the eastern seaboard—since that time there have been nine major European wars. In every one of them, Americans died. We were drawn into them. America has a role in European history. We have come out of Europe; we are even a European power. I suggest to you that Europe has been at peace for 50 years because America did not retreat and become isolationist. NATO has been called the most successful military alliance in history, and so it is.

I believe that all the discussion about the costs of NATO expansion—we have heard wild estimates that are undoubtedly false, and we have heard other estimates that are as low as saying that over 10 years America will pay $400 million to participate in this portion of NATO expansion. I believe the latter. I have to say, if history teaches us anything, it is that nature abhors a vacuum and we can either fill that vacuum with our values or leave it there for the mischief of others. How can we morally say to the Hungarians, the Czechs, and the Poles that even though we won the cold war and they were at play throughout it, that we now want to walk away from this victory without leaving our values, democratic institutions, the spreading of private property, of free elections, and great dreams for these nations? I don't believe we can.

I do know that history teaches us that waging peace, or peacekeeping, is always less expensive than war. So when a mother in Oregon asks me, why should we expand NATO and put at risk the life of a son or daughter to die for a Czech, a Hungarian or a Pole, my answer to her is that in order that your son or daughter not die in that cause, we should expand NATO.

Now, where does this leave Russia? I am not anti-Russia; I am hopeful for Russia. But as part of NATO expansion, the Clinton administration has held out to Russia, along with our NATO allies, the Russia-NATO Founding Act. I happened to be present in Paris when this was signed. Now, there are parts of this that give me heartburn, but there are parts that give me great hope, because with this Founding Act I think what we have done is held out to Russia the opportunity to develop in the best of ways and to become a part of the Western community of European nations. But if it does not develop that way, what we are doing by expanding NATO is hedging against the worst kinds of developments there. I think we must do that. I think we owe it to our friends, the Czechs, the Hungarians, and the Poles. But more, we owe it to ourselves, as defenders of peace and liberty in the world.

I began with the words of John F. Kennedy and I will end with them, also, again from his inaugural address. I will say it is my view that America is the indispensable nation. Europe needs what we bring in its history. They need us in Bosnia to help keep the peace. They need us in NATO in order that they not begin fighting again. I believe NATO is really responsible for the Franco-Prussian rapprochement that has occurred since the founding of NATO. I believe NATO's existence has helped to settle disputes between the British and the Spanish. It is helping to settle disputes between the Hungarians, who are offered membership, and the Romanians, who still want membership in NATO. In instance after instance, you will see where NATO membership provides a vehicle for these kinds of differences to be worked out. And they are long-lasting cultural, ethnic, religious kinds of differences which have manifested themselves throughout European history in bloodshed. NATO means that those things don't occur. Again, waging peace is always less expensive than waging war, either in terms of treasure or especially in terms of human life. So we are, I think, the keeper of the peace, and it is in our interest that we remain so.

In America, we often talk about the American dream. But really it isn't America's dream, it is a human dream. It is a dream that all people aspire to. It is just that we enjoy it in great abundance—life, liberty, and the pursuit of happiness. And we must continue to keep that dream and to defend it in the world for our sakes, not just theirs.

So said President John F. Kennedy in 1961,

''To those new states whom we welcome to the ranks of the free, we pledge our word that one form of colonial control shall not have passed away merely to be replaced by a far more iron tyranny. We shall not always expect to find them supporting our view, but we shall always hope to find them supporting their own freedom.

I believe we should expand NATO for that reason, because these people deserve freedom. They can secure it with our help. With that security will come capital and investment so that their labor can be busy, so that their dreams can be realized, and so that American opportunity there can also be expanded. Security goes before economic investment. It always has, and it always will. Capital is something like a river. It will take the course of least resistance to seek the highest rate of progress.

I don't believe our option is to expand NATO or to leave it as it is. I believe NATO desperately needs new blood. We desperately need the new voice of freedom that Poles, Hungarians, and Czechs will bring because they have known the opposite of freedom for too long. Some of us become complacent as to what that means. We need their blood, we need their spirit, we need their sense of freedom, so that we can keep NATO fresh and alive. Our option in the end isn't expanding NATO or not. But ultimately, if we don't expand, I believe we will disband, and that will leave a vacuum that will be filled by the values of others when history calls us to fill it on the basis of ours.

I believe America is a better world because we are not isolationist but because we are internationalists who care not for territory or treasure but for freedom and liberty.

Mr. President, the United States is engaged in an ambitious effort to reshape the political and security structures of post-cold-war Europe. The goal is to build strong states, stable democracies, prosperous economies, and friendly governments across the breadth of Europe. We are joined in this endeavor by our NATO allies and by newly democratic people yearning for the opportunity to pursue political freedom and economic prosperity.

This effort should fulfill the stolen promise of Yalta, and provide the formerly captive nations of Central and Eastern Europe with the opportunity to pursue democratic institutions and economic development of their own choice. This is accomplished first and foremost through the enlargement of NATO to include Poland, Hungary, and the Czech Republic.

NATO has proven its value over the past half century as a mechanism through which the United States has been able to exercise leadership in Europe. By its unequivocal commitment to the collective defense of its members, NATO successfully withstood the communist threat posed by the former Soviet Union during the cold war. Though confronting communism is no longer NATO's primary purpose, a secondary function—the cementing of relationships between former adversaries in Europe—is equally as relevant in the post-cold-war period as it was after World War II. Poland, Hungary, and the Czech Republic, as well as other countries in Central and Eastern Europe that aspire to join NATO, have worked to alleviate historical grievances and build relationships with their neighbors based on mutual trust, respect, and cooperation. In doing so, stability in Europe has been enhanced and the likelihood that European nations will return to the competitive policies that led to two World Wars in the first part of this century is greatly reduced. It is in the interests of the United States to encourage and foster these developments.

Last May, I travelled with President Clinton to Paris for the signing of the NATO-Russia Founding Act. After witnessing this historic event, I was left with a profound feeling that NATO was holding out a hand to Russia, and that addressing legitimate issues, such as international terrorism and drug trafficking, could be well served by NATO and Russia acting together. However, it is incumbent upon Russia to use this opportunity in a responsible manner. The consultative mechanism established by the Founding Act should be one that furthers the interests of both NATO and Russia, and is not used to infringe upon internal Alliance matters.

It is also imperative that the goals of the Founding Act are implemented in a manner that does not weaken the principal function of the Alliance or threaten the interests of Central and Eastern European countries that aspire to NATO membership.

Mr. President, I take this opportunity not to simply state my support for the inclusion of Poland, Hungary, and the Czech Republic into NATO, but also to address the issue of imposing a pause on NATO enlargement for several years. Before I do so, however, I emphasize that neither NATO, nor the United States, has invited any country other than Poland, Hungary, and the Czech Republic to join the Alliance. Proceeding with future rounds of enlargement is a decision that all members of NATO will certainly face, but is a question that is not before the United States Senate today.

In Article 10, the North Atlantic Treaty clearly lays out the process by which NATO may invite additional countries to join the Alliance. This provision states ''The Parties may, by unanimous agreement, invite any other European State in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this Treaty''. Of course, any such revision to the North Atlantic Treaty requires the advice and consent of the United States Senate, which is what brings us here today.

I wholeheartedly agree with my colleagues who want to ensure that NATO remains a strong, military alliance of democratic nations. However, I firmly believe that Article 10 of the Treaty sets a high standard for the inclusion of new members—not only must a country be in a position to further the principles of democracy, but must be a contributor, not just a beneficiary, of security. The possibility of Alliance membership has been a source of hope to countries in Central and Eastern Europe and an important incentive for democratic and economic reform. Were the United States to impose an artificial time period when NATO's door will be shut—despite the qualifications of a country for membership—would send a signal to these countries emerging from communist domination that their historical affiliation is more important to NATO than their ability to contribute to security and stability in Europe.

History awaits American leadership at this propitious moment. We cannot be certain what the European security environment will look like in three, five, or ten years, but if we act now, we will be better prepared for any outcome. We should not be overly consumed with the picture of Europe as it looked during the last century. It is up to the United States to outline a vision of what we want Europe to look like in the next century. That vision is a democratic, undivided, Europe safe for American commerce and friendly to American values. That vision includes Poland, Hungary, and the Czech Republic in NATO.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I seek recognition to speak on this issue of NATO enlargement and ask unanimous consent that Senator DORGAN be allowed to follow me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I thank the Chair.

Mr. President, we are debating something of historic proportion, and that is the question of whether or not the NATO alliance shall be enlarged to include three countries. At this point, those three countries are Poland, Hungary, and the Czech Republic. This is not a new concept.

In 1994, the United States announced that we were, in fact, going to consider the enlargement of NATO. Why? The world has changed so dramatically. The Berlin Wall is down. The Soviet Union has dissipated, or at least broken up into different political entities. We are starting to see the world in different terms. For over 50 years, we saw the world in terms of East and West, the Soviet Union and the United States, the cold war.

How many of us, as kids in the 1950s, huddled under our desks in preparation for the possibility of an air raid? Now what a different world we live in—a world where the United States of America and its taxpayers, since 1991, have given to Russia over $100 billion in an effort to help that country get back on its feet. What was once our mortal enemy, a country that we literally spent $6 trillion to defend against, is now our ally. So we view the world in much different terms, and now we should view NATO in different terms.

My colleagues who come to the floor in opposition to NATO enlargement are stuck in old thinking, as far as I am concerned. They view Europe, East and West, in terms of lines that were drawn by Adolf Hitler and Joseph Stalin. We should not. We should view Europe and its future in terms of a new century and new opportunities.

When you visit a country like Poland—which I did a year ago—and realize now that the Poland of today is not looking to the East, but rather to the West, that the Poland of today wants to be part of an axis which includes Western Europe, the United States, and freedom-loving countries around the world, then you can understand the momentum and impetus behind the enlargement of NATO. These countries like Poland, Hungary, and the Czech Republic are willing to step away from the old Soviet way of doing things; they are willing to pledge themselves to human rights, respecting the borders of their neighbors, and to civilian controlling of the military, and to free markets. They are prepared to join NATO because they know NATO is the future.

What an alliance NATO has been in the history of the world. If you study the history of the world and consider all of the different countries that have come together for various reasons, NATO is an anomaly, NATO is an oddity. Why? Because it is a purely defensive alliance. It was created by the United States and our allies after World War II to defend Western Europe against the possibility of Soviet aggression and expansion. Throughout its history, since 1949, NATO has consistently stood for that principle. There is not a single instance that anyone can point to in the history of the alliance where the NATO countries have come together in an aggressive way to try to take over some other country. It is just not the nature of that alliance.

So when I hear the criticisms—and you hear them from many people who come to this floor—that the Russians are worried about NATO expansion, my obvious question is, Why? Why would any country be concerned about other countries coming together simply to defend their own borders and pledge themselves to principles that I think all freedom-loving countries should be dedicated to? This troubles me, too. If there is genuine concern in Russia that these countries are going to come together in a defensive alliance, maybe the defensive alliance is necessary. It is something to pin our hopes on the relationship between the United States and Russia on the medical reports on Boris Yeltsin. I hope that he continues in power for a long time. I am happy to report that, by and large, with few exceptions, his relationship with the United States has been a very positive one. But we have to accept the reality that there will be change in Russia. I hope it is change for the better.

Now put yourself in the shoes of Poland, Hungary, or the Czech Republic, or, for that matter, the Baltic States. What gamble are they willing to take about the future of Russia? What they have said to us is: We feel comfortable coming together with you in an alliance, which will stabilize our boundaries and give us some certainty about our future. So if a future leader in Russia is more conservative, more liberal, more expansionist, or more friendly, they know that they have this alliance to turn to.

When you look at those who are supporting the idea of expanding the NATO alliance, the list is very impressive. It includes not only General Colin Powell, but former President Bush, Margaret Thatcher, Lech Walesa, and Vaclav Havel. The list goes on and on and on. These leaders, worldwide, understand what NATO means.

Now, let me say this. Some criticize this NATO enlargement by saying, ''There they go again. They are ending up giving away U.S. taxpayer dollars for the defense of Europe. Shouldn't the Europeans be defending themselves?'' The answer is, of course, that they should. That is their own personal responsibility. I, for one, in my 15 years on Capitol Hill in the House and Senate, have argued for burdensharing at every turn in the road. I think more and more of these countries should accept that responsibility.

But let's be honest. If these countries come together, if they agree on certain standards for their own military development, if they agree on certain principles, if this alliance is in place and strong, the likelihood of needing these military forces is dramatically diminished. And each of these new countries that wants to join us in NATO has proven their bona fides in terms of their good-faith effort to be part of a Western alliance by already committing troops when we have asked, some in the Persian Gulf war, some in Bosnia.

In fact, in the situation in Bosnia, Lithuania sent a brigade down and within a few weeks one of their soldiers was killed by a landmine. It was devastating news in that tiny country. It might have led their legislature to convene and bring their troops home from Bosnia. But they did not. They convened and, with a vote that should tell you about their view of the world, voted to send even more forces down to Bosnia. To prove that they wanted to be part of this alliance, they were willing to put their troops and the lives of their countrymen on the line.

That story is repeated over and over. This is a positive thing. This is something that we should view in terms of NATO's future as really, I guess, an excellent start for the 21st century—that we are now at a point where we can talk about all of these countries—which once were at war and in the past had been rivals with conflicting ideologies—that are now coming together.

Some have said, Well, let's not hurry this debate. Can't this wait 6 months or a year? I suppose it could, but I hope it doesn't, because we have spent more than 4 years preparing for this debate. We have gone through lengthy hearings in the Foreign Operations Committee. We have had many people meet—NATO allies and others—to discuss the expansion of NATO. We have studied this to the point where we can make an intelligent and mature decision, and we should.

Last Friday night in Chicago, IL—which is in my home State and which boasts the largest Polish population outside of the city of Warsaw, Poland—we entertained the new President of the Assembly of Poland. Marian Krzaklewski is the new President and a member of the Solidarity party. I can't tell you what this issue means to the future of Poland. Any of you who have studied World War II and understand the devastation that was wrought on Poland as a result of World War II understand how important it is to the people of Poland today to have the security of an alliance that they can count on. We, of course, know of the tragedy of the Polish Jews who were lost in the Holocaust, but there were many others of other religions, and some of no religion, but they were all victims in World War II. The numbers stretch into the hundreds of thousands and millions. That is the legacy of war in countries like Poland.

For those who come to the floor saying, ''Can't we wait 6 months or a year before we give to countries like Poland the assurance that those days are behind them?'' I have to say that I think that is shortsighted. I think the right thing for America to do is to follow the leadership of the President, follow the bipartisan support on the floor of the U.S. Senate, and enlarge NATO. This Senate should vote for the enlargement, first, to include Poland, Hungary, and the Czech Republic, and then, frankly, open it up to any other country that is able and willing to dedicate itself to these same principles.

We don't like to think in terms of the military and war; we tend to focus more on domestic life in the United States, as we should. But I happen to believe that an investment in our time and debate on this issue at this moment is the right thing to do. I believe that if we make the proper move today, this week, and next week in the Senate to debate this issue fully and vote on it, we can bring together the kind of alliance that will give our children and

grandchildren peace of mind for decades to come. I hope that we will do that, and I hope that we will understand, as well, that what is at stake here is more than just a debate over a single issue; what is at stake here is whether the legacy of World War II and the legacy of the cold war will or will not be revisited on our friends in Europe.

The United States cannot be the policeman for the world, but we can ally ourselves with other nations of like mind and like values, who will join us in bringing stability to this Earth, so that the day may never come when we are asked to send large numbers of Americans to fight in foreign lands for issues and causes and for American interests. These are things that I think are part of this debate today.

I close by saying that I appreciate this time to speak, and I hope my other colleagues will join me. I don't know that there is another single issue relative to global security that is more important than this debate about the future of NATO. I hope that the United States and our NATO allies will write our foreign policy and plan our future based on the interests and values that have held us together as a Nation for over 200 years.

When the argument is made that moving forward with the expansion of NATO makes some people nervous in Moscow, I have to ask, Why should it? Why should we not even hold out the possibility that the day will come when Russia will ask to be part of NATO? It is not an incredible idea. The thought that they would give civilian control of the military, pledge to the same principles, and cooperate with the United States—that should be the new world order; that should be the new thinking.

But the belief that we should hold back and not engage these other countries in an alliance, important for our security and theirs, because of some misgivings among some hardliners in Moscow is just plain wrong. We should be driven by foreign policy decisions right for America, right for our allies. We should not be driven by the melancholy of the few in Moscow who long for the return of empire. When you hear the argument made that we can include Warsaw Pact countries like the three I mentioned, and that is all right, but you can't include former republics like the Baltic States, it troubles me greatly. My mother was born in Lithuania, so I come to this debate with a special interest, and maybe even some prejudice is involved.

For 50 years, we refused to recognize Soviet domination over the population of those sovereign states and thought they were entitled to have their own self-government. We ignored Soviet domination and we fought Soviet domination for over 50 years. And now, to defer to some Russian thinking that because these republics that were once part of the Soviet Union want to be in NATO, that is supposedly unthinkable, I disagree. For the Baltic States and so many other countries in Eastern Europe and near the Baltic Sea, NATO really is their security of the future. It is something the United States can be proud to support. I know they will be supportive of the values which we treasure in this country.

Mr. President, I yield the remainder of my time.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I enjoyed hearing the comments of my colleague from Illinois, Senator DURBIN. He, as always, is interesting and thoughtful, and he comes to this debate with a substantial amount of knowledge about the foreign policy issues. I appreciate his position.

I must confess, however, that I come to the Senate with a different position on this issue. I want to explain why I have reached that position.

I must confess, also, that I am not someone who considers himself an expert in foreign policy. There are some—only a handful of Members here in the Senate—who spend a great deal of their time thinking about and working on foreign policy issues. I have great respect for them. But I don't consider myself a part of that group of Senate foreign policy experts.

But all of us in the Senate have some acquaintance with the questions that are presented to us on issues of international policy. And NATO expansion is one such issue. Indeed, as I indicated yesterday, it is a ''legislative main course.'' NATO expansion is a very significant matter for this country and for many other countries in the world that are affected. One of those countries is Russia.

Russia is an important part of our future, and our relationship with Russia will have a significant impact on the future of everyone in this country. I want to speak about that just a bit, because Senator DURBIN also alluded to that issue.

I want to remind my colleagues that some while ago I stood on the floor of the Senate and held up a piece of metal that came from a missile silo near Pervomaysk, Ukraine, a silo that had held a Soviet missile aimed at the United States. But the piece of metal I held up here on the floor of the Senate was no longer a missile. It was scrap metal. The missile is gone from the silo and destroyed. The weapon does not any longer exist. Where there was a missile with a nuclear warhead aimed at the United States, planted in that ground in the Ukraine now are sunflowers—planted on exactly that same ground. The missile is gone. The warhead is gone. Sunflowers are planted.

How did that happen? Was it by magic? No. It was as a result of arms control agreements between this country and the then Soviet Union, now Russia, that required the reduction of nuclear devices and systems to deliver them. It was also the result of U.S. funding initiated here in the Senate—funding that comes from the Nunn-Lugar program—that actually helps to pay for the destruction of Russian nuclear weapons that had previously been aimed at this country. We have had very substantial success in reducing Russia's nuclear stockpile.

We have had that success not just because the Soviet Union no longer exists. We have had that success because Russia and the United States abide by a series of arms control agreements that call for the reduction of nuclear weapons, the reduction of missiles, and the reduction of bombers. And that reduction has taken place. It means that this is a safer world.

So, the Soviet Union has disappeared. Eastern Europe and the Warsaw Pact in Eastern Europe has dramatically changed. There is no Soviet Union. There is no Warsaw Pact. There is Russia. There are Baltic States. There exists in Eastern Europe a series of countries that are now free and democratic. The world has changed dramatically.

All of this relates to the discussion we are having today. I want to describe how and why.

But I wonder, in the context of this issue of the reduction of the nuclear threat, how many of my colleagues—for that matter, the American people—are aware of an incident that occurred on December 3, 1997, in the dark hours of the morning. North of Norway in the Barents Sea, several Russian ballistic missile submarines prepared to fire SS–20 missiles. Each of these missiles could carry 10 nuclear warheads and travel 5,000 miles—far enough to have reached the United States from the Barents Sea.

That morning, on December 3, 1997, the submarines launched 20 of those SS–20 missiles. Twenty of them roared skyward. Swiftly they rose to an altitude of tens of thousands of feet. U.S. satellites quickly detected these missiles and tracked them as they rose. Our early warning phased array radars in Thule, Greenland, and Flylingdales, England, tracked the missiles.

The radars and satellites alerted the U.S. Space Command Missile Warning Center at the NORAD complex in Cheyenne Mountain, Colorado. Space Command plotted the trajectories to determine where the missiles were going.

However, within a few moments, every single one of those SS–20 missiles blew up at about 30,000 feet. Why? Because this wasn't a Russian missile attack. In fact, seven American weapons inspectors were watching from a ship a few miles away as the missiles were launched from the Russian submarines. These were self-destruct launches. It was a quicker and cheaper way for Russia to destroy submarine-launched ballistic missiles, which it was required to do under the START I arms reduction treaty. These were self-destruct launches to destroy missiles under the START treaty.

These missile launches should remind all of us about what the ultimate security threat to the United States has

been. Only Russia, if it desired today, can renew the hair-trigger nuclear tensions of the cold war. Only Russia could do that. And only Russia can destroy its nuclear weapons and its delivery mechanisms, missiles and bombers, by which it delivers those weapons. Whether we like it or not, we must take this into account when we evaluate international security issues. Yes, even in the debate about the expansion of NATO, we must evaluate those issues in the context of our relationship with Russia and with others, but especially with Russia.

I don't come to the floor of the Senate saying that Russia should have some kind of special veto power over American foreign policy. Russia should really play no role in our decision about what is best for this country. But the opportunity to reduce the nuclear threat, the real opportunity that has allowed us to reduce in real terms the nuclear threat, is something that we should take into account.

When we talk about expanding NATO with Poland, Hungary, and the Czech Republic, I think of the story I heard one day in the dark days of the fight for a free Czechoslovakia when very courageous, brave men and women were storming the streets of Czechoslovakia demanding their freedom. I remember the story about Mr. Havel, who was a playwright and an intellectual who then became President of that new democracy. I remember how at midnight the knock on his door from the Communist secret police was a knock that he knew too well because it had come before. He knew it was the secret police. He knew he would be arrested again. He knew they would throw him in jail again, because he had been in jail before. I remember the story about this courageous man and what he did for his country. I remember the stories about in the middle of the crowd in downtown Prague someone standing on the upper strut of a streetlight hanging with one arm and reciting the Declaration of Independence of the United States of America. Think of that—a crowd in Prague inspiring itself by a recitation of the Declaration of Independence of the United States of America.

We understand what we mean to much of that part of the world. We know that this democracy has given great inspiration to those who want freedom and who have had the courage to fight for freedom in their countries. We understand all of that. And I think it is critically important that in every way possible we support these emerging democracies. Our relationships with them are important to this country.

However, expanding NATO is a much larger question than that as well. It involves a number of broader issues. Again, I say that there are other Senators who have had longer relationships with the question of NATO than I have had.

But it seems to me, first, that NATO has largely been a security alliance over many years and a very successful alliance at that. It also seems to me that the decision that has been made to expand NATO is largely a decision that moves in the direction of forming an economic alliance, or one that meets the economic needs of the new members.

Second, to the extent that it remains a security alliance, it, of course, will require countries in Europe, many of whom can least afford it, to spend a substantial amount of additional money on new arms to bring them to the standards that NATO requires. The requirement that the new entrants to NATO rearm, modernize their military equipment, to bring themselves up to NATO standards, also means that some of us are very concerned that in the end, while some of that burden will fall on these countries, much of that burden will fall on us.

This leads me to the third issue. The question of what this expansion will cost the United States produces answers that wildly roam all over the board. I have not found a good answer except that most do not know the answer to the question. It is an important question. What will NATO expansion cost the taxpayers of the United States?

And the fourth issue is the one I have spoken about at length. What does NATO expansion mean to the long-term security interests of the United States? Will expansion of NATO lessen the danger of nuclear war? Will it lessen the danger of nuclear threat? Will the expansion of NATO forge a continued, new, or expanded relationship with Russia that will allow us to reduce even further the nuclear threat? Will NATO expansion allow us to continue to reduce the number of warheads and delivery vehicles, to lessen the nuclear threat for us and all the people of the world? I fear the answer to that is no.

I think the expansion of NATO will likely create divisiveness in our critical relationships with Russia and with some other nations as well. We have made great progress in our relationship with Russia. I hope that progress will include a decision by the Russian Duma to ratify START II and immediate movement by Russia to begin START III talks. But I fear that NATO expansion will retard that kind of movement, which I think is very important to us. We must continue the progress we have made in reducing the nuclear threat.

It is interesting to me how many people would have predicted in this Chamber—the best foreign policy thinkers or anywhere in this country—how many would have predicted that, if you backed up 10 years ago, that in 5 years or 10 years the following will exist in our world: There will be no Berlin Wall, there will be no Warsaw Pact, Eastern Europe will be free, there will be no Soviet Union, the Ukraine will be nuclear-free, and spots in the Ukraine that used to hold missiles and nuclear warheads will now hold sunflowers. How many would have predicted that? I bet almost no one.

We have made enormous progress. To the extent that we feel that the cold war and the tensions between us and the Soviet Union, produced a nuclear threat, and to the extent that we have moved away from that with Russia, that is wonderful progress for the entire world.

The question today is not just a narrow question of, Shall we admit three additional countries to NATO? The question is much, much more than that. It deals with other relationships. It deals with the issue of nuclear proliferation of weapons and delivery mechanisms and so on, and the desire by many of us to move along quickly, not slowly, on the question of further arms reduction talks and treaties and agreements that will further reduce the nuclear threat. That is what is embodied in this question.

I have spent a lot of time reading about this issue, studying this issue, and trying to understand this issue. As I said when I started, I confess I am not a foreign policy expert. But I believe very strongly that a security alliance as successful as NATO has been should not become an economic alliance; should not become an alliance that imposes new burdens on countries that can least afford to ramp up military spending in order to comply with NATO requirements; should not, in any event, add substantial new burdens to the American taxpayers; and should not, especially and most importantly, do anything that interrupts the stream of progress we have made in reducing the nuclear threat through arms reduction talks, treaties, and agreements.

I am fairly well convinced that this step to expand, which to some seems so modest, is just a step in the wrong direction.

Can we, should we, will we be involved with the Czech Republic, Poland, and Hungary, with or without NATO expansion? Of course. They are wonderful people. They are countries that are very important. Our relationship with them is very important. I have just come to the conclusion, however, that this proposal to expand NATO is not a step in a constructive direction.

The columnist David Broder yesterday wrote a column that I think was important in this discussion. He indicated that this debate about NATO seemed to be forming here in the Congress with almost no fanfare, and the implication of his column was that that is not the way it should happen.

Mr. President, I ask unanimous consent that Mr. Broder's column be inserted into the RECORD.

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

[From the Washington Post, Mar. 18, 1998]

DECIDING NATO'S FUTURE WITHOUT DEBATE

(By David S. Broder)

This week the United States Senate, which counts among its major accomplishments

this year renaming Washington National Airport for former president Ronald Reagan and officially labeling Saddam Hussein a war criminal, takes up the matter of enlarging the 20th century's most successful military alliance, the North Atlantic Treaty Organization (NATO).

The Senate just spent two weeks arguing over how to slice up the pork in the $214 billion highway and mass transit bill. It will, if plans hold, spend only a few days on moving the NATO shield hundreds of miles eastward to include Poland, Hungary and the Czech Republic.

The reason is simple. As Sen. Connie Mack of Florida, the chairman of the Senate Republican Conference, told me while trying to herd reluctant senators into a closed-door discussion of the NATO issue one afternoon last week, ''No one is interested in this at home,'' so few of his colleagues think it worth much of their time.

It is a cliche to observe that since the Cold War ended, foreign policy has dropped to the bottom of voters' concerns. But, as two of the veteran senators who question the wisdom of NATO's expansion—Democrat Daniel Patrick Moynihan of New York and Republican John Warner of Virginia—remarked in separate interviews, serious consideration of treaties and military alliances once was considered what the Senate was for.

No longer. President Clinton's national security adviser, Sandy Berger, has pressed Majority Leader Trent Lott to get the NATO deal done before Clinton leaves Sunday on a trip to Africa. When Warner and others said the matter should be delayed until the Senate has time for a full-scale debate, Lott refused. He pointed out that a Senate delegation had joined Clinton at NATO summits in Paris and Madrid last year (no sacrifice being too great for our solons) and that there had been extensive committee hearings.

Wrapping the three former Soviet satellites in the warm embrace of NATO is an appealing notion to many senators, notwithstanding the acknowledgment by advocates that the Czech Republic and Hungary have a long way to go to bring their military forces up to NATO standards. As the date for ratification has approached, successive estimates of the costs to NATO have been shrinking magically, but the latest NATO estimate of $1.5 billion over the next decade is barely credible.

The administration, in the person of Secretary of State Madeleine Albright, has steadfastly refused to say what happens next if NATO starts moving eastward toward the border of Russia. ''The door is open'' to other countries with democratic governments and free markets, Albright says. The administration is fighting an effort by Warner and others to place a moratorium on admission of additional countries until it is known how well the first recruits are assimilated.

Moynihan points out that if the Baltic countries of Latvia, Estonia and Lithuania, which are panting for membership, are brought in, the United States and other signatories will have a solemn obligation to defend territory farther east than the westernmost border of Russia. He points to a Russian government strategy paper published last December saying the expansion of NATO inevitably means Russia will have to rely increasingly on nuclear weapons.

Moynihan and Warner are far from alone in raising alarms about the effect of NATO enlargement on U.S.-Russian relations. The Duma, Russia's parliament, on Jan. 23 passed a resolution calling NATO expansion the biggest threat to Russia since the end of World War II. The Duma has blocked ratification of the START II nuclear arms agreement signed in 1993 and approved by the Senate two years ago.

George Kennan, the elder statesman who half a century ago devised the fundamental strategy for ''containment'' of the Soviet Union, has called the enlargement of NATO a classic policy blunder. Former senator Sam Nunn of Georgia, until his retirement last year the Democrats' and the Senate's leading military authority, told me, ''Russian cooperation in avoiding proliferation of weapons of mass destruction is our most important national security objective, and this [NATO expansion] makes them more suspicious and less cooperative. . . . The administration's answers to this and other serious questions are what I consider to be platitudes.''

Former senator Mark Hatfield of Oregon, for 30 years probably the wisest ''dove'' in that body, agrees, as do former ambassadors to Moscow and other Americans with close contacts in Russia.

To the extent this momentous step has been debated at all, it has taken place outside the hearing of the American people. Too bad our busy Senate can't find time before it votes to let the public in on the argument.

Mr. DORGAN. I placed David Broder's column in the RECORD because I agree with what he says. NATO expansion is a big issue. It is an important issue. We all come to this issue with our points of view, and no one knows exactly what the future will hold. But this country deserves a long, full, thoughtful Senate debate on the question of NATO expansion and then a vote. This President deserves a vote on expansion as well.

But when the vote comes, I have concluded I think the best course for this country, the best course for the world for that matter, and the best course to stimulate further reductions in the nuclear threat for this world, is to vote ''no'' on this particular plan for NATO expansion.

Mr. President, I yield the floor, and I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

Mr. GREGG. Mr. President, I ask unanimous consent to speak as if in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. Gregg are printed in today's RECORD in ''Morning Business.'')

Mr. GREGG. Mr. President, I make the point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, let me observe, first, that I have had the opportunity off and on during the day to listen to some of the debate on the NATO enlargement issue. I have to say there have been some excellent speeches and some very thoughtful observations about the importance of this legislation and what we should do. I am glad we have gone ahead and taken it up. It has given Members notice that we are moving toward a period where we will have the final debate on amendments and a vote on this issue. But I have been very impressed with the quality of the speeches that I have heard today. We will continue on until, I think it is quarter till 5, this afternoon on NATO enlargement. We will continue to have debate on NATO enlargement until we get something worked out on the Coverdell education savings account legislation and conclude that, and then we will go to the final round of debate and amendments on NATO enlargement.

The way we are doing the debate, the dual track of both the education issue and NATO enlargement, is not intended at all to diminish either. It is intended to raise up both of them and the awareness and consciousness of the American people and give Senators an opportunity to make their positions known on both these issues. We will do them in a way where we will get a focus on the issue and have a good debate in the final analysis.

Mr. WARNER. Will the distinguished leader yield?

Mr. LOTT. Yes, I will yield.

Mr. WARNER. I anticipated that, and I think it is working out. I, in many respects, wish it was more in block pieces. Very substantive debate has taken place in the last 48 hours, plus the Armed Services Committee held a 3-hour hearing on the subject. So work is going on very conscientiously on this subject.

Mr. LOTT. I thank the Senator from Virginia for his comment and his thoughts on this important issue. I know he has a lot of reservations. That has a real impact here with his knowledge in the defense area, and we are going to be listening to his remarks.

There have been good speeches on both sides. Senator SMITH from Oregon gave a magnificent speech this afternoon, I thought one of the best I have heard this year.

I think it is working, and we will have a focused debate when we get toward the end of the final debate.

Mr. President, as in morning business, I would like to take this moment also to talk a little bit about the other issue that is pending before the Senate at this time.

EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

Mr. LOTT. Mr. President, there is a clear, strong majority in the Senate who want to pass the Coverdell-Torricelli education savings account bill. It is bipartisan; I want to emphasize that. I believe every Republican is

going to be for ending the debate. They are not dragging this out and having a full-fledged filibuster. I think there are several Democrats who agree we should get to the substance, too, and I hope we are going to have a broad—and I believe we will—a majority will vote for this legislation when we get to final passage. And there is a reason for that.

The legislation would benefit some 14 million families who could use the education savings accounts. I have said it before and I emphasize it again, I think one of the problems with elementary and secondary education in America today is there is no opportunity for financial assistance, no way to save your own money to help your children a little bit. It does not have to be $2,000 a year; it could be $200 a year or less. But that money then could be accumulated and get the tax benefits and then used to buy uniforms or books or computers or to choose another school.

So I think this is a major step in the right direction in dealing with the problems of elementary and secondary education in America.

This bill would help 1 million students with tax relief on their State prepaid-tuition plans. This is a good idea. We ought to allow people to be able to pay in advance for the impact of tuition when they go to college. This is something that is being advocated very aggressively by a number of Democrats as well as Republicans.

This bill would benefit a million workers, including 250 graduate students, whose employers would be better able to provide education assistance for them. Shouldn't we encourage that? Shouldn't we encourage employers to help their good workers who want to better themselves to advance their education? Of course we should, and this would do that in the best possible way.

Now, Mr. President, this day is day 6 of the delay and obstruction against getting this education reform. Is it all we need to do? No. Is it a major step in the right direction? You betcha. We ought to do this. And we should not keep delaying it and dragging it out.

For 6 days some Members of this body have taken turns standing in the schoolhouse door barring the way to a quality education for children who, quite often, need it the most.

I want to thank all the Senators who have been involved on both sides of the aisle who have been willing to put aside partisan considerations and do what is right for American families.

It would also benefit hard-pressed localities that could build new public schools with the bill's $3 billion in tax-exempt private activity bonds. This is in there because of the continued efforts of Senator GRAHAM of Florida, Senator FEINSTEIN who worked on it, and Senator COVERDELL who was for this. Some of us have some reservations about this. I am one of them. But if you think about it, if Disney World would like to help build another school in the Orlando area and this would help that happen, because in the public schools it might not happen, should we allow that opportunity through the taxing of bond activity? Maybe so. That is in this bill.

In short, this is one of the most important pieces of consumer rights legislation that the Senate has considered since the establishment of the Food and Drug Administration, I believe. And it is being blocked systematically and cynically by those who do not want, apparently, middle-income or low-income families to have the same choice in education that is available to all wealthy families.

My family did not have that option, couldn't afford it. I went to public schools all the way—proud of it. I think they did a good job. But I don't believe my kids got as good a public education as I did, and they went to public schools all the way, too. But I still think we should have other choices.

I think it is ironic—no; maybe it is tragic that in the midst of this filibuster, of this delay, the administration is today boasting of its record on school violence, that we have safer schools. I do not know where they have been. The schools are the most dangerous in America today than they have ever been in history, probably.

I mean, I used to worry about chewing gum in school. Now kids bring guns to school and shoot their classmates. You have to go through a metal detector to get into schools. Where are these programs that have been helping with that? I don't see them. But it is a curious gesture, to me, to wring your hands about the violence in classrooms while you block the exits so that children cannot escape from unsafe drug-ridden schools. That is what this would help do.

I think it is just pretense, really, to deplore violence on the playground and in the school corridors while you force those endangered boys and girls to stay right where they are. And that is the fact of the opposition that we see to the Coverdell-Torricelli bill, because we are trying to give them some options. We are telling our children, oh, yeah, we want more classrooms and whatnot, but they have to stay in the back of the education bus and they have to stay in these dangerous schools.

So if the classrooms are smaller, smaller classes, but still dangerous and infected with drugs, you are not getting a good quality education, and because the teacher can't pass a test himself. I do not think we have done what we need to do.

Do we trust the parents or not? That is one of the questions here. I do not trust a Federal bureaucrat in Washington to make the right decision for the children in my hometown schools. I trust the parents and the teachers and the administrators at the local level to make the right decision for their children.

So I think that this is something that we should bring to a conclusion. We need to find a way to get this bill considered, amendments to be offered. So I say here today—and we have just sent notification to the Democratic leader—that we wish to make a full effort once again to find a way to bring it to a conclusion so we can consider education and education needs and education amendments.

I have another proposal. Keep in mind, last week I proposed that the Democrats should have a substitute bill, or could have, if they want to do it, and put anything they want to in it, debate it as long as they want to, and have a vote; and then we would go to the Coverdell-Torricelli bill. Well, for good reasons, I presume, we could not get an agreement on a substitute.

So then we said, well, what about if we have a couple of amendments on each side that are education related, and we have time to debate the amendments offered by Democrats, time to offer the two amendments offered by Republicans? That did not work and, once again, partially because there were more than two on each side; there were a number of them.

Well, I have a new proposal. I have a way to bring us to a conclusion that I believe everybody would feel is fair and we could get a good debate on education. I understand that there are some 14 amendments that have been filed that relate to education—education. Five of them are Republican; nine of them are Democrat.

Now, there are some others that have been filed that do not relate to education—clearly do not relate to education. So I propose here this afternoon that we say, OK, we are going to have agreement that those 14 education amendments that have been filed can be offered, debated for an hour each, and voted on—five Republican, nine Democrat—but they have to be the education amendments; and then we go on to final passage based on whatever the condition of the package is at that point.

Now, if we have to go to cloture—and when we get cloture —we still could have 30 hours of debate after that, and amendments would be offered or could be offered. We probably would take at least 14 or 15 hours or more post-cloture. So I would like to—I am not asking for an answer now, but I am suggesting it to our colleagues on both sides of the aisle, and for the children of America, that maybe this is a way to make sure that Senators are able to offer amendments to education in addition to what is in this bill, and also to be able to offer ones that might not be germane post-cloture.

This is a way to get it done. And we could set up a process of when we would begin on those amendments. We would have the 14 hours of debate, the votes would occur, and we could bring this to a conclusion, and I believe that instead of having a talkathon, we would have an A+ bill, a bill with input from Members on both sides of the aisle, a bill that would help education

in America. And I think the American people would say we have not just been talking about what we are going to do, but they would then see the truth, that we really do want to be a positive force in improving education in America and we found a way to do it.

And it would add this additional benefit. It would allow us to bring it to a conclusion within a foreseeable period of time. It would allow us then to focus on having debates only on NATO enlargement, and get that to a focused debate and a focused conclusion, and then to go perhaps—even next week, if we could get all this lined up—to a vote on one or both of the supplemental appropriations bills.

Now, that would be a week and a half of production that would stagger the minds of men, particularly when it comes to education. But we would have done education, we would have done NATO enlargement, and we would have done supplemental bills that will affect the defense of our country because of the funds for Bosnia and the Persian Gulf, for IMF, and for disasters. We could do all that in 1 week. I think it would be a monumental accomplishment. And I invite the Democratic leader to respond and to think about this offer, because I think it is a fair one that a lot of Senators would feel good about.

With that, I would be glad to yield since I see Senator DASCHLE is here.

The PRESIDING OFFICER. The distinguished Democratic leader is recognized.

Mr. DASCHLE. I thank the President for his recognition.

And I thank the majority leader for his innovative new offer. This comes as news. We have not had the opportunity to consider his new offer because this is the first time I have heard it. But, clearly, he is beginning to address the concern that Democrats have raised about the way in which this bill is going to be debated.

None of us has proposed that somehow we want to keep from getting to final passage on this legislation. That isn't our objective. We have already noted the President is going to veto this bill, so we do not have to stop it from passing through the Senate. So that isn't our intent.

Our intent all along has been simply to have a good debate, to offer our version of what we ought to be doing in education, to offer our version to suggest how we might spend one and a half billion dollars as we look at the array of challenges that we face.

Now, the majority leader has proposed a plan that I have not yet had a chance to consider, but two questions arise immediately, and one is whether or not this proposal would allow us to deal with pre-educational years; that is, the childhood development questions that we are facing as some of our amendments deal directly with early childhood development.

We have not indicated to any of our colleagues that they had to file their amendments. Would we be then precluding some of our Democratic Senators who had no idea that somehow, if you had not filed, you would not be protected?

And then of course there is the question of just an hour. Some amendments are going to take a little longer than an hour; some will not.

So there are a lot of questions here that obviously we can work through, but to throw the gauntlet down, to say we are going to file a cloture motion to deny anybody the opportunity to offer amendments even though they are certainly related to education, has been our objection all along.

So I certainly would like to work with the majority leader. The best way to do it is to vitiate the cloture vote so we can talk through this, rather than to insist on cloture and then negotiate, claiming to have some real interest in finding some resolution here. But I certainly applaud the majority leader for his approach, his constructive way in which he wants to find a way to deal with the schedule.

I yield to my colleague from Delaware, who also has taken a great interest in this issue, for any comment that he might have.

Mr. BIDEN. Mr. President, if I may, I will be brief.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I, too, applaud the majority leader for this new offer. I am one who supports the Coverdell amendment. I am one of those folks who voted against vouchers, although I am entertaining whether or not I vote for a test project, as I view it, in the District. I have not made up my mind on that yet. But I clearly support the approach of my friend from Georgia.

As a matter of fact, we had a little bit of a disagreement in our caucus over that issue on the substance. But there is one thing there is not any disagreement in our caucus about, and that is whether or not—and I suspect there would not be if the roles were reversed for the majority leader—whether or not we would sign on to—even those who support the Coverdell legislation—whether or not we would sign on to a position that would effectively require us to give up our rights to offer amendments, because although I am for this bill, it may be there would be a crime bill on the floor or there would be a foreign policy initiative on the floor that, once I agreed to give up that right procedurally, I would have put myself in the permanent minority and not being able to exercise the rights I have under the rules of the Senate. And I am absolutely confident the Senator from Mississippi would take the same position were he on the opposite side of the numbers at this time, the numbers being in the minority.

But I, for one, believe that we should try to work out an overall arrangement relative to making sure we deal with education-related issues. I would—and far be it from me; I am not capable of being the leader of either one of the parties on this floor. But I would suggest that while the minority leader, the Democratic leader, is considering this, that the majority leader, the Republican leader, consider whether or not there is any benefit in trying to put a time limit on this now.

Suggesting time limits on amendments is like waving red flags. I can name 10 Senators on your side, if I said that we are going to give their State an additional $70 billion but there will be a time limit on debate, they would automatically disagree. So I think there are sort of red flags.

And far be it from me to get in the middle of this negotiation, but I compliment the Republican leader on what seems to be at least a slight change of approach in terms of what I think is an equitable way in which to deal on this floor. But people like me, who strongly support the Coverdell bill, absent something worked out like this—I must say to my friend from Georgia, I am with you, but I ain't with you when I have to give up my rights on everything else that comes down the pike—as strongly as I support this.

So I compliment, again, the Republican leader. I hope he and the Democratic leader can work this out, because I would like very much to get to this debate and get to voting on it. And, to be very selfish about it, I would also like to clear it out of the way so we can focus on NATO in a coherent way.

I see the Presiding Officer shaking his head. He has a great interest in the NATO issue as well, I know. There are a number of Members who do. It would be nice to have a coherent, consistent debate on that issue, because it is of such consequence.

I thank both leaders for allowing me to get into what is not usually something I speak to, and I appreciate their efforts.

Mr. LOTT. Mr. President, if I could respond to a couple things that the Senator from Delaware just said.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. LOTT. The timeframe is—you know, we do not have to lock into that. I just thought, since you are talking about 14 amendments here, that an hour probably would be enough. If we needed more on some of them, less on some others, we could work through that. But part of the reason why I was having hopes that we could, after about 20 hours or so, finish this up and then get to a focused-on debate on only NATO enlargement and get to a vote on that—that was part of the thinking. But the time could be flexible. Generally speaking, I think some of these amendments probably could be debated for less than an hour maybe.

So you understand I will not ask this now, just so you can think about it, between now and when we get to the cloture vote I could ask consent notwithstanding rule XXII, regardless of the

outcome of the 5:15 votes, the following amendments be in order postcloture. One of the reasons that is also important, because some amendments might still be in order postcloture that would not be on this list, and that we would work on how much time we have on each amendment, and that there would be nine education-related amendments offered by the minority side, filed amendments 2020, 2026 through 2028, 2031 through 2033, 2040 and 2041; and five education-related amendments offered by the majority side, 2021, 2022, 2024 through 2025, and 2035.

That is a suggestion of a UC we could ask for, or if we could work out some other unanimous consent agreement on education-related amendments. I know the Senator was talking about maybe having a crime bill. I know when he is having a crime bill he would rather not have to deal with a fisheries' amendment. I understand the minority wants to make sure they are not precluded from offering amendments important to them. I think he also understands the majority has some rights and desires not to have to vote on amendments across the board, from one end of the spectrum to the other, when we are trying to get an education bill completed that is very important to education in America and children in America, so we could then get to a very important national policy issue, NATO enlargement, that I had the President call about just last night.

I am looking for a way to be fair so we can consider education amendments and identify a way to bring it to an end.

Mr. BIDEN. Will the Senator yield?

Mr. LOTT. I am happy to yield to the Senator.

Mr. BIDEN. I understand his desire but I don't understand his right. I understand the desire not to deal with all those amendments but I never thought that was a right—although it would be nice if it were a right—and while he is doing this, if he succeeds, if he could also clear the Helms-Biden foreign relations material of abortion amendments and declare them out of order as well. That is somehow stopped up.

Mr. LOTT. I thought he agreed we would have that issue on the United Nations arrears, State Department reauthorization, instead of having it on the emergency bill or the IMF; wasn't that the discussion?

Mr. BIDEN. The Senator is of the view it shouldn't be on anything, so I hope when he settles this he can settle that too so we can fund the United Nations and have the IMF moneys, too.

Mr. LOTT. I am sure we will work on that together.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The distinguished Democratic leader is recognized.

Mr. DASCHLE. I commend the Senator from Delaware for making a very important point. This is the U.S. Senate. I daresay there is not a Senator in this body who hasn't chosen to use a legislative vehicle for purposes of offering amendments that may not be germane. We all understand the germaneness rule.

We all understand, many of us, why we left the House of Representatives to come to the U.S. Senate. We came to the U.S. Senate because we recognize the glory of the wisdom associated with the right of every Senator, and that is understood each and every time we come to the floor.

The distinguished majority leader has made quite a point of citing the Coverdell bill as a bill related to education. It is also related to taxes. This is a tax bill, as well. This is a piece of legislation changing the Tax Code.

Just so everybody understands what the majority leader is suggesting here, he is saying we don't want you to consider this a tax bill. The majority refuses to allow the minority to consider this a tax bill on the Senate floor. We want you to insist and promise that you will never offer a tax amendment on a tax bill that comes to the Senate floor. It is an education bill, so go ahead and offer an education amendment, but don't you dare offer a tax amendment to a tax bill. We are not going to allow that.

Mr. President, I think that points out the fallacy of this whole matter and the reason why my distinguished colleague from Delaware made the point he did about the rights of the minority. How many tax bills will come to the Senate floor? How many opportunities will the minority have to offer legitimate, relevant, tax amendments?

I am very concerned again about precluding the right of the minority. I was elected to represent 44 Democrats and their rights every time we come to the floor, regardless of the circumstance. I think all of our colleagues recognize the importance of protecting those rights. Whether it is tax, whether it is education, whether it is a matter related to something of great import to our colleagues, we have to protect that right. It doesn't matter the issue. What matters is the right. The right must be protected. That is really what these questions are all about.

I yield the floor.

Mr. COVERDELL. Mr. President, first, I know the minority leader will appreciate concerns on our side in the midst of the fourth filibuster over this. We already had to fight and break filibuster just to get to this point. The entire exercise on this legislation has related to one filibuster after the other, so obviously it has raised concerns that the amendment process will be used as another extension of the filibuster. I think that is a fair concern on our side.

I have to say to the minority leader that even on your side I have heard numerous expressions that there should be a discipline about the education proposal and the debate should be about education, not broad tax policy. I have a tax relief bill that pushes millions of people into the 15 percent tax bracket. I have not introduced it here and won't. I don't think it should be. I think it should be an education debate.

Now, the 9 Democrat amendments that have been offered that the leader is referring to, of the 14, 3 are tax, 6 are nontax, but they are all education related, which I think is appropriate. I do think there has to be some order. I think I even heard in some nature that context referred to by the Senator from Delaware, Minnesota and others on your side. There ought to be some discipline.

I also say that while it is technically a tax bill, it is a minimalist tax bill. It is a large vehicle, a large vehicle.

I think that there has been an extended effort to try to come to a meaningful balance between your side and our side on this measure. I pointed out yesterday that the legislation in our package was 80 percent designed by your side of the aisle—Senator GRAHAM of Florida, Senator BREAUX of Louisiana, Senator MOYNIHAN of New York and others. In the process of framing this, we tried to take the admonishment you gave last year, which was we wanted to go through the process, the Finance Committee. We have done that, heard from both sides. There is heavy influence from both sides. We are simply trying to find a way to get out of the filibuster, to get out of the fourth filibuster, and get down to a discussion about our different views on education.

I hope this last offer or suggestion that has been outlined, that you are hearing for the first time, might be the genesis of coming to an agreement of how we can move on, in both of our mutual interests, on making the Federal Government a good partner in facing the calamity that we have all talked about over the last couple of years in kindergarten and through high school and the costs of higher education.

I did want to make those points.

Mr. WARNER. Mr. President, I see several Members on the floor desiring to continue what I regard as a very good debate on NATO. The Senator from Michigan is present and I am perfectly willing to yield the floor should he desire to seek recognition. It would be my hope, Mr. President, that following the Senator from Michigan, the Senator from Virginia be recognized, and I make this unanimous consent request for the purpose of giving remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC

The Senate continued with consideration of the treaty.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Might I inquire of the Senator from Alaska if he needed to introduce amendments?

Mr. STEVENS. The Senator is very generous. I am awaiting two amendments I have drafted that I wish to put

in. If I can get the time, I will do it today; if not, tomorrow. I was not sure we would be in tomorrow. I understand now we probably will be.

Mr. ABRAHAM. I appreciate the Senator from Virginia yielding to speak to me about the issue of enlarging NATO.

Mr. President, I rise to express my support for legislation expanding NATO by admitting, at this time, the newly free nations of Poland, Hungary and the Czech Republic. It is my hope that we will act soon on the invitation extended to these countries at the Madrid Summit in 1997, and that this will be only the latest step in an ongoing process bringing nations and peoples, until recently suffering under communist tyranny, into the community of free nations and into the sphere of mutual security provided by NATO.

We should not forget, in my view, Mr. President, that until less than 10 years ago most of Asia and half of Europe, as well as vast stretches of the rest of the world, were held in the grip of totalitarian communism.

When the Berlin Wall finally came down it marked a new era in our history; it marked the greatest explosion in human freedom ever witnessed on this earth.

Ronald Reagan's victory in the cold war rescued millions of Eastern Europeans, and Russians, from decades of enslavery. We owe it to him, to ourselves and to our children to solidify those gains by bringing the emerging democracies of eastern Europe fully into the community of free nations. And membership in NATO is a crucial part of that process.

Since its inception immediately following World War II, NATO has brought free nations together for mutual defense and thereby fostered mutual understanding and trade.

Because the world remains a dangerous place even after the successful conclusion of the cold war, there remains a place for NATO. Because the free world has expanded in the aftermath of the cold war, NATO also must expand.

Recent events in the Balkans, the Middle East, East Asia, and Africa show that the world remains a dangerous place, and that the United States must continue to prepare itself for conflict in any part of the globe.

Conflicts in the Balkans are particularly disturbing because of their proximity to our west European allies and because of its potential to spread conflict to other parts of Europe.

To my mind, Mr. President, it also points up the need for greater cooperation and integration in Europe. The structures set up by the NATO alliance in my view provide unique opportunities to foster peace and cooperation throughout Europe. History shows that the kinds of cooperation that made NATO so successful at defending the free world from Soviet communism also can breed peaceful cooperation among member states.

I believe it is significant that, while NATO has expanded its membership no less than three times since 1949, at no time has there been any military conflict among member states, despite sharp and long histories of political differences between some.

Shared commitment to well-ordered liberty—to democratic politics, free markets and human rights—united the countries of NATO, in good times and bad, until, eventually, they faced down the forces of communism.

What is more, NATO remains the only multilateral security organization capable of conducting effective military operations that will protect western security interests.

Of course, Mr. President, we must be careful about which countries we allow into NATO, as well as when and under what circumstances. But I believe it is in the interest of the United States, as well as our European allies, to actively assist European countries emerging from communist domination in their transition to free governments and free markets so that these countries may eventually qualify for NATO membership.

We must extend our hand to peoples now emerging from the long night of communist dictatorship. We cannot afford to let them despair and turn, or be dragged, back into the dark.

This makes it particularly appropriate that we begin the process of NATO expansion by inviting into its membership the newly free nations of Poland, Hungary and the Czech Republic. Each of these countries has suffered greviously from war and from Marxist dictatorship. Each has worked long and hard to establish its independence, the freedom of its people and its markets.

We should not forget that it was Lech Walesa's Solidarity movement that paved the way for the breakdown of the Soviet Empire by refusing to be cowed by the Communist authorities.

The people of Poland, strong in their faith, exhibited a courage few of us would wish to be called upon to match.

As a people they demanded freedom of worship. As a people, they demanded real workers rights in the form of free, non-party unions.

As a people they faced down their communist oppressors and now are building a free, open and democratic society.

The people of Poland have held free and open elections, established free markets and worked hard to establish a strong, loyal, civilian-controlled military. Like few nations on earth, they have embraced their new-found freedom and deserve our support.

The Czech Republic, while still part of the hybrid nation of Czechoslovakia, was the last free country to be dragged behind the Iron Curtain. And its people tried on several occasions, most notably in the spring of 1968, to regain their freedom. They finally succeeded through a silent and bloodless revolution.

Under the playwright and statesman Vaclav Havel, the Czech people have made tremendous progress in institutionalizing free government, free markets and a responsible military.

As for Hungary, Mr. President, the Hungarian people's attachment to freedom made them a constant thorn in the side of their Soviet oppressors. At first their desire for freedom was beaten down with tanks, later it was allowed limited free play within the Soviet empire.

And the Hungarians made the most of their limited freedom, working even before the end of the cold war to lay the groundwork for free markets. Since the tearing down of the Berlin Wall the Hungarian people also have made great strides in building a freer, more open and democratic nation.

By extending NATO membership to these nations we will be showing our approval of the hard work they have done to institutionalize free government.

Of course, Mr. President, our first duty is to the American people. We must defend their security and protect their pocketbooks.

But I think we should keep in mind that increasing openness in central and eastern Europe will benefit us both in terms of security and in terms of economics. Free peoples with free markets make for good neighbors and good partners in profitable trade.

It is my hope that we will build on the freedoms and the relationships already established with and within eastern Europe for the good of everyone involved.

I know that a number of my colleagues are concerned that the process of expanding NATO not come at too high a price for the American taxpayer. As a Senator who has consistently worked for tax cuts, I share this concern. But I must observe that the legislation under consideration includes provisions limiting expenditures through the Partnership for Peace and that it guarantees no country entry into NATO.

Each country will have to show that it has established democratic politics, free markets, civilian leadership of police and military forces and transparent military budgets to gain entrance.

Each country will have to show its ability and willingness to abide by NATO's rules, to implement infrastructure development and other activities to make it a positive asset to NATO in its defensive mission, and to contribute to its own security and that of its NATO neighbors.

All told, Mr. President, I believe that the provisions of this arrangement can help us build on the success of the NATO alliance.

I am convinced that we as a nation have a duty to promote democracy and free markets, wherever they can take root, just as I am convinced that it is in our interest as a nation to do so. When such forces coalesce, we should seize the opportunity, as I urge my colleagues to do with this legislation.

Mr. President, I realize that there are some among us who have grown concerned about the prospect of enlarging NATO. But to me, Mr. President, it seems that this decision is a pretty clear one. It has always been the mission of the United States to support free people, to support the efforts of people seeking freedom throughout the globe. In Central and Eastern Europe, that was a primary mission of America for nearly one-half century. It seems to me that, upon the successful completion of the cold war, it would only be natural that the nations that came into the world of free countries should have the opportunity to extend their participation in the free world to be part of the NATO alliance. It was indeed the NATO alliance, more than anything, that allowed them to find their freedom. It seems only natural that they would wish to be part of that alliance. And it would seem only natural that we should allow them to be part of that alliance as soon as they are able to meet the various entry requirements that we have established. To me, that is the natural outgrowth of the successful completion of the cold war.

So, for those reasons, Mr. President, I intend to support the enlargement of NATO. I believe that Poland, Hungary, and the Czech Republic are deserving allies and deserving members. I look forward to seeing the successful completion of this legislation during the next week.

Mr. WARNER. Again, I express my appreciation to the Senator from Delaware, the distinguished ranking member of the Foreign Relations Committee, for his very conscientious attention, along with Chairman HELMS, to this debate.

I pick up again in expressing the grounds for my opposition to the admission of these three nations, certainly at this time. I also am going to place in the RECORD a series of documents today because I think it is important that those following this debate from a distance have access to the RECORD of the proceedings of the U.S. Senate, and that the views of a number of persons that I and others think are worthy of attention be placed therein. I ask unanimous consent that a statement that appeared in the Washington Times on March 18 by Robert Dole, the former majority leader of the U.S. Senate, entitled ''NATO Test of U.S. Leadership'' be printed in the RECORD.

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

[From the Washington Times, Mar. 18, 1998]

NATO TEST OF U.S. LEADERSHIP

(By Bob Dole)

For decades, the United States urged communist leaders to ''tear down the Wall.'' Within the past 10 years, people of Eastern Europe have embraced liberty and undertaken major reforms in their economies and governments. Now the United States Senate should take the next step toward ensuring freedom and democracy for the people of Poland, the Czeck Republic and Hungary by ratifying the NATO enlargement treaty and inviting them to join us in NATO.

American leadership on NATO enlargement is important to our security as well as to the security of Eastern Europe.

At the Madrid Summit last July, President Clinton and the other NATO leaders unanimously decided to invite Poland, Hungary and the Czech Republic to become members of the alliance, culminating years of efforts by these countries to meet NATO's strict entry criteria. Last week, under the bipartisan leadership of Sen. Jesse Helms, North Carolina Republican, and Sen. Joe Biden, Delaware Democrat, the Senate Foreign Relations Committee overwhelmingly endorsed NATO accession legislation by a vote of 16–2. I hope the full Senate will follow suit without delay.

Two world wars began in Europe, and strife in Bosnia continues today. Expanding NATO to include Poland, Hungary and the Czech Republic will help ensure that new threats, such as ethnic struggles and state-sponsored terrorism, will be kept in check.

During the half-century that NATO has helped guarantee peace in Europe, it has added new members three times, including Germany, Greece, Turkey and Spain. Each addition made the Alliance stronger and increased its military capability. Affirming its military importance of NATO enlargement, 60 top retired U.S. officers—including Colin Powell and four other former chairmen of the Joint Chiefs of Staff, nine former service branch chiefs, and top combat leaders such as Gen. Norman Schwarzkopf—recently signaled their support of NATO enlargement. Their statement emphasized that the admission of Poland, Hungary and the Czech Republic will enhance NATO's ability to deter or defend against security challenges of the future.

What these military leaders and many other Americans understand is that no free nation has ever initiated a war against another democracy. Integrating the military, economic and political structures of Europe's newest stable democracies into the NATO alliance will help ensure that this remains true in the 21st century.

Let me take the opportunity to address four major concerns that critics have raised in this debate. First, some senators have engaged in a last-minute effort to postpone consideration of the NATO accession legislation. But members of both parties and both houses of Congress have already thoroughly examined questions surrounding NATO enlargement. The Senate Foreign Relations Committee alone has held eight hearings with more than 37 witnesses, resulting in 550 pages of testimony. The case has been made: NATO enlargement is in the interest of the United States. It is time to make it a reality.

Second, other critics in the Senate have suggested placing conditions on NATO expansion, thereby ''freezing'' enlargement for an arbitrary number of years. Like the administration, I oppose any effort in the Senate to mandate an artificial pause in the process. Such a move would send the wrong message to countries in both the East and the West, closing the door on current and potential new allies—and perhaps tying the hands of a future president.

Furthermore, freezing NATO's membership would create a destabilizing new dividing line in Europe. Currently, non-member European nations cooperate extensively with NATO through the Partnership for Peace Program. But if nations believe the ultimate goal of NATO membership is unattainable, any incentive to continue democratic reform will be substantially diminished.

The alliance's open door commitment, which has been supported by the United States, has been an unqualified success. The prospect of NATO membership has given Central European countries a strong incentive to cooperate with the alliance, strengthen civilian control of the military, and resolve longstanding border disputes. All of these advance U.S. interests. It would be a mistake to abandon a policy that is clearly achieving its objectives.

Third, some argue that NATO enlargement has hurt or will hurt cooperation with Russia, or may even strengthen the hand of hard-line Russian nationalists. This has not been borne out by the facts. Since the NATO enlargement process began, President Boris Yeltsin has been re-elected and many reformers have been elevated within the Russian government. Mr. Yeltsin pledged at the 1997 Helsinki summit to press for ratification of START II and to pursue a START III accord. The Duma also ratified the Chemical Weapons Convention and President Yeltsin signed the NATO-Russia Founding Act, creating a new, constructive relationshp with the West.

The world has changed. The debate over NATO expansion cannot be recast as an extension of the Cold War. I believe imposing a mandated pause in NATO's engagement would appear to give Russia a veto over NATO's internal decisions, contrary of NATO's stated policy, and would strengthen Russia extremists by enabling them to claim that their scare-tactic objections swayed the world's most powerful military alliance.

And last, some skeptics would rather allow the European Union (EU) to take the lead in building Central and Eastern Europe's economic and security structure. But with due respect, NATO, not the EU, is the cornerstone of European security, which is vital to our own.

As the Senate considers this legislation to allow Poland, Hungary and the Czech Republic to complete their journey from communist dictatorship to NATO membership, we should consider the words of Czech President Vaclav Havel:

''The Alliance should urgently remind itself that it is first and fore-most an instrument of democracy intended to defend mutually held and created political and spiritual values. It must see itself not as a pact of nations against a more or less obvious enemy, but as a guarantor of EuroAmerican civilization and thus as a pillar of global security.''

NATO protected Western Europe as it rebuilt its war-torn political and economic systems. With Senate approval of NATO enlargement, it can, and should, provide similar security to our allies in Central and Eastern Europe as they re-enter the community of free nations.

This is no time to postpone or delay action. It is time to act so that other NATO member countries can move ahead with ratification knowing the United States is leading the way.

Mr. WARNER. Mr. President, it is clearly an endorsement of the present legislation by one of our most revered and respected former Senators, whose wartime record and whose record in many other endeavors places absolutely no question about his knowledge and background to make such an important contribution as embraced in that article.

Likewise, Mr. President, appearing in today's Washington Post under the byline of Jim Hoagland, an article entitled ''Foreign Policy by Impulse.'' I ask unanimous consent that it be printed in the RECORD.

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

[From the Washington Post]

FOREIGN POLICY BY IMPULSE

(By Jim Hoagland)

The U.S. Senate is moving in haste toward a climactic vote on NATO expansion, a foreign policy initiative that defines the Clinton administration's approach to the world as one of strategic promiscuity and impulse. The Senate should not join in that approach.

Foreign policy is the grand abstraction of American presidents. They strive to bargain big, or not at all, on the world stage. They feel more free there than they do at home to dream, to emote, to rise or fall on principled positions, or to stab others in the back at a time of their choosing.

More able to ignore the niggling daily bargains that blur and bend their domestic policies, presidents treat foreign policy as the realm in which they express their essence and personality most directly.

Think in a word, or two, of our recent presidents and U.S. foreign policy in their day: Johnson's word would be overreaching. Nixon, paranoid. Carter, delusionally trusting. Reagan, sunnily simplistic. Bush, prudent technician.

NATO expansion is the Clintonites' most vaunted contribution to diplomacy, and they characteristically assert they can have it all, when they want, without paying any price. Do it, the president told the Senate leadership Monday in a letter asking for an immediate vote. Others will later clean up messy strategic details such as the mission an expanded NATO will have and who else may join.

Sound familiar? Yes, in part because all administrations advance this argument: Trust us. This will turn out all right. Russians will learn that NATO expansion is good for them. The French will not be able to use expansion to dilute U.S. influence over Europe, try as they may. This will cost American taxpayers only a penny or two a day. And so on, on a number of debatable points that I think will work out quite differently than the administration claims.

But there is also a familiarity of style here distinctive to this president and those closest to him. And why not? The all-embracing, frantic, gargantuan life-style that has allowed those other affairs of state—the Lewinsky, Willey, Jones allegations—to become the talk of the world (justifiably or otherwise) also surfaces in major policy matters. The Senate vote on NATO is not occurring in a vacuum.

Life is not neatly compartmentalized. The paranoia and conspiracy that enveloped the Nixon White House manifested itself in the bombing of Hanoi and the overthrow of Chilean President Salvador Allende as well as in Watergate. The Great Society and Vietnam were not conflicting impulses for Lyndon Johnson, as is often assumed, but different sides of the same overreaching coin. The lack of perspective and deliberation apparent in the handling of NATO expansion is apparent elsewhere in the Clinton White House.

On the issue at hand, the White House is urging the Senate to amend the NATO charter to admit the Czech Republic, Hungary and Poland. Majority Leader Trent Lott responded to Clinton's letter by saying he would schedule a vote in a few days, despite appeals from 16 senators for more, and more focused, discussion.

Clinton opposes any more debate, even though he has not addressed the American public on this historic step and even though there is no consensus in the United States or within the 16-member alliance on the strategic mission of an expanded NATO or on its future membership.

A new ''strategic concept'' for NATO will not be publicly reached until April 1999, when it is to be unveiled at a 50th anniversary summit in Washington. When Secretary of State Madeleine Albright recently said in Brussels that NATO would evolve into ''a force for peace for the Middle East to Central Africa,'' European foreign ministers quickly signaled opposition to such a radical expansion of the alliances's geographical area of responsibility.

And Albright's deputy, Strobe Talbott, surprised some European ambassadors to Washington last week when he gave a ringing endorsement to the possibility of eventual Russian membership in NATO, an idea that divides NATO governments and which the administration has not highlighted for the Senate.

''I regard Russia as a peaceful democratic state that is undergoing one of the most arduous transitions in history,'' Talbott said in response to a question asked at a symposium at the British Embassy. He said Clinton strongly supported the view that ''no emerging democracy should be excluded because of size, geopolitical situation or historical experience. That goes for very small states, such as the Baltics, and it goes for the very largest, that is for Russia.'' This is a message that Clinton has given Boris Yeltsin in their private meetings, Talbott emphasized.

''This is a classic case of never saying never,'' Talbott continued. ''If the day comes when this happens, it will be a very different Russia, a very different Europe and a very different NATO.''

How different, and in what ways, is worth discussing before the fact. The Clinton administration has not taken seriously its responsibility to think through the consequences of its NATO initiative and to explain those consequences to the American people. The Senate needs an extended debate, not an immediate vote.

Mr. WARNER. Mr. President, I will refer in my remarks to a Congressional Budget Office report released March 17, addressed to the chairman of the Foreign Relations Committee, regarding the Congressional Budget Office cost estimate, a new cost estimate, on NATO expansion as proposed by the underlying treaty.

Mr. President, I ask unanimous consent that this report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. WARNER. Now, Mr. President, as we all know, the President has announced his goal of welcoming these first three nations into NATO to mark the alliance's 50th anniversary, scheduled for April 4 of next year. Several weeks ago, the President submitted to the Senate the Protocol to the North Atlantic Treaty on the Accession of Poland, Hungary, and the Czech Republic. For the United States, under the ''advise and consent clause'' of our Constitution, two-thirds of this body must give their concurrence to the President's request. Likewise, the new admissions must be agreed to by the other 15 nations in NATO. Presently, Canada, Denmark and Norway have, in their respective Parliaments, ratified these Protocols.

If the Senate agrees, this would be the first of perhaps many expansion rounds to include the nations of Central Europe and some of the nations of the former Soviet Union. Twelve nations have publicly expressed a desire to join the current 16 that comprise NATO.

As I said yesterday—and I don't desire to be dramatic—I do believe this replaces, symbolically, the Iron Curtain that was established in the late forties, which faced west, with now an iron ring of nations that face east to Russia. That causes this Senator a great deal of concern. I have previously expressed my concerns here. I did so again today in the Senate Armed Services Committee, and I was joined in my observations on the floor yesterday by my colleague, the senior Senator from New York, who pointed out that such an iron ring, extending from the Baltics down to the Black Sea, would, in effect, take a present part of Russia and place it behind that iron ring. I refer my colleagues to the remarks of the senior Senator from New York of yesterday.

In evaluating this issue of NATO expansion, I start from the basic premise that NATO is, first and foremost, a military alliance. It is not a political club, it is not an economic club; it is a military alliance to which members have in the past—I repeat, in the past—been invited because they were able to make a positive contribution to the overall security of Europe and to the goals of NATO as laid down by the founding fathers some nearly 50 years ago.

Nations should be invited into NATO only if there is a compelling military need for additional members, and only if those additional members will make a positive military contribution to the alliance. That case, in my opinion, has yet to be made persuasively with regard to Poland, Hungary, or the Czech Republic. NATO has been, is, and will remain, with its present membership, the most valuable security alliance in the history of the United States, if not the history of the world. It has fulfilled, it is continuing to fulfill, and will fulfill the vital role of spearheading U.S. leadership on the European continent.

Twice in this century American troops, in World War I and World War II, have been called to leave our shores and go to Europe to bring about the cessation of hostilities and to instill stability. That is NATO's principal reason for being, for which we now have that military presence in Europe today. It justifies an American voice on the continent, which history dictates is essential to maintain stability. My concern is, that U.S. military presence could be jeopardized by the accession of these three nations at this time. My reason for expressing this concern goes back in the history of this Chamber, when the distinguished majority leader at one time, Senator Mansfield, beginning I think in about 1966, came to the floor repeatedly over a period of 7 over 8 years urging colleagues to bring down the number of U.S. troops in Europe. And, indeed, in

that period we saw the beginning of a force reduction, where today there is the phasedown from 300,000 to 100,000.

Harry Truman, distinguished President of the United States—and, in my judgment, one of the greatest in the history of this country—cited NATO and the Marshall Plan as the two greatest achievements of his Presidency. NATO has unquestionably surpassed all of the expectations that President Truman had, and those associated with him, in founding this historic alliance.

There is an old axiom: ''If something has worked well, is working well, what is the compelling reason to try and fix it?'' The burden of proof, in my judgment, is on those who now want to change this great alliance.

American leadership has been, is, and always will be essential to Europe. History has proven that principle beyond any reasonable doubt. Now a heavy burden falls on those who support expansion—indeed, the Commander in Chief of our Nation, the President—to carry that burden through and to place before the American people a convincing argument that this alliance must be substantially changed by the admission of three new nations. And I predict, without any hesitation, the beginning of accessions periodically of other nations, perhaps to the point where 12 would join with the current 16.

It is for that reason that I have filed with the Senate an amendment to require a moratorium of 3 years on future accessions, should it be the judgment of this body by a vote of two-thirds of the Senators to accede these three nations under this treaty. If this first round is approved, then I want in the resolution of ratification accompanying this protocol a limitation on this Nation not to involve itself in the accession of further nations for a period of 3 years. I do that because we don't know what the costs are of this first round. I will allude specifically to that momentarily. We don't know how quickly these three new nations can bring themselves up in terms of military interoperability with NATO forces today, in terms of other military standards, and how long it will take them to be a positive, full partner with NATO and not be what I would regard as a user of NATO security in that period of time until they can bring themselves up militarily to NATO standards.

And, most importantly, given the significance of this treaty, why should we not let an important decision, should that be the result of two-thirds of our Members, for accession of these three nations—why should we not patiently wait 3 years so that the next President of the United States, whoever that may be, can have a voice to express his or her view that the vital security interests of this country dictate further accessions, or that the pause should continue for a period of time? I think we owe no less to our next President, who will be faced with a substantially different set of conditions, particularly, in my judgment, as it relates to Russia.

I have great doubts that this burden of proof can be met in such a way as to prove that NATO expansion now is ''vital'' to America's national security interests, present or future. For nearly 50 years, the NATO alliance unquestionably has been vital to our security interests. To me, ''vital'' means that we will put—I want to speak very slowly and clearly—that we will put at risk life and limb of the young men and women who proudly wear the uniforms of the United States Armed Forces, our troops, as they are called upon to protect any member nation of NATO. We make that commitment today to the other 15. Now, if adopted, this treaty pushes the boundary of NATO another 400 miles towards Russia, taking on hundreds and hundreds of square miles of new territory. That is what we must focus on—our young men and women who wear the uniforms and who will be deployed for our contribution to the NATO force.

Up front, this administration must explain to Americans that any country joining NATO will be extended protection of article V of the NATO treaty. That article V states: ''An armed attack against one or more of them in Europe or North America shall be considered an attack against them all''—which means we put at risk our people who are sent as a part of the overall NATO force, along with their comrades, soldiers and sailors and airmen of the other nations.

This is the most solemn commitment our Nation can make, particularly as NATO is in a transition phase now, performing a vital mission in Bosnia, a mission that was never envisioned under the original charter with clarity. I think the charter conceivably can be interpreted, as it has been, to embrace this type of mission. What about the next mission, and the next mission, and the next mission? What about border disputes between the two nations, three nations, and their neighboring countries? What about ethnic strife? What about religious strife?

All of these problems are now manifesting themselves throughout this area as these nations struggle to accede to democracy in the former Warsaw Pact and other places in the world, and it is a NATO force that is looked to, to come to the rescue. Bosnia is a case in point.

It is incumbent on the administration next year and the year after to face up to the request of some nine other nations at the moment who express a desire to join. If Congress is to concur now, it will have to justify to the American people, first, the extension of article V to these three nations, followed by perhaps as many as nine nations in the years to come.

Let's step back. In the 19 years that I have been privileged to serve in this Institution, I have participated in all of the debates regarding the deployment of our troops. But I will bring one to mind, and that is Somalia.

I was strongly in favor of President Bush deploying our forces in the cause, not so much because of the vital security interests of the United States, but for our troops to allow the measure of protection needed to distribute food and medicine and other benefits to a starving people, people who are deprived of food as a consequence of a series of droughts and civil strife in that country.

Senator LEVIN and I wrote a very detailed report on behalf of the Armed Services Committee, which traces the entire history of that operation from the first day that the troops landed under President Bush as Commander in Chief to the troops withdrawing under President Clinton. And that mission went through a series of transformations, transformations that were not carefully observed by the Senate or, indeed, the Congress.

There came a time when our mission involved what we would call ''nation building,'' and our troops were deployed in a combat role to try and achieve the goal of nation building. And we all know the tragedy that ensued when one of those missions resulted in the death of 17 or 18 and the wounding seriously of 70-plus other brave soldiers. We recall very well the absolute tragic abuse of the body of one of those brave Americans. This country rebelled. This Chamber rose up in contempt of what we saw before us, and the call was to bring them home—bring them home right now. And I felt that the decision having been made by one President followed up by a second President to deploy those troops, the decision as to when to bring them home should be made pursuant to the Constitution of the United States by the Commander in Chief, the President. I was among those Senators who said let the President make the decision rather than the Congress as to when to bring them home. But the Congress reflected the sentiment across America.

I point this out to illustrate what I call the limited staying power of this country today. It is far different from what we saw in World War II, far different from Korea. But we saw the manifestations beginning in Vietnam—the limitation on the staying power to continue to accept casualties and losses by this country unless it is manifestly clear that those losses, be it their death or injury, are clearly identified with the vital security interests of the United States of America. I forewarn that with this expansion, our troops committed to NATO someday could be involved in missions which, in my judgment, would be very, very hard to justify as being in the vital security interests of this country, and at that point in time our Nation might focus on the continued contributions, be it financial or manpower, to NATO. And underlying that is the question of the possibility of once again America's presence in Europe, through its NATO

association, being challenged by the American public.

I see the Senator from Delaware. I will be happy to take a question at any time.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, earlier my friend and colleague, the Senator from West Virginia, described the ring we were putting into Europe. I observe that within that ring there would be a portion of the Russian nation. Here is the map.

Mr. WARNER. From the Baltics down to the Black Sea, which face east.

Mr. MOYNIHAN. This is Kaliningrad right here, cut off from Russia by Lithuania, Belarus, and Latvia.

I would like to make a point that the Russians have already asked for passage through Latvia and have not received it.

One point about the proposal of the Senator from Virginia to have a pause before further expansion. Last December, the Woodrow Wilson National Center for Scholars had a conference on NATO enlargement, and there was just this one passage that struck me by a Finnish scholar Tiiu Pohl. She said, ''In 1994, the Friedrich Ebert Stiftung of Germany organized a study of the Russian military elite to find out whom they considered to be enemies of the state. The results of the research showed that Latvia was named most frequently, by 49 percent of the respondents. Latvia was followed by Afghanistan, Lithuania, and Estonia. After Estonia came the United States.''

Sir, we are walking into historical ethnic and religious enmities. Catholics here, Orthodox here, and Lutheran here. We have no idea what we are getting into.

I thank the Senator.

Mr. WARNER. Mr. President, I thank my scholarly friend, the senior Senator from New York for his valuable contribution. I think the Senator's point, if I might rephrase it, is those potential disputes grounded in ancient civilizations and ancient religions can and do burst open today and result in conflict into which the Armed Forces can be dragged. What better example than Bosnia.

Mr. MOYNIHAN. Under Article 5 of the North Atlantic Treaty, we would march our troops right up the Volga.

Mr. WARNER. I thank my friend.

Mr. BIDEN. Mr. President, I find this absolutely astounding. Are my friends suggesting that the Russians were justified in marching into Latvia, Estonia, and Lithuania and annexing them in the name of preventing a ring from surrounding them? What in Lord's name are we talking about? No. 1.

No. 2. I have the map, and I am looking at the map. I am trying to figure where the ring is. But let's assume it is a ring. It seems to me, if it is a ring, it is a ring of freedom, a ring of freedom that tolls out and says anybody who wants to have it put on their finger can join and work it out, including Russia.

And Kaliningrad is a port, but if you look at the Kola Peninsula at the top of that map, which is considerably more armed, including with nukes, than Kaliningrad is, it happens to have shared for the last 40 years a border with a NATO country called Norway, about the same length of mileage.

Now, look, this is a bit of a red herring, as we used to say when you practiced law or in law school. What is this ring? We are not talking about Latvia, Lithuania, and Estonia or Belarus or Ukraine or Romania now. That is not part of the debate today.

Now, if my friends are saying anyone who votes for expanding NATO to include Poland, the Czech Republic, and Hungary are tying this noose around the Russian neck, this iron ring, well, then, I don't quite get it. But if they are saying that if you vote for these three you must be saying you are going to vote for all 12 or 15 or whatever, well, then, that is not how it works. That is a fight for another day.

But I find this notion that Kaliningrad, which was awarded, if you will, to Russia after World War II, that subsequent to that the Russians were justified—they didn't say this; I am saying this—that the Russians were justified to assure that they could have access to this piece which was separated from their otherwise—we call them the contiguous 48—separated from their historic border, that they were justified in taking the freedom of the Lithuanians so they could have access, the Lithuanians are somehow out of line because they will, based on some notion of, apparently, religion or some just international pique of some kind, not allow Russian troops to march through their country and that makes them bad guys—the same troops that subjugated them for the last four decades. I don't find that a religious concern. I do not understand how that somehow makes the Lithuanians a little bit shaky. These are the people who for 40 years subjugated them, took away their national identity. And now just 7 or 8 short years after the wall is down they are somehow the bad guys because they will not allow Russian divisions to march from Kaliningrad to Moscow. Oh, my goodness.

And the other argument I am finding fascinating, the solemn commitment—it is a solemn commitment—we make if, in fact, we find ourselves saying that another member can join, we make a solemn commitment to them just as we did Germany, and the comparison is made between Poland and Somalia. We had no staying power in Vietnam and Somalia. I would respectfully submit that Vietnam and Somalia are not Central Europe; they are not Poland; they are not Hungary.

Implicit in the statement is if, in fact, tomorrow or the next day or the next year or the next decade someone invaded Poland again, we would, like the French, stand there with our thumbs in our ears and not respond, then I say we really have lost the meaning of what it means to be an American. That is what Europe did. They refused to make a solemn commitment to Poland. Then when they did make it, they broke it.

What I find an incredible leap here is, what commitment are we making in NATO that I hope every Senator on this floor would not make absent Poland being part of NATO? Is someone suggesting to me tomorrow—and this is not a possibility realistically, but if Russia decided to put 40 divisions back in Poland and the Senator from Oregon, presiding, stood up and said, ''We should respond,'' what do you think would happen on this floor? Well, I hope to God what would happen on this floor would not be what happened in the British Parliament, what happened in the French legislature, what happened in the other capitals of Europe. I hope we would not say, ''Oh, my goodness, no; maybe they have a historic right. Oh, my goodness, let's think about it. We will be making a commitment that is awful. Oh, my goodness, this is a dilemma.''

What is the dilemma? What is the dilemma? Or Hungary. By the way, I happened to notice on the map, I don't know that anybody is talking about Ukraine, including Ukraine. I don't know that anybody is talking about Belarus, including Belarus. I don't know that anybody is talking about Slovakia, including Slovakia as being members of NATO now or in the near term. It seems to me they somehow sit between that iron ring and that noble emerging democracy of Russia.

Look, I guess the thing that sort of got my goat a little bit here is that Americans do not have staying power. What they are really talking about is the Senator's generation and mine, Mr. President, that we do not have staying power. I will tell you about the staying power. The staying power of my friend's generation was real, but it was enviable because they didn't have to doubt whether or not what they were doing was saving the world. They didn't have to doubt whether or not what they were doing was, in fact, literally preserving the freedom of their wives and children back home in the old U.S.A. They didn't have to doubt that they were out there fighting one of the most miserable SOBs in the history of mankind.

But my generation went full of doubt and still went—and still went—never once having the solace of knowing the malarkey we were being fed about Vietnam approached the truth of what their generation was fed about Nazi Germany and fascism in Europe. But they went. I don't doubt the staying power of the American people. I doubt the wisdom of our leadership in the places we have asked them to stay. But if this implies that if there were—and there is no realistic prospect of this—but if there were an invasion of Poland or Hungary or the Czech Republic, not a border dispute, an invasion, that we would not respond, that we would have

to think about it, that there is any substantive difference today——

Mr. WARNER. Mr. President, if I might——

Mr. BIDEN. Between the invasion of Warsaw and the invasion of a former East German city, Dresden, what is the substantive difference?

Mr. WARNER. Mr. President, I would like to reply to the Senator.

Mr. BIDEN. I will yield in just 2 seconds.

Mr. WARNER. Mr. President, it happens to be my floor.

Mr. BIDEN. I yield then. I am sorry. I thought the Senator yielded.

Mr. WARNER. Go ahead.

Mr. BIDEN. It just confuses me.

Mr. WARNER. Go ahead and finish up.

Mr. BIDEN. I am finished. It seems to me this iron ring is no ring at all, the notion that Kaliningrad is somehow going to be isolated relating to expansion. It is already isolated because of the place called Lithuania. The only answer to the lack of isolation is Lithuania limiting their sovereignty. That is the only answer. There is none other. Nobody can get from Kaliningrad to Russia through Poland. They are not trying to get there that way. This is about Lithuania when you talk about Kaliningrad. And the commitment being made to Poland and the Czech Republic and to Hungary, I hope we would make whether or not there was a NATO to which they would join.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I say in a very calm way, I listened carefully to my colleague. I take to heart what he has said. And I think it is very important. I don't question his generation in Vietnam. It was my privilege to be in the Pentagon at that point in time with the Department of the Navy. I went out across the country, spoke at the campuses, watched the extreme objection by his generation and, in hindsight, there was a lot of merit to that objection.

I remember very well Secretary of Defense Melvin Laird, under whom I served as Secretary of the Navy, saying, we have to figure out how to withdraw the United States from Vietnam. That is history. But in World War II, during which I served a modest period at the very end, and my colleague from New York, a somewhat longer period, our generation marched off under the old refrain, ''Ours is not to reason why, ours is but to do or die.'' We simply went, never questioned it. And as the Senator from Delaware said, there was greater clarity as to the enemy, the cause, and we had absolutely magnificent support on the home front.

When I returned from Korea, then serving in the Marines for a short period of time, there was a marked difference between the attitude in America for the returning veterans of Korea and the veterans of World War II. And then during the Vietnam war we all know full well the turmoil on the home front and the difficulty with which the brave young men and women who fought in that battle wearing the uniform of the United States had to cope with not only in battle in Nam but regrettably a battle of a different form at home.

But I say to my friend, staying power in this Senator's mind is an important point, and that is why I brought it up because we no longer have the attitude: ours is not to reason why, ours is but to do or die. Every person in uniform reasons today. I don't suggest they question the orders, but they reason. The people at home reason. They want to know with clarity as to what the mission is, and whether or not it is in our vital security interests.

I remind my good friend of the debate that took place on this floor before the Persian Gulf war. It was my privilege to have written the resolution authorizing the use of force in 1991, after President Bush had put in place, in the gulf, 500,000 American troops, had formed a coalition of 30-plus nations, and we were ready to do battle with Saddam Hussein, who had invaded Kuwait and perpetrated acts of criminal warfare that we had not seen for some period of time.

Kuwait was aflame, the streets littered with the debris of war. In this Chamber we had an excellent debate as to whether or not we would allow the President of the United States to use force by the men and women already in place to repel that invasion. It went on for 2½ days. And by a mere five votes, only a five-vote margin, did this Chamber agree with that resolution. How well I remember that event.

Mr. BIDEN. Will the Senator yield for a short question?

Mr. WARNER. Yes.

Mr. BIDEN. As calmly as I can say it, I guess the point I am trying to make is, it seems to me we should compare apples and apples and oranges and oranges. Does the Senator believe there is any more or less support on the part of the American people to defend Dresden than there is Warsaw? To defend Budapest than there is Florence? To defend any one of the countries that we are talking about, their cities, than any other European city? It seems to me that is the question. If we would not go, if we cannot get American staying power to defend Poland, then I respectfully suggest we cannot get American staying power to defend Germany.

I would think, in America, if you ask for a show of hands, so to speak, on a question of whether we should defend anybody—but the reasonable comparison was these NATO nations that are seeking admission versus NATO nations that are already in. To compare this to Iraq, with all due respect, is comparing very different things.

By the way, five votes were a close call. But in my father's generation it was one vote that allowed the draft. The British had already been pushed into the English Channel, all of Europe had already been conquered, Jews were already being slaughtered, and there were not a lot of people walking off this floor, or any other floor in this generation or any other generation, raising their hands to join. It was only after Pearl Harbor. I don't say that critically; I say that as an observation, a statement of history, historical fact.

So, this notion that the staying power in Somalia or even in the gulf should be equated to the staying power that would or would not exist in Poland, the Czech Republic or Hungary, I think is comparing two different things. I think the most appropriate comparison would be—and you may be right, Senator, that there is no staying power—but the staying power we would have to defend Germany, the staying power that we would have to defend Turkey, I will lay you out 8 to 5, you take the bet, if you took a poll in the United States of America and said you must send your son or daughter to defend one of the two following countries, Poland or Turkey, I will bet my colleague a year's salary they will say ''Poland.''

I will bet you a year's salary, and that is all I have. I have no stocks, bonds, debentures, outside income. I will bet you my whole year's salary. You know I am right. As Barry Goldwater would say, ''you know in your heart I'm right.''

So, if there is no staying power for Poland there sure in heck is none for Turkey.

Mr. WARNER. Mr. President, I brought this up because this Senator feels differently. I think the American people in their heart of hearts want to go to the defense of human beings wherever they are in trouble in the world, irrespective of race, color or creed. But they must apply a standard because it is their sons and daughters who go, and that standard should always be: Is that deployment and risk of life in the vital security interests of our Nation and/or our allies? The NATO treaty, as it has been drafted and utilized these nearly 50 years, has had clarity on that point. We have now gotten involved in an internal conflict in Bosnia, and we thank the dear Lord that we have not experienced in that ravaged nation the casualties that could have come about. And the staying power of the American people, had we experienced over the past year a considerable number of casualties—I am not certain what that staying power would have been. I really am not certain. But I want to make it very clear it is the vital security interests that should always underlie any deployment.

I brought in Somalia because I was greatly disturbed by the debate. Some of my most respected colleagues said, ''Bring them home tomorrow,'' irrespective of the President's, the Commander in Chief's prerogatives to decide when to deploy and when to bring troops back, absent the Congress of the United States speaking through its

power of the purse. I think we should always defend that executive prerogative.

So my concern is just to raise the article 5 commitment clearly, that ''an attack on one is an attack on all,'' and away we go. And now, as we are broadening the basis for NATO military actions, as we have in Bosnia, to involvement in a clear, historical conflict rooted in the diversity of religions and ethnic differences, we have to be ever so careful, as we add nations into the NATO alliance.

At the conclusion of this colloquy I would like to have printed in the RECORD, jointly with my distinguished colleague from New York, one of the most erudite pieces I have ever seen written on the debate we are now having, ''Expanding NATO Would Be the Most Fateful Error of American Policy in the Entire Post-Cold-War Era,'' by George F. Kennan. I know my distinguished colleague has a great deal of respect for the author of this article.

I have a number of serious concerns with the policy of NATO expansion that I would like to address today. Among these concerns are the impact of expansion on NATO's military capabilities; the cost of expansion to the United States; the role expansion will play in the economic competition currently underway in Central Europe; and the impact of expansion on U.S.-Russian relations.

Keeping in mind that NATO is fundamentally a military alliance, we must ask this question—Will Poland, Hungary and the Czech Republic be able to contribute to the security of the Alliance, or will they be net consumers of security for the foreseeable future? In other words, what's in it for NATO? Even by its own estimates, NATO is working with a ten-year time line for the cost of NATO expansion which indicates NATO is planning on at least a decade of modernization efforts before these three nations can ''pull their weight.'' That's a long time to extend a security commitment with little or no ''payback.''

We must also keep in mind that once these three are admitted to NATO—if indeed that does happen—there would be 19 nations, not just the current 16, that must agree before NATO could act on any issue. As we all know, NATO acts only by consensus. The more nations that are added, the harder that consensus will be to achieve. If NATO expands much further, we are in danger of turning this fine Alliance into a ''mini-U.N.,'' where all action is reduced to the lowest common denominator.

What are the monetary costs involved in expansion? Well, at this point, it's anyone's guess. The cost estimates on NATO expansion have ranged from a low of $1.5 billion over 10 years (NATO estimate), to a high of $125 billion over the same time frame CBO original estimate. I expect that the truth lies somewhere in between these two extremes—only time will tell. What will be the U.S. share of this expansion bill? Will our current allies pay their fair share? As we evaluate these questions, we must keep in mind a couple of facts: our European allies have traditionally spent less on defense as a percentage of GDP than we have, and they are all currently in a period of reducing their defense forces.

Is this a time when it is realistic for us to assume that our allies will increase their defense spending for the purpose of expanding the Alliance? The French have certainly made their position clear on this issue. They simply will not increase their contributions to NATO for the purpose of expansion. According to French President Jacques Chirac, ''France does not intend to raise its contribution to NATO because of the cost of enlargement. We have done our own analysis and we concluded that enlargement could be done at no additional cost, by re-directing funds and making other savings.'' This is not the type of attitude we need from our allies at a time when we are contemplating a major new commitment, which will involve substantial costs.

I am also greatly concerned about the economic aspects of NATO expansion. In my view, the greatest threat to the nations of Central Europe today is the struggle for economic survival. These nations are all competing for previous foreign investment as they struggle to rebuild economies devastated by decades of Communist rule. If we grant NATO membership to three of these nations, those three will gain a tremendous advantage in this fierce economic competition. They will be able to advertise that foreign investment will be safe in their nation—it will be protected by the NATO security umbrella. What type of resentment will this breed between the NATO ''haves'' and ''have-nots?'' Will this encourage conflicts into which NATO will be obligated to intervene on behalf of Poland, Hungary or the Czech Republic? Again, only time will tell.

And what of the impact of NATO expansion on U.S.-Russian relations? We all know that Russia is not happy with the expansion policy. They have grudgingly accepted the first round, but will clearly be strenuously opposed to future rounds which move NATO's border even farther eastward. While I do not believe that we should allow Russia to dictate U.S. policy on issues which we regard as vital to our national security, I also do not believe that we should unnecessarily antagonize the only nation with the nuclear capability to destroy our nation. The Administration readily admits that there is no foreseeable military threat to Poland, Hungary and the Czech Republic. If that is the case, what is the rush to expand the Alliance? Wouldn't it be more important to the national security interests of the United States to first deal with the Russians on issues such as the further reduction of nuclear weapons and the control of the proliferation of weapons of mass destruction before we worried about changing an Alliance which is currently functioning without problems?

To continue as the leading nation in NATO, we must have the American people solidly behind our President, our committed troops. It was not so long ago—back in the 1960s and 1970s—that Majority Leader Mike Mansfield annually sponsored legislation calling for a reduction in the U.S. military presence in Europe. Those debates continued into the 1980s during a peak of the cold war. I fear we could see a return of these annual calls to reduce our commitment to NATO if the American people become disillusioned with an expanded NATO.

This nation will continue to engage in a comprehensive debate on this issue over the years to come, but next week the Senate will be asked to vote on NATO membership for Poland, Hungary and the Czech Republic. The American people must be convinced that the protection of these new NATO member nations is worth the sacrifices of life and economy—in our ''vital'' security interest.

If that case is not made, the staying power of the American people is sure to wane were a dispute to arise involving the new NATO nations. And the support of the American people for NATO itself, which has been the pillar of U.S. national security policy in Europe since the end of World War II, could be threatened. That would be the greatest tragedy of all.

I am not willing to take that risk. I will vote against ratification when the Senate is asked to cast its vote on the resolution of ratification.

I am going to momentarily conclude my remarks. But I want to cover the important hearing of the Armed Services Committee today. We had former Secretary of Defense Perry; Ms. Susan Eisenhower, the daughter of Colonel John Eisenhower, and the granddaughter of our distinguished former President; William Hyland, a man who has had many, many years of professional association in foreign policy; and William Kristol, who is a noted commentator on very many issues, particularly security issues.

I want to read part of the testimony given by Ms. Eisenhower. She recites an important part of contemporary history on this issue.

> In 1991, a distinguished bi-partisan panel of 26 current and former government officials offered recommendations for the post-Cold War security environment in a booklet published by the Johns Hopkins Foreign Policy Institute/SAIS. Titled, ''The United States & NATO in an Undivided Europe,'' the report outlined the remarkable series of changes that had recently taken place and focused on NATO's future role in assuring that ''Europe is truly 'whole and free.'" The NATO alliance would require reform and downsizing to ''a small, but militarily meaningful number,'' they said, along with the capability for a future ''redeployment of U.S. combat troops in the event of crisis.'' But they asserted, ''The Alliance should reject proposals to expand its membership by including east European nations.''

That is rather interesting. There is another paragraph.

Obviously such an extension of the Alliance's area of responsibility would be perceived by the Soviets as threatening and as a repudiation of Mikhail Gorbachev's aim to build a ''common European home,'' the justification for his voluntary relinquishment of the USSR's previous hold on Eastern Europe.

Then I skip to a final paragraph:

''Among the twenty-six signatories were Senators Sam Nunn and Bill Bradley, as well as Generals Andrew Goodpastor and William Y. Smith. But the document was also signed by our current Secretary of Defense, William Cohen, along with Zbigniew Brzezinski, Peter Rodman,''—who spoke before a group here in the Senate yesterday and with whom I debated before the Council on Foreign Relations in New York City on Monday—''Helmut Sonnenfeldt and Norm Augustine, all of whom have since done an about-face and are outspoken advocates in favor of expanding the alliance.''

It is very interesting. In the course of this debate, I and others will point out where not more than 8 or 9 years ago there was serious opposition in many circles of Government to the very thing that we are espousing in this treaty.

I conclude by referring to an article in the New York Times, which I will ask unanimous consent to have printed in the RECORD of today's colloquy. October 21, 1997, the article was jointly written by Warren Christopher, former Secretary of State, and William J. Perry, former Secretary of Defense, who testified before us today. I will read a paragraph attributed to both.

And what should the alliance do about other countries seeking admission? It should remain open to membership to all states of the Partnership for Peace, subject to their ability to meet the stringent requirements for admission. But no additional members should be designated for admission until the three countries now in the NATO queue are fully prepared to bear the responsibilities of membership and have been fully integrated into the alliance military and political structures.

Mr. President, Dr. Perry today implied that would take years. The NATO cost report itself indicated that would take years. That is the very reason that my distinguished colleague from New York and I have put in our amendment, as an insurance, should this body go forward with this treaty and the three accessions, that there be a period of 3 years within which the United States of America can examine the cost, examine the ability of new nations to measure up to NATO standards and make a positive contribution to the objectives of NATO. And I add, of course, I think the next President is entitled to the strongest of voices on the issue of further accessions.

Mr. President, I now ask unanimous consent the material to which I referred be printed in the RECORD, and I yield the floor.

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

[From Newsday]

EXPANDING NATO WOULD BE THE MOST FATEFUL ERROR OF AMERICAN POLICY IN THE ENTIRE POST-COLD-WAR ERA

(By George F. Kennan)

The U.S. Senate seems poised to make that error.

In the next few weeks it is expected to approve an amendment to the NATO treaty that would add Poland, Hungary, and the Czech Republic to the defense alliance. It is potentially a mistake of historic proportions.

Despite the warning of Ambassador George Kennan, one of the most respected foreign-policy thinkers of the century; despite the reality that there has been little substantive debate; despite the admission by many senators that the more they learn about the consequences of enlarging NATO, the more doubtful they become about its merits; despite the widespread distrust of the administration's estimate of what enlargement would actually cost American taxpayers; despite the lack of compelling national interest, the Senate seems ready to plow ahead.

Why? Part of the answer is that in this post-Cold War period, foreign policy has become a second-level, even a third-level interest, in Washington. Nobody has been paying that much attention. It is inconceivable that such a war-and-peace issue would have received so little attention during the Cold War. But now many senators admit they are just beginning to focus on this question. New York's Alfonse D'Amato said last week that the more he has learned about the issue the more troubled he is about it. He no longer sees it as an open-and-shut case.

But there are many other reasons for the Senate's dogged march toward approval. One is politics. There are organized ethnic interest groups lobbying for NATO enlargement, while those who oppose it cannot exert a counterbalancing political force. Another is that the Clinton administration, led by Secretary of State Madeleine Albright, has committed the nation's prestige to enlarging NATO and many senator fear—falsely in our opinion—that it is too late to turn back now. Documents have been signed, promises have been made. But the U.S. Constitution requires that the Senate approve treaties by a two-thirds vote. More damaging than turning back now would be to move ahead arrogantly and blindly.

Still another factor is a belief by some that the only way to maintain the U.S. military presence in Europe and bring stability to Eastern Europe's new democracies is to expand NATO's security blanket there. They believe the vacuum created by the fall of the Soviet Union must be filled by the West. And finally, another reason is the visceral anti-Russian feeling that still exists in this country, post-Cold War, * * * Soviet Union. The attitude is that the Russians can't be trusted and this will make it clear that the Iron Curtain will never again be drawn across Eastern Europe.

THESE QUESTIONS MUST BE FACED

But while some of that thinking is explicable, it doesn't stand up to the tough questions that must be asked about NATO expansion:

For instance, if the purpose of post-Cold-War foreign policy is to bring the former Soviet bloc nations into a united Europe, why do it through a military alliance instead of a political-economic alliance designed for the future of Europe, namely the European Union? NATO, by its very nature if threatening to Russia.

For instance, if NATO expands to include these three countries, what is the next step? Romania and Slovenia? Lithuania, Latvia and Estonia? Ukraine? Where to draw the line? And what effect will moving NATO's boundaries next to Russia have on Russia's foreign policy and its attitude toward the West?

For instance, is it really a wise policy to humiliate Russia, especially when doing so provides no clear gain for U.S. policy. The United States and its allies promised that NATO's borders would not be moved eastward when Moscow agreed to the peaceful unification of Germany. How can this action, then, be justified? Is it right to say the promise need not hold because the USSR no longer exists and the West won the Cold War? Russia simply isn't in a position to stop the West from strutting.

For instance, to what extent has the threat of NATO expansion already contributed to a deterioration of relations with Russia? In dealings with Iraq? In the Balkans? On the critical issue of eliminating Russia's weapons of mass destruction—nuclear, chemical and biological? One of Russia's top security experts, Alexei Arbatov, who has championed cooperation with the West, recently wrote that, in Russia, NATO expansion is seen as a defeat for the policy of broad cooperation with the West. He said: ''NATO expansion will plant a permanent seed of mistrust between the United States and Russia. It will worsen existing differences on everything from nuclear arms control to policies in Iraq and Iran. It will push Moscow into alliances with China, India and rogue regimes. And it will move America toward unilateral actions, disregarding the interests and positions of other states.''

For instance, what happens if NATO takes in just the three nations and then stops expanding, as some senators have suggested. Won't that result in a new division of Europe? Wouldn't it be a tacit signal that those not part of NATO are within a Russian sphere of influence? To counter that, will NATO be compelled to continue expanding east, right up to Russia's borders? Would that move set Washington on a collision course with the European members of NATO who strongly oppose further expansion? If it is important to bring Poland, Hungary and the Czech Republic into NATO now, why can't the same argument be made of Lithuania, Latvia and Estonia? They, after all, border Russia.

For instance, do the American people really understand that this is a treaty commitment to defend these nations of Eastern Europe as if an attack on any one of them is an attack on the mainland of the United States? And if the country is not absolutely serious about such an obligation, as some fear, what does that do to the credibility of NATO and the United States?

For instance, what will expansion cost? the administration recently estimated the total cost would be $1.5 billion. But only last year the estimate was $27 billion to $35 billion. Has the Senate asked how the administration came to shrink its estimate 96 percent, especially in light of the Congressional Budget Office's estimate of $125 billion? the Europeans have already indicated they will not share in the cost of expanding NATO. And does it make any sense for the emerging economies of the Eastern European states to increase defense spending? Isn't that the last thing their economies need?

And, most important of all, if everybody agrees the goal is the long-term independence, freedom and stability of the former Soviet bloc nations, isn't the most important historical variable the success or failure of democracy in Russia? Indeed, isn't that the single most important foreign-policy question for the United States and its allies in the coming years? And, if that is so, why take any steps now that would undercut the

position of the pro-democracy forces in Russia and play into the hands of the ultranationalists and xenophobes? Russia, by almost all estimates, is in such bad military shape now that it could not threaten its neighbors for seven to 10 years. If things go badly, there will be time to take steps to protect Eastern Europe. But what is the rush? Albright reassures us that the Russians don't really mind. Does anybody really believe that is the case?

ONE ANSWER: WAIT UNTIL THEY JOIN THE EU

If voting against NATO enlargement is too heavy a political lift, New York's senior senator, Daniel Patrick Moynihan, has offered an amendment that would delay NATO expansion until these nations first are voted in as members of the European Union. That is a commonsense proposal, first suggested by a bipartisan group of foreign-policy experts including former Sens. Sam Nunn and Howard Baker and retired Gen. Brent Scowcroft, the national security advisor to both Presidents Gerald Ford and George Bush. Moynihan correctly asks what is the need to rush into such an important and consequential decision.

The answer to Moynihan's question is simple: There is no reason to rush into expanding NATO. The U.S. Senate shouldn't be acting until it has a much better grasp of how all those questions can be answered.

[From the New York Times, Oct. 21, 1997]

NATO'S TRUE MISSION

(By Warren Christopher and William J. Perry)

Fifty years ago Secretary of State George Marshall called upon the people of the United States to contribute to the building of a new Europe ''united in freedom, peace, and prosperity.'' Succeeding generations of Americans rallied in support of Marshall's vision, electing leaders who were committed to fostering and maintaining the strongest possible ties between America and Europe's democracies, both old and new.

The most important expression of this commitment has been the North Atlantic Treaty Organization. And, we believe, NATO still has that central responsibility even though the political and military circumstances that prevail in Europe have changed.

It is true that the alliance has achieved its original military mission, having deterred attack from the Warsaw Pact. But that was never its only role. It was given that task in the context of General Marshall's much larger vision—of a democratic Europe committed to working together instead of against itself, with the unflagging involvement of the United States as the ultimate guarantor of that spirit of cooperation.

The United States must continue to play this role as democratic Europe itself enlarges, and this is why a Senate vote against enlargement of NATO would be a major mistake.

But it is also time to move beyond the enlargement debate. Adding new members is not the only, or even the most important, debate over the alliance's future. A much larger issue looms: What is the alliance's purpose?

The alliance needs to adapt its military strategy to today's reality: the danger to the security of its members is not primarily potential aggression to their collective territory, but threats to their collective interests beyond their territory. Shifting the alliance's emphasis from defense of members' territory to defense of common interests is the strategic imperative.

These threats include the proliferation of weapons of mass destruction, disruption of the flow of oil, terrorism, genocidal violence and wars of aggression in other regions that threaten to create great disruption.

To deal with such threats, alliance members need to have a way to rapidly form military coalitions that can accomplish goals beyond NATO territory. This concept is not new. Such a ''coalition of the willing'' made up the Implementation Force in Bosnia under alliance command and control, and another made up the war-fighting force in Desert Storm, which drew heavily on alliance training and procedures.

Such coalitions will include some—but not necessarily all—NATO members, and will generally include non-members from the Partnership for Peace program, the alliance's program of training the militaries of the former warsaw Pact. In both the Persian Gulf war and in Bosnia, the coalitions did not include NATO members alone. So the distinction between full membership and partnership promises to be less important in the alliance of the future.

The decision to use the alliance's forces beyond NATO territory would require a unanimous decision of its members, including the United States. That is the answer to those who fear that such troops might be deployed imprudently on far-flung missions to other continents.

Defense of members' territory would remain a solemn commitment of the Allies, of course. But such territory is not now threatened, nor is it likely to be in the foreseeable future.

What should NATO do with, and about, the Russians? An evolution in the alliance's focus and forces from defense of territory to defense of common interests would signal to Russian skeptics that NATO had moved beyond its original purpose of containing Moscow. Moreover, Russian military leaders can well understand the alliance's shift from the large static deployments of the cold war to smaller, more mobile forces. They are trying to do the same in their own program of military reform. They have a strong incentive to carry out such reforms in cooperation with other partners.

The NATO-Russia Founding Act, which provides the framework for the new alliance and the new Russia to work together, is an important step toward forging a productive relationship between the two. Putting the act's political provisions into practice will require responsible actions on both sides. But the Founding Act's military provisions are less problematic and more important. They offer tangible benefits to both sides in the short and long term.

The objective of these provisions should be permanent, institutionalized military relationships modeled on those forged in Bosnia, where NATO and Russian soldiers have served shoulder to shoulder. As has happened before in the alliance, such cooperation changes attitudes by creating shared positive experiences to supplant the memory of dedicated antagonism. It also engages a critical constituency in the formation of the new Eurasian security order: the Russian military. Practical cooperation dealing with real-world problems of mutual concern is more important than meetings and councils.

And what should the alliance do about other countries seeking admission? It should remain open to membership to all states of the Partnership for Peace, subject to their ability to meet the stringent requirements for admission. But no additional members should be designated for admission until the three countries now in the NATO queue are fully prepared to bear the responsibilities of membership and have been fully integrated into the alliance military and political structures.

What about the alliance's relations with other non-member states? The security concerns of most countries of Eastern Europe and the former Soviet Union will be addressed outside the context of NATO membership. But the alliance and the United States must play a crucial role. Partnership for Peace should receive attention comparable to that accorded to enlargement. In particular, the partnership should receive substantially more financing from alliance members. Partnership for Peace countries should be as capable of working with NATO as NATO members are.

The alliance must also devote time, attention and resources to its relations with Ukraine, now formalized through the NATO-Ukraine Charter, and continue its strong support of regional military cooperation among partnership members.

We well understand that some of the ideas we are advancing go beyond tradition. But to resist change because change entails risk is not only short-sighted but also dangerous.

One thing is clear. Neither the American public nor the citizenry of its allies will continue to support an alliance—enlarged or unenlarged—that appears to focus on nonexistent threats of aggression in Europe. For NATO to succeed, it must develop the ability to respond to today's security needs.

Leadership requires vision. It also entails determination, persistence, and having the courage of one's convictions. George Marshall understood what it meant to lead. So must we.

EXHIBIT 1

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 17, 1998.

Hon. JESSE HELMS,
Chairman, Committee on Foreign Relations,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Resolution of Ratification of Treaty Document 104–36.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeannette Deshong.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Resolution of Ratification of Treaty Document 105–36 (Protocols to the North Atlantic Treaty of 1949 on Accession of Poland, Hungary, and the Czech Republic)

Summary: The resolution would ratify protocols to the North Atlantic Treaty of 1949 that would admit Poland, Hungary, and the Czech Republic as members of the North Atlantic Treaty Organization (NATO). Expanding the alliance would require the United States to contribute additional funding for equipment or capabilities shared by members of NATO. CBO estimates that those costs would initially be in the tens of millions of dollars and would reach about $100 million a year after four or five years. Ultimately, the United States and its NATO allies have considerable discretion in how to implement the protocols and, therefore, in the costs that would be incurred.

Estimated cost to the Federal Government: On December 16, 1997, the United States and the other parties to the North Atlantic Treaty signed protocols to expand NATO to include three new members. Article V of the treaty commits each nation to provide assistance—including the use of armed force—to restore and maintain the security of any threatened member. The protocols, if ratified, would extend full NATO membership to Poland, Hungary and the Czech Republic including a security guarantee under Article V.

In addition to spending for special national needs, NATO members contribute funds for equipment and facilities needed to accomplish common goals. NATO members share the costs of the alliance's spending for civilian and military headquarters, the Airborne Early Warning Force, various science and public information programs, and the NATO Security Investment Program (SIP) that covers common infrastructure projects, communications and air defense systems. Overall totals for the commonly funded budgets are determined collectively, and individual contributions are based on formulas for burden sharing.

Expanding the alliance would entail greater costs for improving command, control, communications, logistics and infrastructure—primarily the activities covered under SIP. The United States and its NATO allies, however, would have considerable discretion in how to implement the protocols and, therefore, in the costs that would be incurred. For example, standards for facilities, equipment, and training cover a wide range. Depending on what standards NATO sets, the budgetary consequences could vary substantially. Nevertheless, NATO has provided some initial studies that lay out basic military requirements.

At the December 1997 ministerial meetings, NATO's Senior Resource Board (SRB) presented cost estimates for expansion-related projects that would be eligible for common funding. In that report, the SRB identified cost of $1.5 billion for the next ten years. Assuming that current rules for burden sharing would continue under the protocols, the United States would cover 25 percent of those costs, or approximately $40 million per year. Similarly, the Department of Defense (DoD) assumes that NATO funding will increase gradually over the next four to five years with U.S. assessments for additional military costs reaching $36 million in 2002.

CBO's estimate includes an allowance of $25 million a year for the likelihood that U.S. costs would rise as NATO finalizes implementation plans, engineering surveys, and eligibility criteria for common funding. U.S. costs might also be higher if new member countries face difficulties paying for infrastructure or if military plans become more ambitious. In addition, the United States is likely to incur bilateral costs for expanded exercises, training, and programs to incorporate NATO compatible equipment into the Central European militaries. CBO estimates these costs would be low in the near-term but could amount to $30 million to $45 million a year after 2001 based on additional exercise costs for one brigade and two air squadrons every year plus the cost of subsidies for weapons purchases by the new members.

Thus, CBO estimates that the costs to the United States of expanding NATO would total about $100 million a year after a transition period of four or five years. Roughly 90 percent of these costs would be charged to Defense Department accounts for operation and maintenance, and military construction. The remaining 10 percent would accrue to budget function 150, International Affairs.

Previous CBO estimate: The CBO paper The Costs of Expanding the NATO Alliance (March 1996) explored five different scenarios for extending the NATO security guarantee to four central European countries. The scenarios ranged from a low-threat security environment that called for minimal NATO reinforcement of Central Europe to a scenario assuming a resurgent Russian threat that required the forward positioning of NATO troops in Central Europe.

The cost estimates in that report focused on the total costs to all NATO members, including the new members who would bear the largest shares of the total. Average annual costs to the United States over a 15-year period ranged from about $300 million to $1.3 billion. However, some CBO prepared that study, the SRB has provided clearer indications of how NATO would use its discretion to implement the protocols.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: Section 4 of the Unfunded Mandates Reform Act of 1995 excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that these protocols fit within that exclusion, because they make the Czech Republic, Poland, and Hungary parties to the North Atlantic Treaty of 1949.

Estimate prepared by: Federal Costs: Jeannette Deshong. Impact on State, Local, and Tribal Governments: Pepper Santalucia. Impact on the Private Sector: Eric Labs.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, half a century ago this year there were giants in the land. President Truman, followed by President Eisenhower, Senator Vandenberg in this body, others who first envisaged and passed the Marshall plan to secure economic freedom and prosperity in Western Europe and then to create the North Atlantic Treaty Organization to provide physical security behind which the nations of Western Europe could build free and prosperous societies. Those giants were followed by dozens, perhaps hundreds, of Members of this body who kept the faith—my predecessor, Scoop Jackson, from the State of Washington; Presidents down through and including Ronald Reagan and George Bush. And I come to the floor today astounded at opposition to this extension and to any other extension to free nations, so astounded that by comparison with those giants, I am reminded of Casius' description of Julius Caesar in Shakespeare's great play, when we are asked to live up to his description of:

. . . we petty men
Walk under his huge legs and peep about
To find ourselves dishonorable graves.

Because of the vision of those men and those women and, for that matter, of the United States of America and our allies in Western Europe, the North Atlantic Treaty Organization became the most successful single defense organization, security organization, in the history of the world. Its ultimate dreams came true both earlier and more completely than any of its founders could possibly have imagined when they put it together and brought the American people into it.

It was a treaty that joined together not just allies in World War II, but joined those allies together with their principal enemies in World War II, Germany and Italy, in the feeling that if they were together, the kind of breakdown that took place in the years leading up to 1914 and, again, up to 1939 would be much less likely to take place.

During that entire period of time, there was a line, a north-south line, through Central Europe: oppression and dictatorship and economic stagnation to the east; freedom, security and prosperity to the west. Not once in its most powerful days did the Soviet Union ever cross that line and not at all, incidentally—not once—during all those years did the Western powers with their military force cross that line to the east. It was a shield, a carapace behind which freedom could develop.

But the dream of that freedom was not limited to those within the organization to the west of that line. It activated, it inspired men and women east of the line to be like the people of the West, to join the people of the West, tremendously costly to many of them.

When the people of Hungary attempted to liberate themselves from that Soviet tyranny, they were brutally repressed by Soviet tanks. When the people of the Czech Republic, in the beginning of those years, attempted even a modest measure of freedom, they were repressed by Soviet tanks, and those tanks spent the better part of half a century in Poland absolutely to ensure that the liberty-loving people of Poland were not able to exercise that liberty or to have a government that was truly their own.

Then wonder of wonders, in a very few short years, symbolized a little less than a decade ago by the destruction of the Berlin Wall, those nations and others became free nations. They began to realize their aspirations, and in the case of those three, each one, in a short period of time of less than a decade, has become a functioning democracy, has made a major beginning in reforming its armed services, has moved decisively in the direction of free markets and has begun the long, long journey to catch up with the West economically, but catch up with the West in spirit it has.

What do those nations desire? They desire the security that history has never given them, that their own independent power has never given them. They desire to be a part of the West, lock, stock and barrel, and they see the essential element of being western to be members of the North Atlantic Treaty Organization. They know, they have learned from history, that that membership, and that membership alone, will ensure that they can continue the freedom which is still so young in them and continue the move toward prosperity and toward Western institutions, and that we, who not only spent trillions of dollars in preserving the free world through our armed services, but hundreds of millions, billions of dollars in broadcasting to these countries the message of freedom and the, at least implicit and I think often explicit, promise that the day would come when they could be lock, stock and barrel a part of the West, are now asked by, hopefully, not much more than a handful of the Members in this

body, to reject them, to say that somehow or another, there will be more security in a vacuum in Eastern and Central Europe than there will be with the very kind of precise line that the North Atlantic Treaty Organization drew so decisively and so successfully half a century ago.

But nothing, Mr. President, nothing in the history of nations in this world indicates that a vacuum filled by small and weak powers can possibly be stable, can possibly be the object of anything other than irredentist aspirations on the part of one of the two nations that throughout its history has been the most aggressive in destroying the freedom of those countries.

Germany, now totally integrated into the West, no longer a threat, but no longer a threat to France because they are joined together, and is soon to be no longer a threat to Poland or to Hungary or to the Czech Republic, because they will be joined together.

The case for NATO expansion is simply overwhelming. It is stunning to me that we are so much as debating its desirability in this body and stunning to me that essentially the only reason for opposition to it is that the most truculent element left in Russia, its Duma, dominated by former Communists, those portions of its leadership that are most unwilling to give up what they have had previously, most desirous to restore the status quo ante-1989, will be offended if these countries are brought into alliance with the United States, the United Kingdom, France, Germany and the other members of the North Atlantic Treaty Organization.

Mr. President, that is the best reason to join those countries with us. Far better to do it when there is no immediate threat from the East than when there is, when, I can assure you, the kind of opposition you have heard here today would be much louder than it is today.

I think it is appropriate to go beyond the naming of these three nations. One of the most principled actions in American diplomatic history, in my view, was the absolute refusal for more than half a century on the part of the United States to recognize the Soviet conquest of the three Baltic republics. We, and almost we alone, continued to recognize their right to independence, and one can certainly make the proposition that it was the desire and the movement for independence in those three countries that was the immediate and proximate cause of the collapse of the Soviet Union itself.

I believe, Mr. President—I believe firmly—that any nation that adopts secure and democratic institutions, a free-market approach to its economy and a Western-oriented means of defense, has the right seriously to be considered in this part of Europe for membership in the North Atlantic Treaty Organization. Personally, I believe that both Slovenia and Estonia have already met those qualifications. Other nations have not yet, though most of them strive in that direction.

Again, to crush their aspirations, legitimate aspirations, aspirations that we have supported for more than half a century, by an arbitrary statement that they will not be considered for membership for a fixed period of time, no matter how successful they are, no matter how democratic they are, no matter how much they may be threatened by some future Russia in that period of time, is perverse and wrong and, even more significant, dangerous to the peace of Europe and to the peace of the world.

A bright line is a much greater contributor to peace than a vague set of feelings or concerns or worries about the least regressive elements in Russian society. Just as a democratic and a free-market Germany appropriately became a pillar of the North Atlantic Treaty Organization, so at some future date could a secure and stable and democratic and free-market Russia.

I think that day is a long way off, much farther than I would like. But until that day, to say that others who have met those qualifications, who have had to live through occupation and repression from that country, should be left on their own flies in the face of all of the lessons of history that we have learned since the end of World War II.

So, Mr. President, I believe that we should reject soundly the Warner-Moynihan pause proposal and enthusiastically and overwhelmingly adopt the resolution of ratification that we have before us.

The cold war resulted in a victory for the ideals of the United States and its Western allies. And it should be consolidated by joining with it those who share those ideals, those who fought for those ideals, often to their very great detriment over the course of the last century.

The position taken by my distinguished friend from Delaware is totally and entirely correct. I congratulate him for it. I am convinced that we should go forward boldly into the future with the greatest degree of confidence in the correctness of our cause and only in that fashion will we be worthy of our predecessors in this body who created the North Atlantic Treaty Organization.

Mr. SMITH of New Hampshire. Mr. President, I rise to request that my colleagues in the Senate conduct deliberative and thorough debate on NATO expansion before the expected vote next week.

Many questions remain regarding cost, strategic objective and military requirements of the proposed expansion. If NATO enlargement makes sense, it will make more sense the more it is discussed. We should not casually rush through debate in the Senate.

This should not be a sentimental decision about our historic relationship with Europe, but a hard-nosed decision about extending a military guarantee to a precise piece of territory under current strategic circumstances. Our moral obligation to these countries was abundantly met by generations of Americans, who spent trillions of dollars to win the cold war. This decision should be about the next 50 years, not the last 50.

For this reason, I ask unanimous consent that several editorials and articles about the impact of NATO expansion be printed in the RECORD for the benefit of all Senators.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 19, 1998]

FOREIGN POLICY BY IMPULSE

(By Jim Hoagland)

The U.S. Senate is moving in haste toward a climactic vote on NATO expansion, a foreign policy initiative that defines the Clinton administration's approach to the world as one of strategic promiscuity and impulse. The Senate should not join in that approach.

Foreign policy is the grand abstraction of American presidents. They strive to bargain big, or not at all, on the world stage. They feel more free there than they do at home to dream, to emote, to rise or fall on principled positions, or to stab others in the back at a time of their choosing.

More able to ignore the niggling daily bargains that blur and bend their domestic policies, presidents treat foreign policy as the realm in which they express their essence and personality most directly.

Think in a word, or two, of our recent presidents and U.S. foreign policy in their day: Johnson's word would be overreaching. Nixon, paranoid. Carter, delusionally trusting. Reagan, sunnily simplistic. Bush, prudent technician.

NATO expansion is the Clintonites' most vaunted contribution to diplomacy, and they characteristically assert they can have it all, when they want, without paying any price. Do it, the president told the Senate leadership Monday in a letter asking for an immediate vote. Others will later clean up messy strategic details such as the mission an expanded NATO will have and who else may join.

Sound familiar? Yes, in part because all administrations advance this argument: Trust us. This will turn out all right. Russians will learn that NATO expansion is good for them. The French will not be able to use expansion to dilute U.S. influence over Europe, try as they may. This will cost American taxpayers only a penny or two a day. And so on, on a number of debatable points that I think will work out quite differently than the administration claims.

But there is also a familiarity of style here distinctive to this president and those closest to him. And why not? The all-embracing, frantic, gargantuan lifestyle that has allowed those other affairs of state—the Lewinsky, Willey, Jones allegations—to become the talk of the world (justifiably or otherwise) also surfaces in major policy matters. The Senate vote on NATO is not occurring in a vacuum.

Life is not neatly compartmentalized. The paranoia and conspiracy that enveloped the Nixon White House manifested itself in the bombing of Hanoi and the overthrow of Chilean President Salvador Allende as well as in Watergate. The Great Society and Vietnam were not conflicting impulses for Lyndon Johnson, as is often assumed, but different sides of the same overreaching coin. The lack of perspective and deliberation apparent in the handling of NATO expansion is apparent elsewhere in the Clinton White House.

On the issue at hand, the White House is urging the Senate to amend the NATO charter to admit the Czech Republic, Hungary and Poland. Majority Leader Trent Lott responded to Clinton's letter by saying he would schedule a vote in a few days, despite appeals from 16 senators for more, and more focused, discussion.

Clinton opposes any more debate, even though he has not addressed the American public on this historic step and even though there is no consensus in the United States or within the 16-member alliance on the strategic mission of an expanded NATO or on its future membership.

A new ''strategic concept'' for NATO will not be publicly reached until April 1999, when it is to be unveiled at a 50th anniversary summit in Washington. When Secretary of State Madeleine Albright recently said in Brussels that NATO would evolve into ''a force for peace from the Middle East to Central Africa,'' European foreign ministers quickly signaled opposition to such a radical expansion of the alliance's geographical area of responsibility.

And Albright's deputy, Strobe Talbott, surprised some European ambassadors to Washington last week when he gave a ringing endorsement to the possibility of eventual Russian membership in NATO, an idea that divides NATO governments and which the administration has not highlighted for the Senate.

''I regard Russia as a peaceful democratic state that is undergoing one of the most arduous transitions in history,'' Talbott said in response to a question asked at a symposium at the British Embassy. He said Clinton strongly supported the view that ''no emerging democracy should be excluded because of size, geopolitical situation or historical experience. That goes for very small states, such as the Baltics, and it goes for the very largest, that is for Russia.'' This is a message that Clinton has given Boris Yeltsin in their private meetings, Talbott emphasized.

''This is a classic case of never saying never,'' Talbott continued. ''If the day comes when this happens, it will be a very different Russia, a very different Europe and a very different NATO.''

How different, and in what ways, is worth discussing before the fact. The Clinton administration has not taken seriously its responsibility to think through the consequences of its NATO initiative and to explain those consequences to the American people. The Senate needs an extended debate, not an immediate vote.

[From the Hill, Mar. 18, 1998] NATO: WHAT'S THE RUSH?

There's an unseemly haste in the way the Clinton administration and the foreign policy establishment are pushing the Senate for an immediate vote on expanding the North Atlantic Treaty Organization (NATO) to include Poland, Hungary and the Czech Republic.

As a bipartisan group of 17 senators argued in a letter urging Majority Leader Trent Lott (R) of Mississippi to postpone the vote until at least June 1, there are still to many unanswered questions about what figures to be one of the most important foreign policy issues in recent years.

''We are uncomfortable voting when so many of the purposes and assumptions of NATO enlargement remain either ambiguous or contradictory,'' the senators wrote Lott last week. The group of eight Republicans and nine Democrats, let by Bob Smith (R–N.H.) and Tom Harkin (D–Iowa), pointed out that expanding the NATO military alliance to include the three former Communist countries could have enormous unforseen financial, political and military consequences.

''This is basic, hard-nosed American foreign policy here,'' Smith told The New York Times as he explained why he and his colleagues are seeking to delay a vote, which was expected in the next few days, and force an extended public debate on the issue. ''It deserves that attention,'' he added.

Some of the unforeseen consequences of a rush to judgment on NATO expansion are spelled out on page 40 by Ted Galen Carpenter, vice president for defense and foreign policy studies at the libertarian Cato Institute. According to Galen, ''three lethal booby traps await the United States if NATO expansion goes forward. ''They include potential conflicts between Poland, Hungary and the Czech Republic and their neighbors; damaging our relationship with Russia and driving it into the arms of Iran, Iraq and China; and committing the United States to pouring money down ''a financial black hole.''

The latter point is one of the most critical, according to those who either oppose expansion or want to see it more fully debated. The Clinton administration has estimated that the cost of expanding the alliance will be $1.5 billion over the next decade, but earlier estimates range from $27 billion to $35 billion over 13 years (the Pentagon) and from $61 billion to $125 billion over 15 years (the Congressional Budget Office). The fact is that more accurate and realistic cost projects simply cannot be calculated at this time.

The administration's $1.5 billion projection ''is a politically driven document that reflects the inability of the proposed new members and the unwillingness of the West European countries to pick up the real financial tab,'' Carpenter asserts.

We agree with Carpenter and the Senate's go-slow faction, including Sen. Daniel Patrick Moynihan (D–N.Y.), who thinks that there is no quick fix for healing the wounds inflicted on Central and Eastern Europe by a half century of harsh authoritarian Soviet rule.

Rather than adding three former Communist countries to an organization that was conceived as a military barrier to the spread of communism in Europe—a dubious proposition now that such a threat no longer exists—Moynihan would like to see them first become members of the economically oriented European Union before being admitted to NATO.

Lott should delay the vote on NATO expansion and give the Senate time to conduct a full and extended debate on this important issue.

[From the Hill, Mar. 18, 1998]

THE THREE BOOBY TRAPS OF NATO EXPANSION

(By Ted Galen Carpenter)

Both the Clinton administration and the Senate Republican leadership are using a full-court press to get an immediate Senate vote on NATO expansion. Senators should resist such pressure for a rush to judgment before addressing the numerous problems associated with NATO expansion.

Proponents frequently act as through NATO is a democratic honor society that the nations of Central and Eastern Europe should be able to join. But NATO is a military alliance, and the decision to extend U.S. security guarantees to new members is serious business.

Three lethal booby traps await the United States if NATO expansion goes forward.

Any enemy of my ally becomes my enemy: Before senators welcome Poland, the Czech Republic and Hungary into NATO's ranks, they should assess potential conflicts that might embroil those countries. It would be a sobering exercise. Relations between Poland and neighboring Belarus, already tense, are rapidly deteriorating. Belarus recently recalled its ambassador from Warsaw and has banned Polish priests from entering the country. President Alexander Lukashenko ominously accuses the Polish minority in Belarus's western provinces of disloyalty.

Hungary has troubled relations with three of its neighbors—Romania, Slovakia and Serbia. Slovakia's prime minister continuously slanders the large Hungarian minority in his country and late last year proposed a population transfer that would send tens of thousands of ethnic Hungarians back to Hungary.

Relations between Hungary and Serbia are even worse. Indeed, the treatment of the Hungarian minority in Serbia's province of Vojvodina mirrors Belgrade's repression of the Albanians in Kosovo. Vojvodina has the potential to explode just as Kosovo has now done.

Thus, NATO expansion could entangle America in numerous murky, parochial disputes among Central and East European countries. Do Americans really want U.S. troops in the middle of a conflict between Hungary and Slovakia, or Hungary and Serbia, or Poland and Belarus? Yet NATO expansion entails precisely that sort of danger.

Poisoning the relationship with Russia: The conventional wisdom is that, since the signing of the Founding Act between Russia and NATO, Moscow no longer opposes NATO expansion. Nothing could be further from the truth. A recent op-ed by Russia's ambassador to the United States makes it clear that Russian leaders regard even the first round of expansion as an unfriendly act. Any subsequent round, especially one that tried to incorporate the Baltic republics, would risk a military collision with a nuclear-armed great power.

Indeed, the Founding Act itself could become a source of recrimination. U.S. officials insist that the agreement gives Russia ''a voice, not a veto'' over NATO policy, but that is not the way Russian officials have interpreted the Founding Act. President Boris Yeltsin assured the Duma that the act gave Russia a veto over invitations to new members beyond the first round as well as over future ''out of area'' NATO missions, for example in the Balkans. U.S. and Russian officials cannot both be right.

Russia is reacting badly even to the initial round of expansion. Moscow has responded to NATO's encroachment by forging closer ties with both Iran and Iraq and undermining U.S. policy throughout the Middle East. Still more worrisome are the growing political and military links between Russia and China. Moscow and Beijing speak openly of a ''strategic partnership,'' and China has become Russia's largest arms customer—something that would have been unthinkable a few years ago.

If the United States drifts into a new Cold War with Russia because Washington insists on giving security guarantees to a collection of small Central and East European states, that will go down in history as a colossal policy blunder.

A financial black hole: NATO and the Clinton administration now insist that the alliance can be expanded for a paltry $1.5 billion over 10 years. That conclusion differs sharply from an earlier Congressional Budget Office (CBO) estimate of $61 billion to $125 billion over 15 years and the Pentagon's own original estimate of $27 billion to $35 billion over 13 years. The latest NATO and administration projection doesn't even pass the straightface test. It is a politically driven document that reflects the inability of the proposed new members and the unwillingness of the West European countries to pick up the real financial tab.

Johns Hopkins University Professor Michael Mandelbaum aptly describes NATO expansion as ''the mother of all unfunded mandates.'' If expansion is not merely an exercise in empty political symbolism, even the CBO estimate could prove to be conservative. Moreover, none of the estimates takes into account the probable costs of subsequent rounds of expansion, yet administration leaders insist that they will occur.

In light of those troubling facts, the Senate should at least conduct a lengthy, comprehensive debate on NATO expansion, not rush through the proceedings as if the issue was akin to designating National Wildflower Week. After all, the decision may determine whether American troops someday have to fight and die in Eastern Europe.

[From the Boston Globe, Mar. 18, 1998]

SENATE RECKLESSNESS ON NATO?

The Senate is poised to make a serious mistake by ratifying a first stage of NATO expansion. The anticipated inclusion of Poland, Hungary, and the Czech Republic is a momentous decision, enlarging the treaty organization and the geopolitical area covered by the allies' mutual security guarantee. If ever a Senate vote deserved prudent deliberation, this is it.

Unfortunately, sensible requests from some senators to pause for careful consideration of this first round of enlargement have been rejected, and there are not enough votes to pass an amendment by Senators John Warner of Virginia and Patrick Moynihan of New York, who proposed a pause of three years before NATO admits a second flight of new members.

In a letter to the Senate minority leader, Tom Daschle, on Saturday, President Clinton argued that for the sake of enhanced security, ''we must leave the door open to the addition of other qualified new members in the future. The 'open door' commitment made by all the allies has played a vital role in ensuring that the process of enlargement benefits the security of the entire region, not just these first three members.''

But the administration has yet to make a convincing case that NATO enlargement at the present time is truly necessary to European or American security. With the disappearance of the Soviet Union, the states of Central and Eastern Europe face no imminent threat from an expansionist superpower. And if political upheavals in Russia raised the specter of such a threat in the future, there would be time to prepare for it and enlarge the alliance. NATO's expansion, rather than enhancing Europe's stability, could endanger it.

President Vaclav Havel of the Czech Republic has made a strong case for anchoring the former members of the Warsaw Pact in the West. But the commonality of values invoked by Havel need not mean immediate inclusion in a military alliance formed to keep Soviet forces from invading Western Europe.

There are other, wiser ways to pursue what Clinton calls ''our strategic goal of building an undivided, democratic, and peaceful Europe.''

[From the Newark (NJ) Star-Ledger]

UNDUE HASTE ON NATO EXPANSION

(By David Border)

This week the Senate, which counts among its major accomplishments this year renaming Washington National Airport for President Ronald Reagan and officially labeling Saddam Hussein a war criminal, takes up the matter of enlarging the 20th century's most successful military alliance, the North Atlantic Treaty Organization.

The Senate just spent two weeks arguing over how to slice up the pork in the $214 billion highway and mass transit bill. It will, if plans hold, spend only a few days on moving the NATO shield hundreds of miles eastward to include Poland, Hungary and the Czech Republic.

The reason is simple. As Sen. Connie Mack of Florida, the chairman of the Senate Republican Conference, told me while trying to herd reluctant senators into a closed-door discussion of the NATO issue one afternoon last week, ''No one is interested in this at home,'' so few of his colleagues think it worth much of their time.

It is a cliche to observe that since the Cold War ended, foreign policy has dropped to the bottom of voters' concerns. But as two of the senators who question the wisdom of NATO's expansion, Democrat Daniel Moynihan of New York and Republican John Warner of Virginia, remarked in separate interviews, serious consideration of treaties and military alliances once was considered what the Senate was for. No longer.

Wrapping the three former Soviet satellites in the warm embrace of NATO is an appealing notion to many senators, notwithstanding the acknowledgement by advocates that the Czech Republic and Hungary have a long way to go to bring their military forces up to NATO standards. As the date for ratification has approached, estimates of the costs to NATO have been shrinking magically, but the latest NATO estimate of $1.5 billion over the next decade is barely credible.

The administration, in the person of Secretary of State Madeleine Albright, has refused to say what happens next if NATO starts moving eastward toward the border of Russia. ''The door is open'' to other countries with democratic governments and free markets, Albright says. The administration is fighting an effort by Warner and others to place a moratorium on admission of additional countries until it is known how well the first recruits are assimilated.

Moynihan points out that if the Baltic countries of Latvia, Estonia and Lithuania, which are panting for membership, are brought in, the United States and other signatories will have a solemn obligation to defend territory farther east than the westernmost border of Russia. He points to a Russian government strategy paper published last December saving the expansion of NATO inevitably means Russia will have to rely increasingly on nuclear weapons.

Moynihan and Warner are far from alone in raising alarms about the effect of NATO enlargement on U.S.-Russian relations. The Duma, Russia's parliament, on Jan. 23 passed a resolution calling NATO expansion the biggest threat to Russia since the end of World War II. The Duma has blocked ratification of the START II nuclear arms agreement signed in 1993 and approved by the Senate two years ago.

George Kennan, the elder statesman who half a century ago devised the fundamental strategy for ''containment'' of the Soviet Union, has called the enlargement of NATO a classic policy blunder. Former Sen. Sam Nunn of Georgia, until his retirement last year the Democrats' and the Senate's leading military authority, told me, ''Russian cooperation in avoiding proliferation of weapons of mass destruction is our most important national security objective, and this (NATO expansion) makes them more suspicious and less cooperative.''

To the extent this momentous step has been debated at all, it has taken place outside the hearing of the American people. Too bad our busy Senate can't find time before it votes to let the public in on the argument.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I know the Senator from Connecticut wishes to speak. I will just take 2 minutes here.

One, I want to make it clear, when I was making a case to my friends from Virginia and New York about the comparison of Turkey and Poland, it did not relate to whether there was merit in defending Turkey. There is. Not only merit, there is an obligation. I was making the larger point which goes to the serious issue the Senator from Virginia has raised honestly—and the only one who has done it forthrightly so far—and that is, is there a consensus in America to defend any European country?

Whatever commitment we make, we must keep. And he is right in raising the issue: Are the American people—do you all understand, all America, that if we expand, we are committing our sacred honor to defend Poland as we have Germany, to defend the Czech Republic as we have England, to defend the country of Hungary as we have Denmark? Are we prepared to do that? That should be discussed, and it should be discussed forthrightly. And I thank him for raising that issue.

There is much more to say, but I will have plenty of chance to say it, so I yield to my friend from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I see my colleague from Missouri is here. I tell him this will be very brief, my remarks. I don't want him to depart. I know he has been standing here for some time.

It is on an unrelated matter that is the subject of this debate, Mr. President. And let me just say, having the privilege of standing here and listening to the Presiding Officer share his remarks, I commend him for those remarks. And I thank my colleague from Delaware for yielding here.

Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIS EMINENCE BERNARD CARDINAL LAW, ARCHBISHOP OF BOSTON, REFLECTING ON CUBA

Mr. DODD. Mr. President, earlier last week I had the privilege of having a brief conversation with His Eminence Bernard Cardinal Law, the Archbishop of Boston. In fact, it is a nice coincidence that my colleague from Missouri is here on the floor as I say these remarks, because I shared with him a message that Cardinal Law had sent to our colleague from Missouri, Senator ASHCROFT, who had the privilege of knowing Cardinal Law when he was presiding as a bishop in Missouri back before assuming his present post. And he extended his best wishes to our colleague from Missouri. So I appreciate his presence here on the floor as I share these remarks.

In the course of our conversation, Cardinal Law mentioned to me he was going to be speaking at a conference

sponsored by the American Academy of Arts and Sciences at Harvard University. The topic of the conference was to be on Cuba, Mr. President.

The cardinal was very kind enough to send a copy of his remarks to me. And after reading them, I have no doubt that all of my colleagues should have that opportunity as well. They are excellent, excellent remarks and ones that I think will be worthwhile.

I know Members are going through their own private discussions of what should be our policy with regard to Cuba. There have been some changes here. How do you respond to them? Cardinal Law has laid out, I think, some very, very creative, clear, and interesting ideas on how we ought to move forward here. So I urge my colleagues to read these remarks.

Cardinal Law is extremely well informed on this subject. He has visited Cuba over the years. He has kept in very close contact with the clergy in Cuba. I was particularly struck, Mr. President, by what he believes we should have learned from Pope John Paul II's January visit to Havana; namely—and I quote him —

> The Holy Father has amply demonstrated that a policy of positive engagement can achieve far more change within Cuba than can the [U.S.] embargo.

Cardinal Law starkly and very vividly highlights what he thinks is the failure of our current policy with regard to Cuba by contrasting it with our policies towards the People's Republic of China and even Vietnam—two nations that have had deplorable human rights records and where religious freedom is severely restrained, even as we speak here today.

He then pointedly asked—and I quote him—

> If openness is thought to be further freedom in those nations where change is not so evident, how it is that a different standard is applied to Cuba where there is evident change?

Mr. President, I do not believe that there is a credible answer to that question. And that alone should tell us why the current U.S. policy with respect to Cuba is so flawed. Cardinal Law's remarks, which touched on such issues as the state of affairs in the Cuban and United States-Cuban relations are very insightful, and I urge my colleagues to read the full text of his remarks, which I now ask, Mr. President, unanimous consent to have printed in the RECORD.

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

ADDRESS BY BERNARD CARDINAL LAW BEFORE THE AMERICAN ACADEMY OF ARTS AND SCIENCES

In preparing these remarks, I reviewed my correspondence file from persons who accompanied me to Cuba for the Pope's visit. Our direct flight from Boston to Havana might have established a record in itself! Every letter expressed appreciation for the opportunity to participate in a historic and profoundly moving event. Almost to a person there was the expressed desire to be of assistance to the Church in Cuba and to the Cuban people.

These pilgrims to Cuba included bishops, priests and sisters, and Catholic laity as well as Protestants and Jews. There were business leaders, bankers, doctors and a Health Care System President. There were heads of social service agencies and representatives of foundations, there were lawyers and judges, Congressmen, presidents of colleges, a law school dean and a university professor, and the editor of a national magazine. We were a wondrously diverse group, but we found unity in our conviction that the time is now for a change in U.S. policy towards Cuba.

Since returning from the Papal Visit, I have often been asked if I thought that change might now come to Cuba. The question misses the point that change has already come. An earlier barometer of change focused on the departure of Fidel Castro as the threshold for any substantive change. The events of the past year clearly demonstrate that that barometer simply does not work. The toothpaste is out of the tube, and Fidel Castro squeezed the tube.

Any blueprint for a change in policy which demands a change in leadership in another country is too rigid a starting point and depending on the means willing to be used to achieve that departure, could lack a moral claim. This is not to condone a dismal record on human rights. Religious freedom is certainly not yet fully developed in Cuba. The fact remains, however, that dramatic change has occurred within the past twelve months in the area of religious liberty. These changes could not have occurred without the active approval of President Castro. He has been a promoter, not an obstacle to what is now happening in Cuba.

It is not the visit alone, stunning though it was, which chronicles change. Events leading up to the visit must also be acknowledged. Some in Cuba with whom I have spoken place great emphasis on the private audience accorded Fidel Castro by Pope John Paul II. One must also note the mixed commission of government and Church to plan for the Papal visit which marks a sea change in that relationship. The Church was able to engage in a door to door nationwide mission in preparation for the Pope's visit. Religious processions were allowed, as were some outside religious celebrations. The exclusion of the Church from the use of public media was, at least in a modest way, but nonetheless establishing a precedent, lifted with the pre-visit nationally televised address by the Archbishop of Havana, Jaime Cardinal Ortega.

Quite before the time of planning for the visit, the Church was allowed a new expression of social services through Caritas Cuba. While its work is still narrowly circumscribed, a principle of public, organized social service by the Catholic Church has been recognized. The backlog of visa requests by foreign clergy, religious and other Church workers has been broken as the number of visas has dramatically increased.

Change cannot be rooted in a precise paradigm for the future. If we are to measure change realistically, it must be measured against the past. The past that I know in terms of the Church in Cuba begins in 1984. Before then, there were confiscations of Church property, the closing of Catholic schools and other institutional works, the departure, and some would argue the forced exile, of hundreds of Church personnel. There were the labor camps which number among their alumni the present Cardinal Archbishop of Havana. Pervading and justifying all this was an official version of history, employing a method with which we have become all too sadly accustomed in some current trends in the U.S. academy. It is the application of deconstruction to the study of the past in a way which serves an ideological end.

In an earlier visit to Cuba, I objected to President Castro concerning the severe intimidation of the omnipresent Committees of the Revolution. These watchdogs of Marxist orthodoxy saw as dangerously subversive the baptism of a child or the visit of a priest or the regular attendance at Mass. Castro's response, replete with Church history according to Marx, made the claim that the state did allow for religious freedom. The State was powerless, in his explanation, to counter the strong anti-Church sentiment of the people borne of what he described as the Church's oppressive and sinful past.

For the past fourteen years, I have been in continual contact with the Church in Cuba. I was present in the Nunciature in Havana the first time Castro met with Cuban bishops. There were no more than three substantive encounters of this kind before the Pope's visit. During the past fourteen years there have been sporadic efforts on the part of the Cuban government to marginalize the Church by suggesting that the bishops were ''counter revolutionary'', which in our terms would mean unpatriotic and subversive.

Against that all too schematic background, focus on Havana, Sunday, January 25, 1998. The Plaza of the Revolution has a new face: a heroic-sized painting on the facade of the national library portrays Jesus in the familiar style of the Sacred Heart. One million Cubans, with a sprinkling of foreign pilgrims, are ranged in front of the altar. Fidel Castro, in a business suit, is in the front row.

For me, one among the many moving moments stands out in a particularly vivid way. During the Havana Mass, the Holy Father commissioned representatives from various dioceses to go forth and present the message of the Church. He presented each with a Bible. The last person to approach the Pope was a older woman, quite frail, who was helped up the stairs by two young men. When she approached the Holy Father, she threw her arms around him. There they were, aging and frail, this elderly woman and the Pope, with their common witness to fidelity in the face of Communist oppression. As she was helped down the stairs, she was accompanied by the thunderous applause of thousands of Cubans.

I wondered what she thought. Must I not have been for her the unfolding of a miracle? What had it been for her these past years in a land governed by Marxism? What must have been her joy in this sea of Cubans, so many young and ecstatic in their celebration of faith? I could only think of Anna in the incident recorded by St. Luke. Anna was an old woman, a widow, who spent her days in prayer and fasting in the Temple. When Mary and Joseph brought the infant Jesus to present him to God in the Temple, Anna came to the scene at that moment. St. Luke says ''she gave thanks to God and talked about the child to all who looked forward to the deliverance of Jerusalem.''

It must be said that the Cuban government could not have been more obliging and welcoming. The Masses of the Holy Father were televised live nationally.

As the Holy Father left Jose Marti Airport on January 25th, he said that in our day ''no nation can live in isolation. The Cuban people therefore cannot be denied the contacts with other peoples necessary for economic, social and cultural development, especially when the imposed isolation strikes the population indiscriminately, making it ever more difficult for the weakest to enjoy the bare essentials of decent living, things such as food, health and education. All can and should take practical steps to bring about changes in this regard.''

These are important words of the Pope which have meaning not only for the Catholic faithful but for all women and men of

good will, including those who exercise leadership in government. Current U.S. policy towards Cuba was set during the missile crisis. A few things have happened since then, however, including the tearing down of the Berlin Wall and the unraveling of Communist hegemony in Eastern Europe. The visit of the Holy Father to Cuba in January of this year is one of those defining events. A policy driven by events of an earlier time does not meet the challenge of new possibilities which the Holy Father's visit opens up.

One of the strongest impediments to new policy initiatives is the pressure of partisan politics. Is it but the musings of an unrealistic cleric to suggest that an earlier pattern of a bipartisan foreign policy could serve us well again? To that end, I propose the establishment of a bipartisan National Commission on U.S./Cuban relations. Such a Commission, perhaps Presidential or conceivably organized by a non-governmental body, would have as its charge the development of policy initiatives which could build on the changes already perceived in Cuba since the Pope's visit. The work of this Commission should be completed within three to six months. It should not take longer than this because the Commission's work would be essentially a simple and straightforward task.

The Commission might be co-chaired by President Carter and President Bush or President Ford. It ought to include Senator LUGAR, Representative HAMILTON, a U.S. Bishop, Elizabeth Dole, head of the American Red Cross, two corporate CEO's, two prominent Cuban-Americans, someone from the field of medicine and someone representing the concerns of the media.

Since the Holy Father's visit, there has been the release of more than 400 prisoners. While one political prisoner is one too many, this direct response to the Holy Father's visit cannot be dismissed. So very much more needs to be done to broaden the scope of human rights in Cuba. However, I am convinced that the best way to do this is to move the starting point of U.S. Policy from the missile crisis to the Papal visit. The Holy Father has amply demonstrated that a policy of positive engagement can achieve far more change within Cuba than can the embargo.

Cardinal Ortega has commented on the so-called Helms-Burton Act that ''any economic measure that aims to isolate a country and thus eliminates the possibility of development, thus threatening the survival of people is unacceptable.''

It is impossible to reasonably support the embargo against Cuba while at the same time granting most favored Nation status to the People's Republic of China, and while moving into closer relations with Vietnam. Both of these nations have a deplorable record on human rights in general and on religious liberty specifically. If openness is thought to further freedom in those nations where change is not so evident, how is that a different standard is applied to Cuba where there is evident change?

We should not wait for the report of a bipartisan commission to introduce some measures which would ameliorate human suffering in Cuba, which would foster cultural, religious and other interchanges, and which would therefore, encourage the new attitude of openness and change within Cuba. It is time for the U.S. To respond positively to the change that is occurring in Cuba.

There is no moral justification for the current embargo. In terms of effectiveness as an agent of change it has proven to be complete failure. The most egregious aspects of the embargo, namely the prohibition of sale of food and medicine, must be lifted immediately. The two bills currently in Congress which would do this should be immediately passed. What is needed in Cuba is the ability to purchase food and medicine in the U.S. A singular focus on facilitating charitable donations of food and medicine is patently inadequate.

There are certain things that can be done tomorrow by the President of the United States.

The President should agree to license direct, humanitarian flights to Cuba.

The President could take immediate action to ease remittance restrictions, increase visiting privileges, and expand opportunities for U.S. citizens particularly Cuban Americans, to visit Cuba by restoring direct flights. The right to travel is a Constitutional right. It should not be violated for outdated political reasons.

The President could restate that he will continue suspending the international trade bans of Helms-Burton indefinitely. This would help the people of Cuba and it would ease the concerns of our closest allies and trading partners.

The President should give serious critical attention to the legal opinion that concludes that the Executive Branch has the legal and constitutional right to grant a general license for medicines and for food. Such an action on the part of the President would, of course, effectively end the food and medicine embargo immediately.

The foreign policy initiatives of a President can be decisive. President Nixon went to China. President Carter brought Begin and Sadat to Camp David. President Reagan met Gorbachev in Iceland to ease nuclear tensions and President Bush followed up by reducing our nuclear weapons. President Clinton has the possibility of charting a new relationship between the United States and Cuba.

Let me end by recounting an incident during the Pope's visit. One of the pilgrims traveling with us took a walk along the waterfront. He was alone, it was raining, and the pavement was slippery. He stumbled and fell, with a resultant large cut in the head. Some passersby stopped their car and took him to the emergency room of the nearest hospital. The care he received was both professionally competent and compassionate. However, he was struck by the fact that the only medicine he could observe on the shelf in the treatment room was some alcohol. When the doctor arrived to stitch his wound, he first reached into a pocket of his white coat, removed a light bulb, and screwed it into the empty socket so that he could see more easily. It is not just a bulb that is missing. There is often a lack of power with devastating consequences, especially in surgery. The lack of medicines more quickly and cheaply attainable from the U.S. severely restricts the treatment that can be provided. Even more basically, the effects of the lack of sufficient food threaten the most vulnerable members of the population, the old and the young.

I would submit that the people of Cuba deserve better than that from us. I would submit that it adds no honor to our country to deprive a people of those necessities which should never be used as bargaining chips.

Change is occurring in Cuba. The question is, do we have the political will and moral courage to change?

Mr. DODD. Mr. President, I would also like to call to the attention of my colleagues some very specific recommendations Cardinal Law has made to President Clinton and the administration, recommendations which the President has the authority, without any acts of Congress, to undertake. And I recite them very briefly to you here: Restore direct flights to Cuba; ease restrictions on remittances and travel; suspend implementation of title III indefinitely; and utilize current executive authority to grant general licenses to permit the sale of food and medicines. I say ''title III.'' That is of the Helms-Burton legislation.

Mr. President, I strongly support these recommendations and hope that the President will immediately act on them.

Let me summarize briefly some of the other major points made in the course of Cardinal Law's presentation.

On the positive side, the Cardinal noted that ''change has already come'' to Cuba in many ways; ''dramatic change has occurred within the last twelve months in the area of religious freedom''—I am quoting him from his remarks—''a principle of public, organized social service by the Catholic Church has been reorganized'' by Cuban authorities; ''the backlog of visa requests by foreign clergy, religious and other Church workers has been broken as the number of visas has dramatically increased;'' and, ''there has been the release [in the last few weeks] of more than 400 [political] prisoners [in Cuba].''

The cardinal also readily acknowledges that Cuba's human rights record—and I agree with him—has been dismal. No one is suggesting, I hope—not by my remarks—that there has been a total transformation in Cuba. There has not been a total transformation, but there has been change, and it is significant, and we ought to respond to those changes that have occurred.

He reminded—Cardinal Law did—listeners of Pope John Paul's party comments as he left Havana to return to the Vatican. I quote him. He said:

> The Cuban people cannot be denied the contacts with other peoples necessary for economic, social, and cultural development, especially when the imposed isolation strikes the population indiscriminately.

Mr. President, I think it is fair to say Cardinal Law was extremely critical of current U.S. policy. He noted that the ''[c]urrent U.S. policy towards Cuba was set during the missile crisis'' and that ''[a] policy driven by events of an earlier time does not meet the challenge of new possibilities which the Holy Father's visit opens up.''

Finally, Cardinal Law made a number of very important recommendations concerning how we might begin to fashion some new and constructive policy initiatives. He recommended, for example, that steps be taken to isolate U.S.-Cuba policy from partisan politics by establishing a bipartisan national commission on U.S.-Cuban relations. I think this is an intriguing idea and one that I intend to discuss personally with the President and the Secretary of State.

Mr. President, I believe that the cardinal's remarks are timely, they are important, and they are worthy of our

serious consideration. I urge my colleagues to review them personally in these coming days as they formulate their own views on how we ought to proceed with regard to U.S.-Cuban relations.

Mr. KENNEDY. Would the Senator yield?

Mr. DODD. I will be happy to.

Mr. KENNEDY. Mr. President, I just want to, first of all, commend my friend, the Senator from Connecticut, for his understanding of Cardinal Law's statement and for the constructive nature in which the Senator has referred to it.

I do think that it is an enormously serious document. I agree with the Senator that it deserves a great deal of study. I had had the opportunity to talk to him prior to the time of delivery. He is motivated by a very deep and continuing humanitarian concern from his frequent visits there and from the study of the people on the island.

I just want to commend the Senator, who is a real leader in the issues of the hemisphere, and to thank him for an excellent statement, and to say that I think it has been an enormously constructive and positive statement and I hope our colleagues will pay attention to it. I thank the Senator.

Mr. DODD. I thank my colleague from Massachusetts.

Mr. President, I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Thank you, Mr. President.

PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC

The Senate continued with the consideration of the treaty.

Mr. ASHCROFT. Mr. President, I rise to participate in the debate regarding NATO.

One of the interesting facts about the debate is that the mission of NATO has not been a matter of significant discussion.

There are a lot of questions—about the cost of enlargement, the political and strategic benefits to potential new members of NATO, and the effect of any expansion of the NATO alliance on our relationship with Russia—that have all been discussed. These issues have received the most attention.

But while expansion of NATO numerically is significant, perhaps the mission of NATO deserves serious consideration as we look at an institution which has not only been involved in a long heritage of successful maintenance of the territorial integrity of our comembers of this organization in Europe, but has also been a vital part of protecting American interests.

NATO has been very successful. Earlier, the Senator from Washington stated that NATO has been the most successful multinational defense organization in the history of the world. And I think that is a fair statement. A major achievement of the organization is the fact that a third world war has not erupted in Europe. It is pretty clear that the Soviet Union, in its days of power and strength, dared not infringe on the territory of those protected by the NATO alliance. That is to the credit of the organization.

Article 5 of the NATO treaty was the heart of the organization. And I would like to refer the Members of the Senate and those interested in this debate to Article 5 at this time.

Article 5 States:

> The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.

What the heart of the treaty really designates is that the North Atlantic Treaty Organization was an organization designed to affect and protect the territory—the territorial integrity —of the Nations that were its member states.

After the collapse of the Soviet Union, we did not have the same kind of threat to the territory of the NATO states that had existed prior to the collapse of the Soviet Union. I think few of us would argue with the proposition that the NATO alliance really was an alliance which drew a bright line to defend against the potential incursion by the Soviet Union.

Since the Soviet Union collapsed, there has been discussion among NATO planners to find a new mission for the Alliance. Counterproliferation, the advancing of political ''interests'' of NATO members, peacekeeping, and crisis management became the kinds of issues discussed at NATO—an entirely different mission than it originally had and, frankly, a mission that is not consistent with the charter of NATO itself.

The assembled NATO powers, in 1991, adopted and promulgated a strategic concept. For the strategic concept of 1991, there was an interesting transition in the statement of what NATO is all about. Collective defense, the concept in Article 5 which has been the central theme and thesis of NATO for its years of great success, was relegated to the bottom of the list of mission priorities.

As a result of putting collective defense at the bottom, a number of other things were listed as missions of NATO. In some respects, I find these new mission priorities to be challenging because they are not the kinds of things for which NATO was created, and they are not the kinds of missions that the U.S. Senate and its giants in the Senate ratified when ratifying the NATO treaty 50 years ago. The ''fundamental security task'' in the new strategic concept of 1991 was ''To provide one of the indispensable foundations for a stable security environment in Europe . . . in which no country would be able to intimidate or coerce any European nation or to impose hegemony through the threat or use of force.''

This is a major expansion and a substantial change in the mission of NATO. It is a change in the direction in which the organization is headed. It changes NATO's responsibility. Clearly, no longer is NATO for the collective defense of a limited territory. NATO now has the impossible task of stopping intimidation and coercion throughout NATO and non-NATO Europe alike. So the mission of NATO has been transitioning from the mission ratified by the Senate, and it has been evolving, as if treaties are allowed to evolve. It has been organic, rather than static or having specific boundaries.

The catch phrase that defines this effort is that NATO must ''go out of area or go out of business.'' This whole concept, I think, demands very close observation.

Mr. President, I have tried to point out that the objectives specified in the strategic concept of 1991 embraced by the NATO allies is a set of objectives far different from that which the NATO organization was authorized to achieve in its Charter, which was ratified by the U.S. Senate. I believe that NATO was not intended for these new purposes.

The understanding of the U.S. Senate in 1949, and the understanding of the American people, has been that NATO is designed to protect territory—the territory of member nations—not designed to be on call in other areas in Europe and, as the Secretary of State has mentioned, in Africa and literally to the uttermost parts of the Earth.

I will be submitting an amendment for consideration by the Senate to make it clear that collective security will remain the heart of NATO, and that this is the only mission allowable under the treaty, because it is impossible to amend the treaty without bringing it back to this Senate for amendment.

My amendment is tailored not to constrain NATO's effectiveness in the future, nor is it intended to micromanage NATO's military planning from the Senate floor. The central portion of the amendment is taken directly from the North Atlantic Treaty itself. My amendment states that any military operation outside Article V must be based on the principle of collective defense, namely, the territorial integrity, political independence, or security of a NATO member.

I thank the Senator from Georgia for his agreement in allowing me to finish my remarks.

EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

The PRESIDING OFFICER. Under the previous order, the hour of 4:45 having arrived, there will be 30 minutes of debate prior to the vote on cloture on H.R. 2646. Debate time is equally divided and controlled for the majority by Mr. COVERDELL and by the Democratic leader.

The Senate resumed consideration of the bill.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes of the opposition time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I urge the Senate to reject cloture on this bill. Improving education can and must be a top priority for Congress and the nation. But this Republican bill flunks the test. They call it their ''A+'' bill, but it's anti-education. It deserves an ''F.''

It is the nation's public schools that need help. So what do our Republican friends do? They propose legislation to aid private schools. That makes no sense at all. Our goal is to strengthen public schools, not abandon them.

Incredibly, the Republican strategy on the Budget Committee is more of the same. The Republican plan does not provide for key investments to improve public education. It does not provide help to reduce class size. In fact, the Republican plan proposes a cut of $400 million—$400 million—in the budget category for education next year. If that anti-education plan is passed, schools and students will get even less help next year than they are getting this year, just when they need help the most.

It is clear that our Republican friends are no friends of public schools. They have an anti-education agenda. They want tax breaks for the wealthy who send their children to private schools. They want to cut the budget for public schools. The Republicans have put their cards on the table—and it's a losing hand for education.

If they really wanted to improve the nation's schools, they wouldn't propose a $30 billion tax break, while cutting funds for education.

Now, with this cloture vote, they are trying to gag Democrats to prevent us from offering proposals that will genuinely help education. They are trying to force the Senate to pass their private school bill or no bill.

The use of tax breaks to subsidize parents who send their children to private schools is a serious mistake.

This chart indicates who the winners and losers are. Ninety-three percent of the children in this country go to public schools; 7 percent go to the private schools. Yet when you look at the money, where the money goes, 48 percent to the public schools, and 52 percent to the private schools.

This bill does nothing to address the serious need of public schools to build new facilities and repair their crumbling existing facilities. It does nothing to reduce class size in school. It does nothing to provide qualified teachers in more classrooms across the Nation. It does nothing to help children reach high academic standards. It does nothing to provide after-school activities to keep kids off the street and away from drugs and out of trouble. It does nothing to improve the quality of education for children in public schools.

Working families do not have enough assets in savings to participate in this scheme. This regressive bill does not help families struggling to pay day-to-day expenses during their children's school years. This so-called education bill does nothing for education. It simply provides a tax shelter for the rich.

Congress should be building new schools, not building new tax shelters for the wealthy. Congress should be reducing class size, not reducing aid to public schools.

We know what it takes to achieve genuine education reform. The place to start is by resoundingly rejecting cloture on this defective bill and then amending it in the ways that would genuinely help the Nation's schools.

How much time does the Senator from Nebraska desire?

Mr. KERREY. Five minutes.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I also rise in opposition to cloture. If you look out across America today and look at the growth in the economy and the economic success and the various reasons why we have that economic success, it is clear that one of the things we need to do is invest in our infrastructure.

We just passed an ISTEA bill, $200 billion or so in investments in roads, bridges, in our transportation system to make it more productive. Our people are part of our infrastructure.

What we are saying on this side is that, if you want to provide a tax break, we ought to also be doing something about our schools that are crumbling, about our class sizes that have grown too large. There is a lot more we can do than just this piece of legislation. That is all we are asking for.

There is an opportunity to offer some constructive amendments that would substantially improve this piece of legislation. Otherwise, as many others have commented, the distributional analysis is lousy and it does precious little to help those who are in the greatest need.

Mr. President, there is another reason that has not been mentioned on the floor that I want to talk about a bit. Our American taxpayers have a deadline called April 15 which is less than four weeks away. That is their deadline, their schedule. Under law they have to have their taxes paid. On the 4th of November last year the House, by a vote of 426–4, passed a piece of legislation that would restructure the IRS and give the Commissioner the authority to manage in a fashion that almost everybody says ought to be done. In addition to that, the House legislation gives taxpayers new power. If the IRS sends out a collection notice, you know with certainty that they better be certain that they are right; otherwise, they are going to have to pay your legal fees and other fees associated up to $100,000 of punitive damages.

In addition, Mr. President, in the legislation passed by the House by 426–4 last November—which, if we had taken it up and passed it here, could be conferenced and down to the President for signature by the April 15 deadline. That should be our deadline. By the way, the American taxpayers don't have an Easter recess. They can't go home and say, ''I'll see you after the April 15 deadline.'' There are also new requirements in the IRS reform proposals that are on the table which calls for the Commissioner of the Internal Revenue Service to be present when we are passing new tax laws to speak out for the American taxpayer and say, this is what it will cost the taxpayer to comply. You have given a great speech about how this new tax break such and such and such and such, but this is what it will cost the American taxpayer to comply.

Now, just listen to this new tax idea. Since 1986 this Congress has amended the tax law 60-odd times. When we continue to do it, talk about how complex the Tax Code is and why simplicity is needed, some of our greatest advocates of flat tax and simplicity are not wildly enthusiastic about something that will add substantial complexity to their tax returns.

Let me walk through this education legislation, which allows for tax-free withdrawals from education accounts for room and board, uniforms, transportation expenses, or supplementary items and services, but only if these things are required or provided by the school. Now, this not only requires families to have a pretty sophisticated understanding of the law before they take their money out; it also appears that to be on the right side of the law, parents would need to be able to justify their expenditures with detailed records.

Who is going to be checking those records? Will the IRS be asking taxpayers to submit bus fare receipts and clothing bills with tax returns? Mr. President, if they don't provide that information when they file, are we going to be asking for it in an audit situation? Don't forget that this K–12 provision sunsets in 2002. What does that mean? That means if we pass this legislation, we will have three separate rules governing the education savings account. This year, an account that can be used for higher education, but not K through 12; next year, through 2002, we have different rules allowing tax-free withdrawals from the account; and after that, K through 12 withdrawals could be made, but only from the contributions and earnings from 1999 to 2002.

Now if you understand that, I am surprised, because I don't think your constituents will know. Will taxpayers know how much they take out is tax free? I doubt it. How will the IRS know? How will the IRS attempt to explain these new rules to taxpayers, and who will understand them?

Mr. President, that is why the law should say that the Commissioner of the IRS is going to be at the table when we write a tax law, to give us an estimate of what it will cost. The majority leader of the House came before the IRS Commission, which I chaired, and said it costs taxpayers upwards of $200 billion to comply with the existing code—with the existing code, Mr. President. And here we are again—probably on the way home to give speeches about the complexity of our code—adding additional complexity.

Mr. President, we are going in the wrong direction. This bill takes us in the wrong direction. We should schedule the IRS bill that passed the House. If we are not able to come up with a piece of legislation in the Senate, we need to bring the House bill to this floor, pass it, get it to the President for his signature, so that on the 15th of April the American taxpayers will have the power they deserve. Give the Commissioner the authority he needs. And, finally, get that Commissioner at the table when this Congress is taking up a new tax bill so on a piece of legislation like this we will have his estimate of what it will cost the American taxpayer to comply with some new idea that we have that we say is going to benefit the American people.

I yield the floor.

Mr. COVERDELL. How much time remains on the opposition?

The PRESIDING OFFICER. The opposition has 4 minutes and your side has 13.

Mr. COVERDELL. I yield 5 minutes to the chairman of the Finance Committee.

Mr. ROTH. Mr. President, first, let me say there is nothing more important than for this Congress to enact legislation to make the IRS taxpayer friendly. This has become a critical issue, primarily because of the hearings held in the Finance Committee that have shown abuse of taxpayers. That must be changed.

Now, as I have said many times, the House version of reform is a good beginning. But I have to emphasize, that is all it is—it is a good beginning. But it does not go far enough to make the kind of changes, the kind of reforms the American taxpayer deserves.

The Finance Committee has been working hard to improve that legislation. It is legislation that we will take up with the committee, full committee, in the next 2 weeks. We expect to mark it up and report it out. But I want to emphasize that I will not be satisfied, and I am not going to push forward legislation that does not help the taxpayer as they so fully deserve.

Now, Mr. President, as for the Coverdell bill, there is no question where I stand. The fundamental responsibility parents have is to raise children who are prepared for adulthood, children who will themselves become nurturing parents, productive citizens, and vital leaders in the future. Toward achieving this objective, there are few things as important as education.

Mr. President, family is the foundation of our children's education. And family is at the heart of the Coverdell bill. The objective here is simple—to empower fathers and mothers to be proactive in directing the educational endeavors of their children—to give them the resources they need to make decisions consistent with their unique needs and determined goals.

This bill allows us to join hands with parents everywhere—to let them use their money to educate their children. This bill allows them to increase their contributions from $500 per year to $2,000 per year. This money will be available tax free for college expenses. It allows for withdrawals to be used for elementary and secondary education expenses. And it covers public and private schools.

The bill also makes state-sponsored prepaid tuition programs tax-free, not tax-deferred, meaning that students will be able to withdraw on a tax-free basis the savings that accumulate in their pre-paid tuition accounts. Parents will have the incentive to put money away today and their children will have the full benefit of that money tax free tomorrow.

Already, forty-four states have prepaid tuition plans in effect, and the other six have legislation to create a state plan, or they have implemented a feasibility study. Many cities and states are offering families the power of choice when it comes to selecting what school their children will attend. Others are embracing programs that make private schools more accessible.

Those who disagree with these important measures are really suggesting that the money earned by these parents does not belong to them, that government is best at determining how their money is spent, that there is no need to change business-as-usual in our effort to improve the way we educate America's children. Clearly, this is not the message we're hearing from home. Our states and communities—our families—are embracing innovative educational programs. They realize the old way isn't working. Many cities and states are offering families the power of choice when it comes to selecting what school their children will attend. Others are embracing programs that make private schools more accessible. These measures are having a positive impact.

These measure are an important step forward, and the Senate can demonstrate its leadership on education by adopting this legislation. Let's be bold, Mr. President. Our policies must offer Dad and Mom the resources they need to actively guide Junior's education. The Coverdell bill does this. It is a very important step in the right direction, and I urge my colleagues to support it.

It's time for innovation. It's time to empower parents. It's time to prepare for the future. This is what the Coverdell bill is all about.

I yield the floor.

The PRESIDING OFFICER (Mr. COATS). Who yields time?

Mr. COVERDELL. How much time is remaining?

The PRESIDING OFFICER. The Senator from Georgia has 7 minutes 20 seconds.

Mr. COVERDELL. Mr. President, I believe we must be reading from different scripts on this legislation. This is the sixth day of the filibuster from the other side and, if successful, it will keep 14 million families from opening a savings account; it will keep $2.5 billion from supporting students in public schools over the next 4 years; it will keep $2.5 billion from supporting children in private and home schools over the next 4 years; it will stop 1 million students who would benefit from tax relief on State prepaid tuition, and 17 others to consider it; it will block 1 million workers, including 250,000 graduate students, from benefits from their employers for advanced education or continuing education; it will block $3 billion in new tax-exempt, private activity bonds, which will stop dead the construction of 500 schools. That is what the filibuster will block.

I find it strikingly similar to the debate in opposition and the suggestion from the National Education Association and Mary Teasley, who says these tax-free savings accounts disproportionately benefit wealthy families who already send their children to private and religious schools. Bunk.

Seventy percent of the families that will use these accounts have children in public schools. And my view is that Ms. Teasley is probably doing reasonably well.

This is a letter from a very fine lady named Louise R. Watley, chairperson of the City Wide Advisory Council on Public Housing in Atlanta. She has been a resident of the Carver Homes Public Housing Community since 1955. She says:

> I have witnessed generations of young African Americans grow up in one of our nation's poorest neighborhoods. In the 1980s, I fought the epidemic of crack cocaine among our youth by working to kick drug dealers out of our community. In the 1990s, I find myself fighting the epidemic of hopelessness that has resulted from the increasing failure of our public schools to educate poor, urban children. As the Chairperson of the City Wide Advisory Council on Public Housing, and on behalf of the thousands of Atlanta public housing residents the Council represents, I ask you to provide us with hope for improving the K–12 education of our children.
>
> . . . Please support the passage of the A+ Accounts for Public and Private Schools Act as well as stronger Federal charter school legislation and demonstration public and private school choice projects. Please allow the poorest children in Atlanta and Georgia to escape ineffective and unsafe schools.

Mr. President, I have a feeling that this woman has a little more personal experience than this lady defending the status quo who works for the NEA.

I ask unanimous consent that the letter from Louise R. Watley be printed in the RECORD, along with the letter from the National Education Association, for whom the White House now does its bidding.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CITY WIDE ADVISORY COUNCIL ON PUBLIC HOUSING, INC.,
Atlanta, Georgia, March 19, 1998.

From: Louise R. Watley.
To: Senators Paul Coverdell and Max Cleland.
Re: H.R. 2646, S. 1590, and Related School Improvement Legislation.

DEAR SENATORS: As a resident of the Carver Homes Public Housing Community since 1955, I have witnessed generations of young African Americans grow up in one of our Nation's poorest neighborhoods. In the 1980s, I fought the epidemic of crack cocaine among our youth by working to kick drug dealers out of our community. In the 1990s, I find myself fighting the epidemic of hopelessness that has resulted from the increasing failure of our public schools to educate poor, urban children. As the Chairperson of the City Wide Advisory Council on Public Housing (''CWAC'') and on behalf of the thousands of Atlanta public housing residents the Council represents, I ask you to provide us with hope for improving the K–12 education of our children.

During the just-completed session of the Georgia General Assembly, at the urging of CWAC, an overwhelming majority of the black caucus supported a bipartisan effort to strengthen Georgia's weak charter school laws. Because of their new appreciation for the terrible condition of public schools in our low-income neighborhoods, these representatives put aside political and racial differences and ''did the right thing.'' Because of their courage, we now can create a model public charter school at Carver Homes.

By way of this letter, I urge both of you to continue this important trend of granting parents greater choice in the education of their children. Please avoid the temptation of sacrificing the poorest children in America in order to protect an education bureaucracy that seems to care more about money and job security than it does about helping children to read, to write and to recognize right from wrong.

Please support the passage of the A+ Accounts for Public and Private Schools Act as well as stronger federal charter school legislation and demonstration public and private school choice projects. Please allow the poorest children in Atlanta and Georgia to escape ineffective and unsafe schools. Is it too much for us to ask for the same educational opportunities that are available to those who have moved out of our communities to where better public schools are located or those who can afford to send their children to private schools?

Sincerely,

LOUISE R. WATLEY,
CWAC Chairperson.

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, March 11, 1998.

U.S. Senate,
Washington, DC.

DEAR SENATOR: On behalf of the 2.3 million member of the National Education Association (NEA), we reiterate our opposition to the ''education IRAs'' for private schools in S. 1133 and urge you to vote against passage of this bill or any similar provision. No modification or additional amendments to this provision, such as school construction, would change our position. Positive ideas, such as modernizing public school buildings, should not be tied to tax schemes to benefit private and religious schools.

Instead of supporting S. 1133, NEA urges you to vote for a substitute to provide tax credits to subsidize $22 billion of school modernization bonds over 10 years. These bonds would enable states and local public school districts, which serve more than 90 percent of all students, to provide safe, modern schools that are well-equipped to prepare students for jobs of the future. School modernization bonds would target one-half of the funds to schools with the greatest number of low-income children and allow states to decide where to distribute the remaining half. This would ensure that rural, urban, and suburban schools all benefit from these bonds.

The provision in S. 1133 to create tax-free savings accounts to pay for private and religious schools would do nothing to improve teaching or learning in our public schools. It would also disproportionately benefit wealthy families who already send their children to private and religious schools. The public and parents say they want federal investments to improve teacher training, promote safe schools, and establish programs to help all students reach high standards. Tax shelters, as proposed by S. 1133, would do nothing to help achieve these goals.

Further, this tax-free savings account does not guarantee parents a choice of schools. Private school admissions officers would decide which students to accept. An editorial about S. 1133 in the September 11, 1997 issue of the *Christian Science Monitor* stated: ''Sounds innocent enough. But where does it lead? It's a small step toward positioning government behind private—most often church-related—elementary and secondary education.''

NEA urges you to vote for the public school modernization bond substitute and against cloture and final passage of S. 1133 if it contains the private school tax scheme.

Sincerely,

MARY ELIZABETH TEASLEY,
Director of Government Relations.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, first of all, the distinguished Senator from Georgia mentioned a filibuster. All we are asking for on this side of the aisle is a chance to do more. We look out in America and see crumbling schools and class sizes growing. We see a much bigger problem than you all see. So we are just asking for an opportunity to be able to offer amendments to this bill, and offer them in a normal, expeditious fashion.

Mr. COVERDELL. Is the Senator aware of the offer the majority leader made to the minority leader about 2 hours ago that we accept for debate the 14 amendments that have been put forward on education—9 on your side and 5 on our side?

Mr. KERREY. Mr. President, I will let the minority leader speak to that himself. He has just come to the floor. In his absence, I was making the point that you-all control the agenda on the floor. You decide what comes up.

I heard the chairman of the Finance Committee say that nothing is a higher priority than the restructuring of the IRS. We worked for 5 days on the Ronald Reagan Airport. We debated human cloning for 4 days. You have to decide what you want to schedule and what you think is the most important priority.

In regard to the IRS, this education legislation will make our Tax Code more complicated, no question about that. You can't deny that that's the case. Our Tax Code is going to get more complicated, not less complicated. Under current law, the Commissioner is not at the table. The Commissioner doesn't get the opportunity to express a view, whether that view is against what the President wants to do or against what the Congress wants to do, or to just tell us what it is going to cost the taxpayers to comply. The bill passed the House on November 4, and since that time 16 million Americans have been sent collection notices. In the bill passed on the floor in November, the Commissioner has a seat at the table to talk to us about the cost of compliance, talk to us on behalf of the taxpayer, what it is going to cost them to try to take advantage of some new tax loophole, new tax provision that we are writing into law.

That is all I was saying, Mr. President. I am also saying that, as regards the IRS restructuring, forget all other deadlines. The American taxpayers have a deadline on the 15th of April. Let's conform our deadline to theirs. Again, the distinguished chairman of the Finance Committee has been a leader in this. He held excellent hearings on this and has been very straightforward in doing that. But the clock is ticking. Collection notices are going out. The IRS continues to operate. This bill was passed in the House by a vote of 426–4, including the vote of Speaker GINGRICH, Majority Leader ARMEY, and every single Republican in the House of Representatives. It is a strong bill. The chairman has excellent ideas. Bring it to the floor and offer it as a managers' amendment so we can get it to conference and on to the President for signature—not for us, but for the taxpayers who are going to be subject to the power and abuse of the IRS as long as we allow the current law to continue.

One additional thing. The Senator from Georgia held up a letter from, I guess, the NEA, National Education Association, talking about the distributional analysis. The cite I have been using is not from the NEA; it's from the Joint Committee on Taxation. It was the Joint Committee on Taxation that provided us with that analysis. We didn't have this analysis when we marked up the bill in the Finance Committee. Now we have the analysis. We have an analysis that shows what the distributional impact is going to be.

I ask unanimous consent that this memorandum be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
Washington, DC, March 2, 1998.

MEMORANDUM:
To: Maury Passman and Nick Giordano.
From: Lindy L. Paull.
Subject: Revenue Requests.

The attached tables are in response to your request dated January 28, 1998, for revenue estimates of H.R. 2646 as passed by House of Representatives and as modified by Senator Lott's second degree amendment as well as the corresponding number of taxpayers estimated to benefit from H.R. 2646.

Additionally, you requested information regarding the utilization of educational savings accounts for public versus private education. We estimate that approximately 38.3 million returns would have dependents in schools at the primary or secondary level in 1999. We estimate that, of those eligible to contribute, approximately 2.9 million returns would have children in private schools, and that approximately 2.4 million of these returns would utilize education IRAs.

We estimate that the proposed expansion of education IRAs to include withdrawals to cover primary and secondary education expenses would extend approximately 52 percent of the tax benefit to taxpayers with children in private schools. We estimate that the average per return tax benefit for taxpayers with children attending private schools would be approximately $37 in tax year 2002.

Conversely, we estimate that, of the 38.3 million returns eligible, approximately 35.4 million returns would have dependents in public schools, and that approximately 10.8 million of these returns would utilize education IRAs.

We estimate that the proposed expansion of education IRAs would extend approximately 48 percent of the tax benefit to taxpayers with children in public schools, with an average per return tax benefit of approximately $7 in tax year 2002.

Mr. McCONNELL. Mr.President, I come to the floor today to support legislation that addresses an important issue facing American families today—the education of their children. An area of particular interest to me has always been making a college education more affordable. For the past several years, I have introduced legislation to provide tax incentives to families who save for college.

I have not been alone in my efforts to give parents more flexibility to choose the school which is best for their child and make those decisions more affordable. Under the leadership of the 105th Congress, there has been a strong focus on education. My colleague from Georgia, Senator COVERDELL, has championed the cause by introducing legislation which would increase the amount families can save for elementary and secondary education in an education IRA. I also want to commend Senator ROTH, the Chairman of the Finance Committee, who has worked tirelessly to help all Americans save more for their retirement. I want to thank the Chairman for his support of these education savings initiatives, especially his support of the state-sponsored savings and pre-paid programs.

Mr. President, anyone with a child in college knows first-hand the expense of higher education. The GAO has also confirmed the astronomical increase in college costs. According to GAO, tuition at a four-year university rose 234 percent between 1980–1994, while median household income rose only 84 percent and the consumer price index rose a mere 74 percent. A similar study conducted by the College Board found that tuition and fees for a four-year public university rose 100.3 percent from 1987–1997, while median household income rose only 34.5 percent. Throughout the 1990's, education costs have continually outstripped the gains in income. Tuition rates have now become the greatest obstacle students face in attending college.

Due to the high cost of education, more and more families have come to rely on financial aid to meet tuition costs. In fact, a majority of all college students utilize some amount of financial assistance. In 1995, $50 billion in financial aid was available to students from federal, state, and institutional sources. This was $3 billion higher than the previous year. A majority of this increase was in the form of loans, which now make up the largest portion of the total federal-aid package at 57 percent. Grants, which a decade ago made up 49 percent of assistance, have been reduced to 42 percent. This shift toward loans further burdens students and families with additional interest costs.

This legislation is a serious effort to support long-term saving. It is important that we not forget that compound interest cuts both ways. By saving, participants can keep pace with tuition increases while putting a little away at a time. By borrowing, students must bear added interest costs that add thousands to the total cost of tuition. Savings will have a positive impact, by reducing the need for students to borrow tens of thousands of dollars in student loans. This will help make need-based grants, which target low-income families, go much further.

This legislation also recognizes the leadership that states have provided in helping families save for college. In the mid-1980s, states identified the difficulty families had in keeping pace with the rising cost of education. States like Kentucky, Florida, Ohio, and Michigan were the first to start programs in order to help families save for college. Nationwide more than 30 states have established savings programs, and over a dozen states are preparing to implement plans in the near future. Today, there are nearly one million savers who have contributed over $3 billion in education savings. The provision which I authored, which allows tax-free education savings in state-sponsored savings plans for education purposes, provides a $1.5 billion tax break for middle-class savers nationwide. In Kentucky, over 2,700 families have established accounts, which amount to about $6.4 million in savings

Mr. President, many Kentuckians are drawn to this program because it offers a low-cost, disciplined approach to savings. In fact, the average monthly contribution in Kentucky is just $52. It is also important to note that 58 percent of the participants earn under $60,000 per year. By exempting all interest earnings from state taxes, this proposal rewards parents who are serious about their children's future and who are committed over the long-term to the education of their children. Clearly, this benefits middle-class families.

In 1994, I introduced the first bill to make education savings exempt from taxation. Since then I have won a couple of battles, but I still haven't won the war. To win the war Congress needs to make education savings tax free—from start to finish. The bill we are considering today will do that. In 1996, Congress took the first step in providing tax relief to families investing in these programs. In the Small Business Job Protection Act of 1996, I was able to include a provision that clarified the tax treatment of state-sponsored savings plans and the participants' investment. This measure put an end to the tax uncertainty that has hampered the effectiveness of these state-sponsored programs and helped families who are trying to save for their children's' education.

In 1997, the Job Protection Act expanded the definition of ''qualified education costs'' to include room and board, thus doubling the amount families could save tax-free. In Kentucky, room and board at a public institution make up half of all college costs.

Already, we can see the result of the tax reforms in the 105th Congress. In 1996, Virginia started its plan and was overwhelmed by the positive response. In its first year, the plan sold 16,111 contracts raising $260 million. This success exceeded all goals for this program. While we made important gains, we need to finish what we have already started and fully exempt the investment income from taxation.

Last month, the Finance Committee approved legislation, sponsored by Senator COVERDELL and Senator TORRICELLI, which would allow parents to place as much as $2,000 per year, per child, in an education savings account for kindergarten through high school education. I am proud to join several of my distinguished colleagues to support the A+ Education Savings Accounts Act. I believe this measure will continue the Republican effort to move the money and decision-making authority out of Washington and back where it belongs, at home with parents and their locally-elected school boards.

As revised by the Finance Committee, these after-tax, non-government dollars would earn tax-free interest and could be used for expenses and tuition associated with any school from kindergarten through high schools. Under this plan, parents, grandparents, and scholarship sponsors may contribute up to $2,000 a year per child. The build-up of interest within the account is tax free if used for the student's education.

For students who attend private or religious schools, money can be withdrawn from an A+ Account to pay for tuition. For those who attend public school, this money can be used for after-school tutoring, any transportation expenses, or to purchase a home computer. Moreover, parents of special needs children could use this money for lifelong education expenses, including tutoring, occupational therapy, vocational training, and skill development for independent living. As you can see, this program is targeted to provide for the educational needs of all Americans.

The Joint Committee on Taxation has estimated that more than 10 million families with children in public schools will take advantage of these accounts. Moreover, it has said that 70 percent of the tax benefit will go to the families with annual incomes of $75,000 and less.

Last year, the Coverdell-Torricelli initiative passed the House and received 56 votes in this Senate. It is in our best interest as a nation to maintain a quality and affordable education system for everyone. We need to decide on how we will redirect families' resources in order to enable them to use their education dollars most effectively. We can help families make their money count in a meaningful way for their children's education by ensuring that they have choices. At a modest cost, we can help families help themselves by rewarding savings. This will reduce the cost of education and will not necessarily burden future generations with thousands of dollars in loans.

I urge my colleagues to support this valuable legislation this year to reward those who save in order to provide a college education for their children.

Mr. DASCHLE. Mr. President, how much time remains?

The PRESIDING OFFICER. The minority has 37 seconds remaining. The majority has 3 minutes 35 seconds.

Mr. DASCHLE. Mr. President, I know a lot of people are hoping to catch airplanes. We would like to keep as close to the 5:15 vote as we can. Again, I appreciate the majority leader's offer. Unfortunately, the offer does not include the Democratic substitute; it doesn't include the Dodd tax credit amendment for child care expenses; it doesn't include the Boxer after-school programs amendment.

That makes my point. I think we can work out a way in which to deal with these amendments, but given the time, there certainly isn't the opportunity to do that right now. So things have not changed, unfortunately, to date, even though I think a good-faith effort has been made to try to accommodate some of this. We will have to continue to talk about it, and we are prepared to do that.

I yield the floor.

Mr. LOTT. Mr. President, in keeping with trying to start the vote on time at 5:15, I will also be brief. I want to emphasize that this is the sixth day that we have had this legislation before us. We have had opportunities to try to come to some agreement. I have offered to agree that there would be a substitute offered by the minority. Then I suggested that there be a substitute and a couple of amendments on both sides. Then there was an indication that, well, if we could get other amendments that are relevant to education, maybe that would be a good idea. So I suggested that we go with the 14 education and tax-related amendments that were actually filed, 9 of which were minority amendments, and 5 would be offered by the majority. The indications are that that is not acceptable. The leader indicated it didn't include the substitute. We would be flexible in doing that.

What I am interested in doing is finding a way to get us to a conclusion on the very important issue of education, and there is support on both sides. We have had a cloture on the motion to proceed. Now we are going to have two votes on cloture on the bill itself. There is a question of how long we can continue this. We have other business we need to do. So I urge my colleagues, if those of you that are with us on a bipartisan basis really want the Coverdell savings account for children in America, if you want prepaid tuition to be available with the tax benefits, if you want employer education benefits to be available to your college students, this is the opportunity.

So I understand that the minority leader wants his Members to stick with him. But this is an important issue. We need to get to the substance. Then, even when we get through the cloture vote, when we get cloture, we could still work out an agreement for some other amendments that would not be in order postcloture, unless we agreed to.

But, as I told Senator DASCHLE a couple of days ago, I am interested in getting this bill done. I am willing to be flexible to agree to some amendments on education. I do not want to run far afield. I don't think we ought to be shifting amendments, or health amendments, or things that are not related to education and taxes in this bill. There will be other opportunities. This is not the last day. We have a budget resolution coming up. We have a supplemental coming up.

So I will be glad to work with Senator DASCHLE, and will continue to work with him on that.

I urge colleagues, if you support savings accounts and these other issues, the time is now, vote for cloture.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on H.R. 2646, the A+ Education Act:

Trent Lott, Paul Coverdell, Jeff Sessions, Connie Mack, Bill Roth, Judd Gregg, Christopher Bond, Tim Hutchinson, Larry E. Craig, Robert F. Bennett, Mike DeWine, Jim Inhofe, Bill Frist, Bob Smith, Wayne Allard, Pat Roberts.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on H.R. 2646, the Education Savings Act for Public and Private Schools, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois (Ms. MOSELEY-BRAUN) is necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Ms. MOSELEY-BRAUN) would vote ''no.''

The yeas and nays resulted—yeas 55, nays 44, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—55

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith (NH)
Coats	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner
Enzi	Mack	
Faircloth	McCain	

NAYS—44

Akaka	Feingold	Leahy
Baucus	Feinstein	Levin
Biden	Ford	Lieberman
Bingaman	Glenn	Mikulski
Boxer	Graham	Moynihan
Breaux	Harkin	Murray
Bryan	Hollings	Reed
Bumpers	Inouye	Reid
Byrd	Johnson	Robb
Cleland	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Torricelli
Dodd	Kohl	Wellstone
Dorgan	Landrieu	Wyden
Durbin	Lautenberg	

NOT VOTING—1

Moseley-Braun

The PRESIDING OFFICER. On this vote the yeas are 55, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Senate will come to order. The majority leader.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, after conversation with the Democratic leader, I now ask unanimous consent that the next cloture vote be postponed to occur Tuesday, March 24, at a time to be determined and announced at a later date.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LOTT. Now, that will be the last vote of the night, then. There will not be recorded votes tomorrow, although the Senate will be in session for debate on the NATO enlargement and, hopefully, on an amendment, with a vote on that amendment scheduled for probably 5:30, around 5:30 on Monday. The reason we did this, there is a serious effort underway, on a bipartisan basis, of those who support this legislation to work with the leaders on both sides of the aisle to get a process where we can have a fair consideration of this bill and amendments that are important to the Members, and get to a conclusion on the whole process by late Wednesday afternoon. I think that is fair. I think that Members on both sides would like to do it. But I do think, as is the tradition in the Senate, the leaders on both sides need to work with their Members to develop a process that they can be comfortable with. I think I have shown a willingness to do that, and I believe Senator DASCHLE is going to be working on that with me and the bipartisan supporters of this legislation. Thank you for your effort. I will see some of you tomorrow and the rest of you Monday afternoon.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia will be recognized as soon as we have order in the Senate. The Senator from Georgia.

MORNING BUSINESS

Mr. COVERDELL. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia.

EDUCATION SAVINGS ACCOUNTS

Mr. COVERDELL. Mr. President, I thank the majority and minority leader for efforts to bring to resolution the ability to deal with this education proposal. I do want to make one comment for which there was not sufficient time in the 15 minutes allotted to each. Mr. President, in the final minutes of the last half-hour allotted to our debate before the vote, once again I heard the suggestion that the amount of tax benefit that would accrue to these 14 million American families that the Joint Tax Committee feel would take advantage of these education savings accounts is minimal and insignificant. Of course, I find it ironic that we would be operating under Presidential veto threats and five filibusters for something perceived to be so insignificant.

What these arguments fail to measure is the other information from the Joint Tax Committee. One says 14 million families will use this; 70 percent of them will be families with children in public schools; and in the first 4 years, these families with, I admit, just a little tax incentive, will save voluntarily about $5 billion. In over 8 years it will exceed $10 billion. That is not insignificant. That is putting billions of all new money behind improving education in America.

The Joint Tax Committee says about half of that will go to students in public schools and half in private. That may be. They have not evaluated the fact that sponsors, churches, corporations, friends, neighbors, and grandparents can also contribute to the account. The value of that has yet to be interpreted.

The other argument was that this account tends to benefit the wealthy. The Joint Tax Committee says 70 percent of it goes to families of $75,000 or less. But I think you have to step back and understand that the governance of these accounts—who can use them, which is pushing towards middle income and lower—is identical, I repeat, identical to the formula that was adopted by the other side and signed by the President for savings accounts for higher education. There is no difference.

So, I find it ironic that we would be arguing about this benefiting someone who they do not think should receive the benefit when it was just fine and dandy when it was signed on the White House lawn last fall. It is the same.

I guess the piece that is forgotten in this debate over how much is saved is they only focus on the interest saved, which is marginal. But they forget that it is the interest on a big piece of principal, and that for most families who open this savings account, the net effect of their savings will be 50 to 100 percent greater than the average family is saving in America today.

If nothing else was done at all, isn't it a good idea to cause Americans to save billions of dollars? But, in fact, it won't be just saved. This money is going to go to help children.

So far, this filibuster—and I will stop with this, Mr. President—this filibuster would keep 14 million families from opening a savings account; 20 million children from benefiting from it; in the first 4 years, $2.5 billion going behind kids in public schools; $2.5 billion going behind kids in private schools; 1 million workers who will receive benefit from their companies to extend their education; 1 million students who would have a tax advantage who bought prepaid tuition in 21 States; 250,000 graduate students who would now become eligible for employer-paid continuing education; and 500 schools won't be built because it makes new financing available for school districts across the whole land to build schools, and we are filibustering that kind of growth.

I am very hopeful that the work of the two leaders over the weekend will untie this knot and we can get on to being a good partner for families with children in schools in America. We sure need to do it. I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

FAMILY GROUP CONCERNS

Mr. DEWINE. Mr. President, I would like to begin today a discussion on a piece of legislation that I have been working on, and others have been working on, for the past 7 months. I believe this legislation is vitally important to the economic well-being of our country—and I hope the full Senate will have an opportunity to debate this bill in the very near future.

The legislation that I am referring to is S. 1186, the Workforce Investment Partnership Act.

I have come to the floor on a number of occasions in the past to stress the immediate need to reform the Federal job training system. This need increases each day the Congress does not act.

During the numerous oversight hearings held in the Senate over the last 3 years, we have heard that we face in this country a fragmented and duplicative maze of narrowly focused job training and job-training-related programs, programs administered by numerous Federal agencies that lack coordination, lack a coherent strategy to provide training assistance, and lack the confidence of the two key consumers who utilize these services; namely, those seeking the training and those businesses seeking to hire them.

Throughout the hearing process, I have heard that reform is needed because the economic future of our country depends on a well-trained work force. Employers at every level are finding it increasingly difficult to locate and attract qualified employees for high-skilled, high-paying jobs, as well as qualified employees for entry-level positions.

Let me just give, Mr. President, one example. Right outside the Capital, right outside Washington, DC, in Northern Virginia, there are 19,000 high-tech, high-paying jobs that remain unfilled because individuals lack the skills to fill them. However, even with the shortage of skilled workers in Northern Virginia, you will still hear radio ads during morning drive time urging people to move to North Carolina to fill high-tech jobs down there.

Ohio faces a similar problem. Manpower, Incorporated recently released a poll which indicated that the Dayton area had a bright future in terms of job growth. Forty-two percent of area companies plan on hiring more manufacturing workers. However, while employers plan to hire, the availability of skilled workers to fill those jobs remains low. A Cleveland Growth Association survey recently showed that employers are becoming increasingly

concerned about the quality and availability of skilled labor which may impede their future growth plans.

According to the Manufacturers Alliance's Economic Report published in January, the mismatch between available jobs and available skilled workers is growing. While wages have increased for those who have the skills in demand, many jobs still go unfilled, and the median duration of unemployment for those who lack the skills remains at recession levels.

Nationwide, the number of unfilled high-tech jobs is estimated to be 346,000 people. The increasing labor shortage threatens our Nation's economic growth and our productivity. This, in turn, threatens one of our greatest domestic achievements—the historic welfare reform.

States and counties under this bill have been given the responsibility of moving people from welfare to work, and this is not an easy task. Many individuals trying to make the transition to work lack the basic skills needed to obtain the available jobs even at the entry level.

Mr. President, the Senate needs to act. We need to develop a job training system that is flexible, a system that provides individuals who are voluntarily seeking assistance with comprehensive education and training services.

We need a system that is accountable, assuring that the training provides leads to a meaningful, long-term employment.

We need a system that provides consumer choice, allowing individuals, not the Government, to choose their education or training provider.

And, we need a system that is driven at the State and local level, not from Washington, DC.

The Workforce Investment Partnership Act that I introduced was approved unanimously—let me repeat, unanimously—by the Senate Labor and Human Resources Committee in September. It represents a belief that we can do better, that we can, in fact, achieve these goals.

During the committee process, we considered the concerns of various groups who have a stake in this bill—elected officials at the State and local level, the business community, family groups, labor unions, education groups and others. It is my belief that this bill balances all the competing concerns to the best of our ability.

Today, we are on the verge of replacing the current system of frustration and providing a framework for success.

The Workforce Investment Partnership Act embodies the principles that I have just outlined. The programs incorporated in the legislation include job training, vocational education and adult education. Additionally, it provides strong linkages to welfare to work, the Wagner-Peyser Act, the Older Americans Act, Vocational Rehabilitation, veterans programs, Trade Adjustment Assistance, as well as other training-related programs.

It offers a reborn Federal Jobs Corps program. This reborn Federal Jobs Corps program will linked to local communities for the first time in its 30-year history.

This bill, in short, is a foundation, a road map to a much better system.

Mr. President, while separate funding streams will be maintained for each of the activities under this bill, in recognition of their distinct function, States and localities will be empowered with the tools and the flexibility to implement real reform in order to provide comprehensive services to those seeking assistance.

The PRESIDING OFFICER (Mr. BENNETT). The Senator's 5 minutes have expired.

Mr. DEWINE. I ask unanimous consent to extend for an additional 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. However, Mr. President, there is opposition to this legislation, opposition that I, frankly, do not understand. For the most part, the opposition is driven by a lack of understanding of this particular piece of legislation and a fear that our schools are going to be turned into ''training'' facilities that force children into career tracks.

This is simply not true. This is the last thing—let me repeat, the last thing—that this Member of the U.S. Senate would ever propose, would ever push, would ever write or, frankly, would ever vote for.

Let me answer now, if I can, the most common questions that have been asked about this bill.

The first question: Why is vocational education included in the bill?

Let me try to answer that, and I will. While vocational education mainly serves secondary school students between the 7th and 12th grades, it also provides post-high school vocational services to individuals. Those post-high school services are linked to the training system. The education services provided to 7th and 12th grade students are not linked to the training system. Again, this legislation will not—will not—replace traditional education curricula with job training.

The reforms that are contained in S. 1186 which affect secondary school students will strengthen vocational education. The students that voluntarily choose to participate in vocational education will receive a strong academic and technical education. The provisions insure that students have the choice, an option, to participate in vocational education. Participation in vocational education under our bill remains voluntary.

This bill will not set kids on some kind of preordained career track. It just won't happen.

The next question that has been raised is: Does S. 1186 include national testing?

Absolutely not, it does not include national testing. This legislation does not authorize national testing. I am opposed to national testing, and I would not introduce legislation that authorizes national testing.

The next question that has been asked is this: Does this bill, S. 1186, increase the authority of the Federal Government over education?

Again, the answer is no, absolutely not. S. 1186 eliminates numerous Federal requirements and mandatory set-asides. It gives States and localities the flexibility, the authority and the funding to design their own vocation education systems which provide academic and technological education to secondary and post-secondary students who voluntarily choose to participate.

S. 1186 streamlines vocational education, reducing the current 20 categorical programs to four. It provides States and localities more flexibility over planning, allowing the State education authority to coordinate post-secondary vocational education with the other programs linked to and coordinated with S. 1186. And, Mr. President, this bill eliminates the Federally required State gender equity coordinator position.

Let me turn to another question that has been raised. Does S. 1186 give the Secretary of Education authority to create national educational standards?

Again, Mr. President, the answer is no. Absolutely not. This Senator would not support such legislation. I would not write it. I would not vote for it. The Secretary of Education, under this bill, is only given the authority to ''publish'' the performance measures outlined by the legislation. The Secretary of Education cannot arbitrarily mandate standards.

The next question that has been asked: Does S. 1186 expand the School to Work Act?

No. Absolutely not. School to Work is a completely separate program. Let me again state it. School to Work is a completely separate program that is in no way part of or linked to S. 1186. Section 316(d)(2) clearly states that ''funds . . . shall not be used to carry out activities that duplicate federally funded activities available to youth.'' Mr. President, this provision prohibits States and localities from using S. 1186 funding in any way to expand School to Work.

Let me turn now, if I could, Mr. President, to another question that has been asked. Does S. 1186 force students to choose a career path or major?

Again, Mr. President, the answer is absolutely not. I would not be on the floor arguing in favor of this legislation. I would not have spent the last several years working on it, or any piece of legislation that would do this. Section 103 of this bill clearly states that ''No funds shall be used—(1) to require any secondary school student to choose or pursue a specific career path or major; and (2) to mandate that any individual participate in a vocational education program, including a vocational education program that requires

the attainment of a federally funded skill level or standard.''

Mr. President, I find the idea of forcing students or encouraging students into a career path early in their educational life to be very wrongheaded. I think it is wrong. I think children should have the opportunity to develop, to think about what they want to do. How many of us, even when we got out of high school, knew exactly what we were going to do? Where we were going to go or what our major was going to be? Or, how we were going to spend our life?

So the idea that we track children, I find abhorrent, I find to be wrong. This bill does not do that.

Let me turn to another question that has been asked. Will participation in summer or year-round activities have a negative impact on a young person's participation in school?

Again, the answer is no. S. 1186 does not remove students from the traditional classroom. Section 316(d)(3) of this bill clearly states—''No funds . . . shall be used to provide an activity for youth . . . if participation in the activity would interfere with or replace the regular academic requirements of the youth.''

Let me turn to another question. Does S. 1186 transform elementary or secondary schools into job training centers?

No is the answer. Absolutely not. While S. 1186 does establish one-stop customer service centers as the local hub for adult training, section 311(d)(2) states that ''Elementary and secondary schools shall not be eligible for designation or certification as one-stop customer service centers . . .''

Let me turn to another question that has been asked. How will S. 1186 affect private, religious, or home schools?

Mr. President, on this one the answer is very simple. It will not affect them at all. Section 104 states that ''Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school . . .''

Let me turn to another question. Does S. 1186 allow workforce boards to implement school curricula?

The answer, Mr. President, is no. No, S. 1186 does not undermine the authority of the State education authority or local school boards. S. 1186 does not give any authority over school curricula to workforce boards. In fact, section 316(d)(1) states ''No funds . . . shall be used to develop or implement local school system education curricula.''

Another question, Mr. President, that has been asked is, does S. 1186 allow workforce boards to bypass the authority of State legislatures?

Again, the answer is no. S. 1186 does not undermine the authority of the State legislative bodies. Section 380 of this bill states that ''. . . Any funds received by a state . . . shall be subject to appropriation by the state legislature . . .'' This provision, I might point out, Mr. President, is similar to the language contained in the welfare law.

Let me turn to another question. Does S. 1186 combine education and job training funds?

Again, the answer is no. S. 1186 does not combine education and job training funds. In fact, S. 1186 retains separate funding streams for vocational education, adult education, adult training, and youth activities in recognition of their very distinct functions.

The next question, Mr. President, I would like to address is this. Does S. 1186 create a national, State, and local workforce databank by combining the computer databanks of the Department of Education, Department of Labor, and the Department of Health and Human Services?

Again, Mr. President, the answer is no. S. 1186 does not establish any sort of joint Federal workforce databank. However, S. 1186 does reform the Department of Labor's Bureau of Labor Statistics employment service information system that is used by all unemployed Americans. Under S. 1186, unemployed Americans will be able to receive quality local data regarding job openings so they can get back to work.

Mr. President, throughout my public career, I have advocated giving parents and local communities more control over the education of their children. This legislation does just that.

As for training, this legislation reforms the system put in place by two conservative politicians. The Job Training Partnership Act was written by then-Senator Dan Quayle and signed into law by President Ronald Reagan.

It is my belief, Mr. President, that by removing or reforming outdated rules and regulations, States and localities can move forward, transforming the current patchwork of programs into a comprehensive system, a comprehensive system which will better serve individuals who voluntarily seek assistance.

Mr. President, just like welfare reform, job training reform rests on the leadership of States and localities that have shown innovation and initiative. S. 1186 is designed to encourage more State and more local innovations—moving people from welfare to work.

Mr. President, the Workforce Investment Partnership Act offers a new foundation, a positive framework for success, a roadmap, if you will, to a better system. If we are to achieve the goals we have set—a stronger economy, a better trained workforce, and true and meaningful welfare reform—then we need to act, and we need to act now.

That is why, Mr. President, I am asking for the support of my colleagues today. I am asking for your ideas, your support, and I will continue to push for immediate consideration of this bill by the full Senate.

Mr. President, I ask unanimous consent that the following letters be printed in the RECORD: a letter from the National Association of Manufacturers, a letter from the National Association of Private Industry Councils, a letter from the National Association of Counties—and I might add to that that each one of these, Mr. President, is an endorsement of the bill—and also a letter from the American Vocational Association and a letter from the State Directors of Vocational Technical Education.

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

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, DC, March 16, 1998.

Hon. MIKE DEWINE,
U.S. Senate, Washington, DC.

DEAR SENATOR DEWINE: On behalf of the National Association of Manufacturers, (NAM) more than 14,000 member companies and subsidiaries, and the more than 18 million people they employ, we urge you to support S. 1186, the Workforce Investment Partnership Act when it is brought before the full Senate. This piece of legislation, which would consolidate many federal job-training programs, is an important first step in addressing the well documented ''skill shortage'' faced by our member companies.

Last year, the NAM commissioned Grant Thorton to conduct a survey of more than 4,500 manufacturers. The survey found that more than nine in ten manufacturers are encountering a skill shortage in at least one job category. Moreover, over 40 percent cited a lack of basic technical skills among workers as a serious problem. In short, the lack of qualified workers, at every level, has reached a crisis point for many manufacturers. The message of the Grant Thorton study is clear: We must provide individuals with the skills they need to succeed. There is no question that life-long training is the key to American competitiveness and worker success in the global economy.

Unfortunately, the current federal job-training system is a complex maze that serves neither trainees nor their prospective employers well. S. 1186 would address these issues by: consolidating many of the current programs and providing more comprehensive services; and providing critical business community involvement in statewide and local partnerships; and holding training providers accountable through recognized industry standards.

The NAM strongly urges you to vote for S. 1186, a bill that enjoys bipartisan support, and to reject any weakening amendments. It is imperative that we adopt job-training consolidation that includes business community participation at all levels and meaningful performance standards.

Our ability to compete in an increasingly sophisticated and technologically advanced marketplace depends on it. Should you have any questions or need further information, do not hesitate to contact me or Sandy Boyd, director of employment policy, at (202) 637–3133.

Sincerely,

PAUL R. HUARD,
Senior Vice President,
Policy & Communications.

NATIONAL ASSOCIATION OF PRIVATE INDUSTRY COUNCILS,
Washington, DC, March 18, 1998.

Hon. MIKE DEWINE,
Chair, Subcommittee on Employment and Training, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Board of Directors of the National Association of Private Industry Councils (NAPIC), we are writing in support of S. 1186. ''The Workforce Investment Partnership Act.''

Passage of this legislation will help business remain competitive by giving private sector-led boards the tools they need to address the skill needs of employees and the training needs of job seekers.

Among the many excellent provisions in this bill, the NAPIC Board has identified four compelling reasons to support S. 1186.

The legislation strengthens the private sector voice in the oversight of public employment and training programs. The proposed Workforce Investment Partnerships will ensure that we have a market-driven public employment and training system in place to meet the needs of businesses and job seekers alike. The enhanced role for employers will result in better linkages between job seekers and careers.

It deregulates youth programs, offering communities more options to fashion local strategies that will help young people stay in school and prepare out-of-school youth for careers.

This bill provides the clear balance between state authority and local control necessary for an employment and training system that is both labor-market driven and responsive to local and state wide goals for economic development.

New standards for accountability will guarantee that programs are responsive to the skill needs of employers.

We applaud the work that you and your fellow Senators have done to craft this legislation. NAPIC looks forward to working with you and your colleagues in the coming months to ensure that S. 1186 moves from the Senate floor to conference, final passage, and presidential signature.

Sincerely,

JUDITH BYRNE RILEY,
Chair.

ROBERT KNIGHT,
President.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, March 16, 1998.

Hon. MIKE DEWINE,
U.S. Senate, Washington, DC.

DEAR SENATOR DEWINE: The National Association of Counties (NACo), representing America's 3,100 counties in Washington, DC, is pleased to support S. 1186, the Workforce Investment Partnership Act of 1998. The bill, which would strengthen the nation's workforce development system, will contribute substantially to the quality of America's second chance employment and training system.

NACo believes that this bill will improve the types of workforce services available to our constituents. We believe that it will put in place a system of one-stop career centers that will ensure access to a wide range of client services. We also believe that it will strengthen overall accountability to ensure that workforce development programs meet the expectations of Congress, the Administration, governors, county elected officials and clients. Finally, NACo is of the opinion that S. 1186 will help ensure a highly skilled workforce.

The Workforce Investment Partnership Act effectively draws upon the positive experiences of the past and of our hopes for the future to ensure that this nation has the kind of workforce it will need to compete in the global economy and maintain our standard of living.

We applaud the work that you and your fellow Senators have done in crafting this legislation, and look forward to continue working with you in the coming months to ensure that S. 1186 moves from the Senate floor to conference, final passage and presidential signature.

Sincerely,

RANDY JOHNSON, PRESIDENT, NACO,
Hennepin County Commissioner.

AMERICAN VOCATIONAL ASSOCIATION,
Alexandria, VA, March 17, 1998.

Hon. SPENCER ABRAHAM,
Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR: On behalf of the American Vocational Association (AVA) and the 38,000 vocational-technical educators that we represent nationwide, I urge you to vote in favor of S. 1186, the Workforce Investment Partnership Act, which may be considered in the full Senate this week.

The Senate Labor and Human Resources Committee has worked hard to address the concerns raised by vocational-technical educators about this legislation last fall. We believe the managers' amendment that will be offered effectively addresses the core issues we raised. As we understand it, the managers' amendment includes:

Assurances that funding appropriated for vocational-technical education programs will be directed to school-based programs and cannot be diverted to other areas.

Assurances that education governance authorities at the state and local levels will continue to have jurisdiction over vocational-technical education programs.

A strong focus on professional development for vocational-technical education teachers, administrators, and counselors.

Increased emphasis on technology.

Assurances that unified planning will adhere to the requirements of the vocational-technical education provisions.

Effective support for state administration and leadership.

In addition to encouraging the Senate to pass this important legislation, we urge the Senate to accept the House structure of a separate bill for vocational-technical education, apart from job training, when S. 1186 goes to conference with the House version. Further, we will provide detailed comments on our conference priorities, including additional changes that we would like to see to some of the Senate language, as the bill moves towards conference.

We also wish to commend Chairmen Jeffords and DeWine and Senators Kennedy and Wellstone for their leadership and bipartisanship in developing and moving this legislation. If you have any questions about our bipartisanship on S. 1186 or on any other matter, please do not hesitate to contact Nancy O'Brien, AVA's assistant executive director for government relations, or me at (703) 683–3111.

Thank you for your attention to this important issue.

Sincerely,

BRET LOVEJOY,
Executive Director.

STATE DIRECTORS,
VOCATIONAL TECHNICAL EDUCATION,
Washington, DC, March 18, 1998.

DEAR SENATOR: The National Association of State Directors of Vocational Technical Education Consortium (NASDVTEc) represents the state and territory leaders responsible for the nation's vocational technical education system. On NASDVTEc's behalf, I write to share our support for the Senate's efforts to enact legislation that authorizes a federal investment in vocational technical education. S. 1186, the Workforce Investment Partnership Act of 1998, holds much potential for creating expanded and improved opportunities for our nation's students by providing access to quality vocational technical education. We urge you to support S. 1186, the Workforce Investment Partnership Act of 1998.

NASDVTEc is very supportive of many of S. 1186's features including: a commitment to a strong state role; adequate state-level resources to effect change; assurances that funds appropriated for vocational technical education can be used only for vocational technical education activities; and a strong focus on technology, accountability and achieving high levels of academic and vocational proficiency.

As we understand it, the manager's amendment will provide the opportunity for greater coordination among programs while assuring that vocational technical education continues to be planned for and administered by education officials, even under a unified plan. While it is our preference that separate legislation be enacted for vocational technical education, we appreciate the additional flexibility provided and the assurance that S. 1186 will build on and strengthen vocational technical education programs and activities that have proven successful.

We wish to commend Chairman Jeffords, Senators DeWine, Kennedy and Wellstone for their bipartisan efforts to bring forward this very important piece of legislation. Thank you for your support of vocational technical education and for your consideration of our views. Please do not hesitate to contact me at 202/737–0303 if NASDVTEc can be of assistance during your consideration of S. 1186.

Sincerely,

KIMBERLY A. GREEN,
Executive Director.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I ask unanimous consent that I may proceed for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. COCHRAN pertaining to the introduction of S. 1806 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, March 18, 1998, the federal debt stood at $5,537,178,813,514.71 (Five trillion, five hundred thirty-seven billion, one hundred seventy-eight million, eight hundred thirteen thousand, five hundred fourteen dollars and seventy-one cents).

One year ago, March 18, 1997, the federal debt stood at $5,367,674,000,000 (Five trillion, three hundred sixty-seven billion, six hundred seventy-four million).

Five years ago, March 18, 1993, the federal debt stood at $4,215,542,000,000 (Four trillion, two hundred fifteen billion, five hundred forty-two million).

Ten years ago, March 18, 1988, the federal debt stood at $2,481,414,000,000 (Two trillion, four hundred eighty-one billion, four hundred fourteen million).

Fifteen years ago, March 18, 1983, the federal debt stood at $1,227,793,000,000 (One trillion, two hundred twenty-seven billion, seven hundred ninety-three million) which reflects a debt increase of more than $4 trillion—$4,303,380,813,514.71 (Four trillion, three hundred and three billion, three hundred eighty million, eight hundred thirteen thousand, five hundred fourteen dollars and seventy-one cents) during the past 25 years.

REPORT OF A DRAFT OF PROPOSED LEGISLATION ENTITLED ''THE NATIONAL AND COMMUNITY SERVICE AMENDMENTS ACT OF 1998''—MESSAGE FROM THE PRESIDENT—PM 113

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I am pleased to transmit for your immediate consideration and enactment the ''National and Community Service Amendments Act of 1998.'' This legislative proposal extends and amends national service law, including the National and Community Service Act of 1990 and the Domestic Volunteer Service Act of 1973. It builds upon the long, bipartisan tradition of service in our country, which was renewed in 1993 when I signed the National and Community Service Trust Act creating the Corporation for National Service.

Service to one's community is an integral part of what it means to be an American. The Presidents' Summit for America's Future held in Philadelphia last April reinforced the role of programs supported by the Corporation for National Service as key vehicles to provide young people with the resources to maximize their potential and give back to their communities. Citizen service is also at the heart of our efforts to prepare America for the 21st century, as we work to ensure that all Americans have the opportunity to make the most of their own lives and to help those in need.

My Administration's most important contribution to citizen service is AmeriCorps, the national service program that already has given more than 100,000 young Americans the opportunity to serve their country. By tying opportunity to responsibility, we have given them the chance to serve and, in return, earn money for post-secondary education. In community after community, AmeriCorps members have proven that service can help us meet our most pressing social needs. For example, in Simpson County, Kentucky, AmeriCorps members helped second graders jump three grade levels in reading. In Boys and Girls Clubs, AmeriCorps members are mentors for at-risk young people. Habitat For Humanity relies upon AmeriCorps members to recruit more volunteers and build more houses. In communities beset by floods, tornadoes, and hurricanes, AmeriCorps members have helped to rebuild lives and restore hope. AmeriCorps members are helping to mobilize thousands of college students from more than 800 college campuses in our America Reads program. In all of these efforts, AmeriCorps brings together people of every background to work toward common goals.

Independent evaluators have reviewed AmeriCorps, National Senior Service Corps programs, and Learn and Service America programs and have concluded that national service yields a positive return on investment. The proposed legislation that I am transmitting builds on our experiences with national service to date and improves national service programs in four ways: (1) by codifying agreements with the Congress and others to reduce costs and streamline national service; (2) strengthening partnerships with traditional volunteer organizations; (3) increasing States' flexibility to administer national service programs; and (4) expanding opportunities for Americans to serve.

Since the enactment of the National and Community Service Trust Act of 1993, and particularly since 1995, my Administration has worked with constructive critics of national service to address their concerns and improve the overall program. This proposed legislation continues that process by reducing the Corporation's average budgeted cost per AmeriCorps member, repealing authority for redundant or obsolete national service programs, and making other improvements in the efficiency of national service programs.

National service has never been a substitute for the contributions made by the millions of Americans who volunteer their time to worthy causes every year. Rather, as leaders of volunteer organizations have often expressed, national service has proven that the presence of full-time, trained service participants enhances tremendously the effectiveness of volunteers. This proposed legislation will strengthen the partnership between the national service programs and traditional volunteer organizations; codify the National Service Scholarship program honoring exemplary service by high school students; and expand the AmeriCorps Challenge Scholarships, through which national service participants can access education awards. It also will authorize appropriations for the Points of Light Foundation through the year 2002.

The National and Community Service Trust Act of 1993 explicitly conceived of national service as a Federal-State partnership. The Act vested significant authority in bipartisan State Commissions appointed by the Governors. I promised that we would accelerate the process of devolution as the newly created State Commissions expanded their capacities. This proposed legislation fulfills that promise in a variety of ways, including providing authority for the Corporation for National Service to enter into Service Collaboration Agreements with Governors to provide a means for coordinating the planning and administration of national service programs in a State.

This proposed legislation will also provide additional service opportunities. By reducing the cost per AmeriCorps member, it will enable more people to serve; it will broaden the age and income guidelines for National Senior Service Corps participants, expanding the pool of older Americans who can perform results-oriented service in their communities; and it will simplify the administration of Learn and Serve America, so States and communities will more easily be able to provide opportunities for students to learn through service in their schools and neighborhoods.

This past January, I had the opportunity to honor the memory of Dr. Martin Luther King, Jr., by engaging in service on the holiday commemorating his birth. I joined 65 AmeriCorps members and more than 300 community voluteers in repairing and repainting Cardozo High School in the Shaw neighborhood of Washington, D.C. Thirty-one years ago, Dr. King came to that very neighborhood and urged the people there to engage in citizen service to rebuild their lives, their community, and their future. That is what those national service participants, and the thousands more who were participating in similar projects across the country, were doing—honoring the legacy of Dr. King and answering the high calling of citizenship in this country.

Each of the more than 500,000 participants in the programs of the National Senior Service Corps and the 750,000 participants in programs supported by Learn and Serve America, and every AmeriCorps member answers that high calling of citizenship when they make and fulfill a commitment to service in their communities. This proposed legislation builds on the successes of these programs and improves them for the future.

I urge the Congress to give this proposed legislation prompt and favorable consideration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 19, 1998.*

MESSAGES FROM THE HOUSE

At 11:54 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2294. An act to make improvements in the operation and administration of the Federal courts, and for other purposes.

H.R. 2696. An act to amend title 17, United States Code, to provide for protection of certain original designs.

H.R. 3117. An act to reauthorize the United States Commission on Civil Rights, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 152. Concurrent resolution expressing the sense of the Congress that all parties to the multiparty peace talks regarding Northern Ireland should condemn violence and fully integrate internationally recognize human rights standards and adequately address outstanding human rights violations as part of the peace process.

H. Con. Res. 235. Concurrent resolution calling for an end to the violent repression of the legitimate rights of the people of Kosova.

At 2:13 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2870. An act to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

MEASURES REFERRED

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

H.R. 2696. An act to amend title 17, United States Code, to provide for protection of certain original designs; to the Committee on the Judiciary.

H.R. 2870. An act to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests; to the Committee on Foreign Relations.

H.R. 3117. An act to reauthorize the United States Commission on Civil Rights, and for other purposes; to the Committee on the Judiciary.

The following concurrent resolutions were read and referred as indicated:

H. Con. Res. 152. Concurrent resolution expressing the sense of the Congress that all parties to the multiparty peace talks regarding Northern Ireland should condemn violence and fully integrate internationally recognized human rights standards and adequately address outstanding human rights violations as part of the peace process; to the Committee on Foreign Relations.

H. Con. Res. 235. Concurrent resolution calling for an end to the violent repression of the legitimate rights of the people of Kosova; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 155. A resolution designating April 6 of each year as ''National Tartan Day'' to recognize the outstanding achievements and contributions made by Scottish Americans to the United States.

S. Res. 198. A resolution designating April 1, 1998, as ''National Breast Cancer Survivors' Day.''

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following-named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C. section 624:

To be major general

Brig. Gen. James E. Andrews, 8141
Brig. Gen. Claude M. Bolton, Jr., 5880
Brig. Gen. Robert J. Boots, 9226
Brig. Gen. John W. Brooks, 8909
Brig. Gen. Richard E. Brown III, 8999
Brig. Gen. John G. Campbell, 2822
Brig. Gen. Bruce A. Carlson, 4082
Brig. Gen. Robert J. Courter, Jr., 9691
Brig. Gen. Daniel M. Dick. 7629
Brig. Gen. Paul V. Hester, 2071
Brig. Gen. Leslie F. Kenne, 0741
Brig. Gen. Tiiu Kera, 6343
Brig. Gen. Donald A. LaMontagne, 3494
Brig. Gen. David F. MacGhee, 3517
Brig. Gen. Timothy P. Malishenko, 3563
Brig. Gen. Glen W. Moorhead III, 6124
Brig. Gen. Harry D. Raduege, Jr., 9435
Brig. Gen. Leonard M. Randolph, Jr., 3223
Brig. Gen. James E. Sandstrom, 8096
Brig. Gen. Lance L. Smith, 7660
Brig. Gen. Charles F. Wald, 1222
Brig. Gen. Tome H. Walters, Jr., 3355
Brig. Gen. Herbert M. Ward, 0157
Brig. Gen. Joseph H. Wehrle, Jr., 6021
Brig. Gen. William Welser, III, 4623
Brig. Gen. Michael E. Zettler, 3436

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Frederick H. Forster, 6694

The following-named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig.. Gen. Louise C. Ferraro, Jr., 2366
Brig.. Gen. Danny A. Hogan, 6985
Brig.. Gen. Robert B. Stephens, 2399
Brig.. Gen. Geoffrey P. Wiedeman, Jr., 2483
Brig.. Gen. Robert J. Winner, 3113

To be brigadier general

Col. Frederick H. Forster, 6694

The following-named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Louis C. Ferraro, Jr., 2366
Brig. Gen. Danny A. Hogan, 6985
Brig. Gen. Robert B. Stephens, 2399
Brig. Gen. Geoffrey P. Wiedeman, Jr., 2483
Brig. Gen. Robert J. Winner, 3113

To be brigadier general

Col. Marvin J. Barry, 3766
Col. Bruce M. Carskadon, 0890
Col. John M. Danahy, 2107
Col. John D. Dorris, 4306
Col. Robert E. Duignan, 8409
Col. Sally Ann Eaves, 5962
Col. Bobby L. Efferson, 5676
Col. William F. Gordon, 8896
Col. Joseph G. Lynch, 4963
Col. Mark V. Rosenker, 1990
Col. Ronald M. Sega, 0560
Col. Stephen A. Smith, 9174
Col. Edwin B. Tatum, 7680
Col. Kathy E. Thomas, 0940

The following United States Army Reserve officer for promotion in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections, 14101, 14315 and 12203(a):

To be brigadier general

Col. Michael W. Beasley, 5949

The following-named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. John S. Parker, 5626

The following-named officer for appointment as The Chief of Chaplains, United States Army and for appointment to the grade indicated under title 10, U.S.C., section 3036:

To be major general

Brig. Gen. Gaylord T. Gunhus, 7632

The following-named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Michael J. Aguilar, 3724
Col. James F. Amos, 1550
Col. John G. Castellaw, 2524
Col. Timothy E. Donovan, 4843
Col. James M. Feigley, 1052
Col. Emerson N. Gardner, Jr., 0157
Col. Stephen T. Johnson, 0874
Col. James N. Mattis, 7981
Col. Gordon C. Nash, 4684
Col. Robert M. Shea, 3652
Col. Keith J. Stalder, 5748
Col. Joseph F. Weber, 1316

The following-named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be vice admiral

Rear Adm. Edmund P. Giambastiani, Jr., 8318

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 6 nomination lists in the Air Force, Army, and Marine Corps which were printed in full in the CONGRESSIONAL RECORDS of February 10 and 24, March 3 and 6, 1998, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of February 10, 1998, February 24, 1998, March 3, 1998 and March 6, 1998, at the end of the Senate proceedings.)

In the Air Force nominations beginning Richard A. Allnutt III, and ending Diane A. Zipprich, which nominations were received by the Senate and appeared in the Congressional Record of February 10, 1998.

In the Army nominations beginning Richard W. Meyers, and ending Charles M. Sines, which nominations were received by the Senate and appeared in the Congressional Record of February 24, 1998.

In the Marine Corps nominations beginning Raymond Adamiec, and ending Gerald A. Yingling, Jr., which nominations were received by the Senate and appeared in the Congressional Record of February 24, 1998.

In the Marine Corps nominations beginning Anthony P. Alfano, and ending James R. Wenzel, which nominations were received by the Senate and appeared in the Congressional Record of February 24, 1998.

In the Army nominations beginning Frederick P. Hammersen, and ending Thomas M. Walton, which nominations were received by the Senate and appeared in the Congressional Record of March 3, 1998.

In the Army nominations beginning James R. Agar, II, and ending Everett F. Yates, which nominations were received by the Senate and appeared in the Congressional Record of March 6, 1998.

By Mr. HATCH, from the Committee on the Judiciary:

Richard A. Paez, of California, to be United States Circuit Judge for the Ninth Circuit.

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. CAMPBELL:

S. 1797. A bill to reduce tobacco use by Native Americans and to make the proposed tobacco settlement applicable to tobacco-related activities on Indian lands; to the Committee on Indian Affairs.

By Mrs. FEINSTEIN:

S. 1798. A bill to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements; to the Committee on Finance.

By Mr. MCCAIN:

S. 1799. A bill to amend section 121 of the Internal Revenue Code of 1986 to provide that a member of the Armed Forces of the United States shall be treated as using a principal residence while away from home on extended active duty; to the Committee on Finance.

By Mr. GLENN (for himself and Mr. DEWINE):

S. 1800. A bill to designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the ''Joseph P. Kinneary United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG:

S. 1801. A bill to suspend until December 31, 2000, the duty on Benzenepropanal, 4-(1,1-Dimethylethyl)-Methyl-; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. LOTT, Mr. FORD, and Mr. STEVENS):

S. 1802. A bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, and 2001; to the Committee on Commerce, Science, and Transportation.

By Mr. ROBB:

S. 1803. A bill to reform agricultural credit programs of the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY:

S. 1804. A bill to amend title XXVII of the Public Health Service Act to limit the amount of any increase in the payments required by health insurance issuers for health insurance coverage provided to individuals who are guaranteed an offer of enrollment under individual health insurance coverage relative to other individuals who purchase health insurance coverage; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. DASCHLE, Mr. INOUYE, Mr. BUMPERS, Mr. LEAHY, Mr. MOYNIHAN, Mr. SARBANES, Mr. LEVIN, Mr. LAUTENBERG, Mr. HARKIN, Mr. KERRY, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. WELLSTONE, Mrs. BOXER, Mr. FEINGOLD, Mrs. FEINSTEIN, Ms. MOSELEY-BRAUN, Mr. DURBIN, Mr. REED, and Mr. TORRICELLI):

S. 1805. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage; to the Committee on Labor and Human Resources.

By Mr. COCHRAN (for himself and Mr. INOUYE):

S. 1806. A bill to state the policy of the United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack; to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 1797. A bill to reduce tobacco use by Native Americans and to make the proposed tobacco settlement applicable to tobacco-related activities on Indian lands; to the Committee on Indian Affairs.

THE REDUCTION IN TOBACCO USE AND REGULATION OF TOBACCO PRODUCTS IN INDIAN COUNTRY ACT OF 1998

Mr. CAMPBELL. Mr. President, I am pleased today to introduce the ''Reduction in Tobacco Use and Regulation of Tobacco Products in Indian Country Act of 1998''.

After many hard months of negotiations between the states Attorneys General, class action plaintiffs, and the tobacco representatives, in June, 1997, a proposed settlement was agreed to.

The proposed agreement tries to accomplish a number of goals: avoiding costly and lengthy lawsuits that will enrich the trial lawyers; creating a multi-billion pot of money to be used by the states and the tribes for tobacco-related health problems; and implementing a comprehensive set of advertising limits that the companies would agree to voluntarily.

In reviewing the proposed settlement agreement, the objective of the Committee on Indian Affairs was to review the matters under its jurisdiction and make recommendations on how to implement that agreement on Indian lands.

After two Committee hearings I am confident that as to the Indian issues, we have crafted a bill that addresses the concerns of both the tribes and the parties that seek enactment of the proposed agreement.

In its hearings the Committee heard testimony on the use of tobacco products by Native Americans and how the proposed tobacco settlement would impact tobacco-related activities on Indian lands.

Even though smoking is on the decline in other segments of American society, available statistics show that smoking and use of smokeless tobacco in Native American communities is at crisis levels. The percentage of Native American kids who use tobacco is breathtaking—in some parts of the country 80% of Indian high school students use tobacco products.

Further, the health problems Native Americans face such as alcoholism and diabetes are compounded by the use of tobacco products. Vigorous efforts need to be made at the federal and tribal levels to prohibit access to tobacco and reduce youth smoking in Native communities.

After hearing the concerns and recommendations regarding the proposed settlement by Indian tribal leaders, state Attorneys General, federal health and legal experts, and Indian legal scholars, a bill was crafted which addresses the major issues involved in tobacco regulation on Indian lands.

The legislation I am introducing today includes legal protections for traditional and ceremonial uses of tobacco by tribal members; respects tribal sovereignty and authority to make and enforce laws on Indian lands; includes a commitment to provide the necessary licensing and enforcement funding to tribal governments that is consistent with allocations the states will receive; and a commitment to ensure sufficient funding to treat tobacco-related illnesses and reduce the epidemic of tobacco abuse in Indian country.

I am hopeful that if a comprehensive agreement is enacted, the principles and provisions contained in this bill are included to make the agreement applicable to tobacco-related activities on Indian lands, to protect the traditional use of tobacco by Native Americans, and preserve tribal authority to make and enforce laws to govern themselves.

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

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

S. 1797

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reduction in Tobacco Use and Regulation of Tobacco Products in Indian Country Act of 1998''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Native Americans have used tobacco products for recreational, ceremonial, and traditional purposes for centuries;

(2) the sale, distribution, marketing, advertising, and use of tobacco products are activities substantially affecting commerce among the States and the Indian tribes and, as such, have a substantial effect on the economy of the United States;

(3) the sale, distribution, marketing, advertising, and use of tobacco products are activities substantially affecting commerce by virtue of the health care-related and other costs that Federal, State, and tribal governmental authorities have incurred because of the usage of tobacco products;

(4) the sale, distribution, marketing, advertising, and use of tobacco products on Indian lands are activities which materially and substantially affect the health and welfare of members of Indian tribes and tribal organizations;

(5) the use of tobacco products is a serious ad growing public health problem, with impacts on the health and well-being of Native Americans;

(6) the use of tobacco products in Native communities is particularly serious with staggering rates of smoking in Native American communities;

(7) enhancing existing legal mechanisms for the protection of public health are inadequate to deal effectively with the use of tobacco products; and

(8) enhancing prevention, research, and treatment resources with respect to tobacco will allow Indian tribes to address more effectively the problems associated with the use of tobacco products.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide for the implementation of any national tobacco legislation with respect to the regulation of tobacco products and other tobacco-related activities on Indian lands;

(2) recognize the historic Native American traditional and ceremonial use of tobacco products, and to preserve and protect the cultural, religious, and ceremonial uses of tobacco by members of Indian tribes;

(3) recognize and respect Indian tribal sovereignty and tribal authority to make and enforce laws regarding the regulation of tobacco distributors and tobacco products on Indian lands;

(4) ensure that the necessary funding is made available to tribal governments for licensing and enforcement of tobacco distributors and tobacco products on Indian lands;

(5) ensure that the necessary funding is made available to tribal governments to treat tobacco-related illnesses and alleviate the epidemic of tobacco abuse by Native Americans;

(6) reduce the marketing of tobacco products to, and reduce the rate of smoking by, young Native Americans; and

(7) decrease tobacco use by Native Americans by encouraging public education and smoking cessation programs.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMERCE.—The term ''commerce'' means—

(A) commerce between any State, Indian tribe, or tribal organization, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Mariana Islands, or any territory or possession of the United States;

(B) commerce between points in any State, Indian tribe, or tribal organization, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, America Samoa, the Mariana Islands, or any territory or possession of the United States; and

(C) commerce wholly within the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Mariana Islands, or any territory or possession of the United States.

(2) CONSENT DECREE.—The term ''consent decree'' means a consent decree executed by a 1 or more participating manufacturers and a State or an Indian tribe or tribal organization pursuant to the provisions of any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997.

(3) COURT.—The term ''court'' means any judicial or agency court, forum, or tribunal within the United States, including any Federal, State, or tribal court.

(4) DISTRIBUTOR.—The term ''distributor'' means any person who furthers the distribution of tobacco or tobacco products, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for second consumption. Such term shall not include common carriers.

(5) INDIAN LANDS.—The term ''Indian lands'' has the meaning given the term ''Indian country'' by section 1151 of title 18, United States Code, and includes lands under the jurisdiction of an Indian tribe or tribal organization.

(6) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(7) MANUFACTURER.—

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

(i) a person who directly (not through a subsidiary or affiliate) manufactures tobacco products for sale in the United States;

(ii) a successor or assign of a person described in subparagraph (A);

(iii) an entity established by a person described in subparagraph (A);

(iv) an entity to which a person described in subparagraph (A) directly or indirectly makes a fraudulent conveyance after the date of enactment of this Act, or any Act to amend the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) in order to give effect to the national tobacco settlement agreement of June 20, 1997, or a transfer that would otherwise be voidable under chapter 7 of title 11, United States Code, but only to the extent of the interest or obligation transferred.

(B) LIMITATION.—The term ''manufacturer'' shall not include a parent or affiliate of a person who manufactures tobacco products unless such parent or affiliate itself is a person described in subparagraphs (A).

(8) PERSON.—The term ''person'' means an individual, partnership, corporation, or any other business or legal entity.

(9) POINT OF SALE.—The term ''point of sale'' means any location at which an individual can purchase or otherwise obtain tobacco products for personal, non-traditional consumption.

(10) RETAILER.—The term ''retailer'' means any person who sells tobacco products to individuals for personal consumption, or who operates a facility where vending machines or self-service displays are permitted.

(11) SALE.—The term ''sale'' includes the selling, providing samples of, or otherwise making tobacco products available for personal consumption in any place or location as permitted under law.

(12) SECRETARY.—Unless otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services.

(13) STATE.—The term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, America Samoa, the Mariana Islands, or any territory or possession of the United States. Such term also includes any political subdivision of any State.

(14) TOBACCO.—The term ''tobacco'' means tobacco in its unmanufactured form.

(15) TOBACCO PRODUCT.—The term ''tobacco product'' means cigarettes, cigarette tobacco, and smokeless tobacco.

(16) TOBACCO TRUST FUND.—The term ''tobacco trust fund'' means any national tobacco settlement trust fund established under any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997.

(17) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 45Ob(e)).

(18) VOLUNTARY COOPERATIVE AGREEMENT.—The term ''voluntary cooperative agreement'' means any agreement, contract, compact, memorandum of understanding, or similar agreement.

SEC. 4. APPLICATION OF TOBACCO-RELATED PROVISIONS TO NATIVE AMERICANS.

(a) IN GENERAL.—The provisions of any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997 shall apply to the manufacture, distribution, or sale of tobacco or tobacco products within the exterior boundaries of Indian reservations or on lands within the jurisdiction of an Indian tribe or tribal organization.

(b) TRADITIONAL USE EXCEPTION.—

(1) IN GENERAL.—In recognition of the religious, ceremonial, and traditional uses of tobacco and tobacco products by Indian tribes and the members of such tribes, nothing in this Act (or any Act enacted to give effect to the national tobacco settlement agreement of June 20, 1997) shall be construed to infringe upon the right of such tribes or members of such tribes to acquire, possess, use, or transfer any tobacco or tobacco products for such purposes.

(2) APPLICATION OF PROVISIONS.—Paragraph (1) shall apply only to those quantities of tobacco or tobacco products necessary to fulfill the religious, ceremonial, or traditional purposes of an Indian tribe or the members of such tribe, and shall not be construed to permit the general marketing of tobacco or tobacco products in a manner that is not in compliance with chapter IX of the Federal Food, Drug, and Cosmetic Act.

(3) LIMITATION.—Nothing in this Act (or any Act enacted to give effect to the national tobacco settlement agreement of June 20, 1997) shall be construed to permit an Indian tribe or member of such a tribe to acquire, possess, use, or transfer any tobacco or tobacco product in violation of section 2341 of title 18, United States Code, with respect to the transportation of contraband cigarettes.

(c) PAYMENTS TO TOBACCO TRUST FUND.—Any Indian tribe or tribal organization that engages in the manufacture of tobacco products shall be subject to liability for any fee payments that are levied on other manufacturers for purposes of any tobacco trust fund. Any Indian tribe or tribal organization that does not pay such fees shall be considered a nonparticipating manufacturer and shall be subject to surcharges made applicable to such nonparticipating manufacturers under any Act enacted to give effect to the national tobacco settlement agreement of June 20, 1997).

(d) APPLICATION OF FEDERAL FOOD, DRUG, AND COSMETIC ACT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Interior, shall promulgate regulations to provide for the waiver of any requirement of the Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) with respect to tobacco products manufactured, distributed, or sold within the exterior boundaries of Indian reservations or on lands within the jurisdiction of an Indian tribe as appropriate to comply with this section.

(2) JURISDICTION.—With respect to tobacco-related activities that take place within the exterior boundaries of Indian reservations or on lands within the jurisdiction of an Indian tribe, the responsibility for enforcing the regulations promulgated pursuant to paragraph (1) shall be vested in—

(A) the Indian tribe or the tribal organization involved;

(B) the State within which the lands of the Indian tribe or tribal organization are located, pursuant to a voluntary cooperative agreement entered into by the State and the Indian tribe or tribal organization; or

(C) the Secretary.

(3) ELIGIBILITY FOR ASSISTANCE.—Under the regulations promulgated under paragraph (1), the Secretary, in consultation with the Secretary of the Interior, shall provide assistance to an Indian tribe or tribal organization in meeting and enforcing the requirements under such regulations if—

(A) the tribe or tribal organization has a governing body that has powers and carries out duties that are similar to the powers and duties of State or local governments;

(B) the functions to be exercised through the use of such assistance relate to activities conducted within the exterior boundaries of Indian reservations or on lands within the jurisdiction of the tribe or tribal organization involved; and

(C) the tribe or tribal organization is reasonably expected to be capable of carrying out the functions required by the Secretary.

(4) DETERMINATIONS.—Not later than 60 days after the date on which an Indian tribe or tribal organization submits an application for assistance under paragraph (3), the Secretary shall make a determination concerning the eligibility of such tribe or organization for such assistance.

(5) IMPLEMENTATION BY THE SECRETARY.—If the Secretary determines that the Indian tribe or tribal organization is not willing or not qualified to administer the requirements of the regulations promulgated under this subsection, the Secretary, in consultation with the Secretary of the Interior, shall implement and enforce such regulations on behalf of the tribe or tribal organization.

(6) DEFICIENT APPLICATIONS; OPPORTUNITY TO CURE.—If the Secretary determines under paragraph (4) that a tribe is not eligible for assistance under this subsection, the Secretary shall—

(A) submit to such tribe or organization, in writing, a statement of the reasons for such determination; and

(B) shall assist such tribe in overcoming any deficiencies that resulted in the determination of ineligibility.

After an opportunity to review and cure such deficiencies, the tribe or organization may re-apply to the Secretary for assistance under this subsection.

(e) RETAIL LICENSING REQUIREMENTS.—

(1) IN GENERAL.—The requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.), or any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997, with respect to the licensing of tobacco retailers shall apply to retailers that sell tobacco or tobacco products within the exterior boundaries of Indian reservations or on lands within the jurisdiction of an Indian tribe or tribal organization.

(2) MINIMUM FEDERAL STANDARDS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations to authorize an Indian tribe or tribal organization to implement a tribal tobacco product licensing program within Indian reservations or on lands within the jurisdiction of an Indian tribe or tribal organization.

(B) MODEL STATE LAW.—The terms, conditions, and standards contained in the model State law contained in any Act enacted to give effect to the national tobacco settlement agreement of June 20, 1997 shall constitute the minimum Federal regulations that an Indian tribe or tribal organization must enact in order to assume responsibility for the licensing and regulation or tobacco-related activities conducted within the exterior boundaries of Indian reservations or on lands within the jurisdiction of an Indian tribe or tribal organization.

(C) WAIVER.—An Indian tribe or tribal organization shall have the same right to apply for waiver and modification of the law described in subparagraph (B) as a State pursuant to the Act involved.

(3) IMPLEMENTATION BY THE SECRETARY.—If the Secretary, in consultation with the Secretary of the Interior, determines that the Indian tribe or tribal organization is not qualified to administer the relevant requirements of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) or any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997, the Secretary, in consultation with the Secretary of the Interior, shall implement such requirements on behalf of the Indian tribe or tribal organization.

(f) ELIGIBILITY FOR PUBLIC HEALTH PAYMENTS.—

(1) GRANT.—

(A) IN GENERAL.—For each fiscal year the Secretary shall award a grant to each Indian tribe or tribal organization that has an approved anti-smoking plan for the fiscal year involved under paragraph (2) in an amount equal to the amount determined under paragraph (3).

(B) REDUCTION IN STATE AMOUNTS.—With respect to any State in which the service area or areas of an Indian tribe or tribal organization that receives a grant under subparagraph (A) are located, the Secretary shall reduce the amount otherwise payable to such State, under any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997, by the amount of such grant.

(2) TRIBAL PLANS.—To be eligible to receive a grant under paragraph (1), an Indian tribe or tribal organization shall prepare and submit to the Secretary an anti-smoking plan and shall otherwise meet the requirements of subsection (e). The Secretary shall promulgate regulations providing for the form and content of anti-smoking plans to be submitted under this paragraph.

(3) AMOUNT DETERMINED.—Except as provided in this subsection, the amount of any grant for which an Indian tribe or tribal organization is eligible under paragraph (1) shall be determined by the Secretary based on the product of—

(A) the ratio of the total number of individual residing on or in such tribe's or tribal organization's reservation, jurisdictional lands, or the active user population, relative to the total population of the State involved; and

(B) the amount allocated to the State for such public health purposes.

(4) USE.—Amounts provided to a tribe or tribal organization under this subsection shall be used to reimburse the tribe for smoking-related health expenditures, to further the purposes of this Act or any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997, and in accordance with a tribal anti-smoking plan approved by the Secretary. Indian tribes and tribal organizations shall have the flexibility to utilize such amounts to meet the unique health care needs of persons within their service populations within the context of tribal health programs if such programs meet the fundamental Federal goals and purposes of Federal Indian health care law and policy.

(5) REALLOTMENT.—Amounts set aside and not expended under this subsection shall be reallotted among other eligible Indian tribes and tribal organizations.

(g) OBLIGATIONS OF MANUFACTURERS.—Manufacturers participating in, or covered under this Act or any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997 shall not engage in any activity on lands within the jurisdiction of an Indian tribe or tribal organization that is prohibited by this Act or such other Act.

(h) USE OF TRUST FUND PAYMENTS.—Amounts made available from the tobacco trust fund pursuant to any Indian health provisions of any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997 shall be provided to the Indian Health Service and, through the provisions of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b et seq.) to Indian tribes or tribal organizations to be used to reduce tobacco consumption, promote smoking cessation, and to fund related activities including—

(1) clinic and facility design, construction, repair, renovation, maintenance, and improvement;

(2) health care provider services and equipment;

(3) domestic and community sanitation associated with clinic and facility construction and improvement;

(4) inpatient and outpatient services; and

(5) other programs and services which have as their goal raising the health status of Indians.

(i) PREEMPTION.—

(1) IN GENERAL.—Except as otherwise provided in this section, nothing in this Act of any Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997, shall be construed to prohibit an Indian tribe or tribal organization from imposing requirements, prohibitions, penalties, or other measures to further the purposes of this Act that are in addition to the requirements, prohibitions, or penalties required by this Act or such other Act.

(2) PUBLIC EXPOSURE TO SMOKE.—Nothing in this Act shall be construed to preempt or otherwise affect any Indian tribe or tribal organization rule or practice that provides greater protections from the health hazards of environmental tobacco smoke.

(3) NATIVE AMERICANS.—A State may not impose obligations or requirements relating to the application of this Act or any other Act enacted in order to give effect to the national tobacco settlement agreement of June 20, 1997, to Indian tribes and tribal organizations.

By Mrs. FEINSTEIN:

S. 1798. A bill to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements; to the Committee on Finance.

THE CHILD SUPPORT PENALTY FAIRNESS ACT OF 1998

Mrs. FEINSTEIN. Mr. President, I am introducing today, the Child Support Penalty Fairness Act of 1998. Similar to the House passed Child Support Performance and Incentive Act, this legislation decreases penalties for states who didn't make the October 1997 child support enforcement system deadline but this legislation provides exemptions for those counties, such as Los Angeles county, that made the deadline even if the state didn't.

This legislation decreases the overall penalties to 4% of the child support administrative funds in the first year, and doubles the percentage of penalties each year, capping it at 20% by the fourth year. Additionally, if the state becomes certified during the year, 75% of the penalties would be forgiven for that fiscal year. The penalty structure in this legislation is the same as CLAY SHAW's bill, HR3130, which passed the House of Representatives two weeks ago and awaits consideration in the Senate Finance Committee.

The current penalties for not having the child support enforcement system up and running are enormous. States would be penalized all their TANF (AFDC) funding and their child support administration funds for the year.

The total loss in TANF funds and child support administrative funds from the 14 states amount to over $8 billion annually and for California, the penalty would be $3.7 billion in TANF funds and $300 million in child support administrative funds annually.

What is unique about this legislation is that in addition to lowering penalties, it exempts from the penalties those counties who had their own certifiable systems prior to October 31, 1997.

All of us agree that for states who did not make the deadline, they should be held accountable. But for those

states who have county based child support systems where individual counties could have been certified by HHS independently, it is unfair to penalize the counties with the state.

For California, 25% or $75 million of the penalty will be borne by LA County, the largest county in the nation serving 550,000 families and whose program is larger than 42 other states. Despite the fact that LA County completed its system by the October 1997 deadline and could be certified as recognized by HHS in its March 2, 1998 proposed rules, LA County will be penalized along with the rest of California.

This is unfair and wrong. As I propose in my legislation, when counties have met the system requirement by building their own system with separate HHS funding, their portion should be exempted from the total penalties imposed on a state.

Mr. President, I know there is bi-partisan support for my proposal which is similar to CLAY SHAW's bill which passed the House. My proposal differs from SHAW's bill in that it exempts penalties for those counties who met all the requirements and completed their child support enforcement system before the October 1997 deadline. This provision is critical for many states whose counties have done their job but will suffer enormous penalties because the state as a whole have failed.

I urge all my colleagues to support this legislation, and I ask unanimous consent that the text of the bill, the memorandum of understanding, and excerpts from 42 CFR Part 307 be printed into the RECORD.

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

S. 1798

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

SECTION. 1. ALTERNATIVE PENALTY PROCEDURE FOR CHILD SUPPORT DATA PROCESSING REQUIREMENTS.

(a) IN GENERAL.—Section 455(a) of the Social Security Act (42 U.S.C. 655(a)) is amended by adding at the end the following:

''(4)(A) If—

''(i) the Secretary determines that a State plan under section 454 would (in the absence of this paragraph) be disapproved for the failure of the State to comply with section 454(24)(A), and that the State has made and is continuing to make a good faith effort to so comply; and

''(ii) the State has submitted to the Secretary a corrective compliance plan that describes how, by when, and at what cost the State will achieve such compliance, which has been approved by the Secretary,

then the Secretary shall not disapprove the State plan under section 454, and the Secretary shall reduce the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the fiscal year by the penalty amount.

''(B) In this paragraph:

''(i) The term 'penalty amount' means, with respect to a failure of a State to comply with section 454(24)—

''(I) 4 percent of the penalty base, in the case of the 1st fiscal year in which such a failure by the State occurs;

''(II) 8 percent of the penalty base, in the case of the 2nd such fiscal year;

''(III) 16 percent of the penalty base, in the case of the 3rd such fiscal year; or

''(IV) 20 percent of the penalty base, in the case of the 4th or any subsequent such fiscal year.

''(ii) The term 'penalty base' means, with respect to a failure of a State to comply with section 454(24) during a fiscal year, the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the preceding fiscal year, minus the applicable share of such amount which would otherwise be payable to any county to which the Secretary granted a waiver under the Family Support Act of 1988 (Public Law 100-485; 102 Stat. 2343) for 90 percent enhanced Federal funding to develop an automated data processing and information retrieval system provided that such system was implemented prior to October 1, 1997.

''(C)(i) The Secretary shall waive a penalty under this paragraph for any failure of a State to comply with section 454(24)(A) during fiscal year 1998 if—

''(I) by December 31, 1997, the State has submitted to the Secretary a request that the Secretary certify the State as having met the requirements of such section;

''(II) the Secretary has provided the certification as a result of a review conducted pursuant to the request; and

''(III) the State has not failed such a review.

''(ii) If a State with respect to which a reduction is made under this paragraph for a fiscal year achieves compliance with section 454(24)(A) by the beginning of the succeeding fiscal year, the Secretary shall increase the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the succeeding fiscal year by an amount equal to 75 percent of the reduction for the fiscal year.

''(D) The preceding provisions of this paragraph (except for subparagraph (C)(i)) shall apply, separately and independently, to a failure to comply with section 454(24)(B) in the same manner in which the preceding provisions apply to a failure to comply with section 454(24)(A).''.

(b) INAPPLICABILITY OF PENALTY UNDER TANF PROGRAM.—Section 409(a)(8)(A)(i)(III) of such Act (42 U.S.C. 609(a)(8)(A)(i)(III)) is amended by inserting ''(other than section 454(24))'' before the semicolon.

SEC. 2. AUTHORITY TO WAIVE SINGLE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM REQUIREMENT.

(a) IN GENERAL.—Section 452(d)(3) of the Social Security Act (42 U.S.C. 652(d)(3)) is amended to read as follows:

''(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16), and shall waive the single statewide system requirement under sections 454(16) and 454A, with respect to a State if—

''(A) the State demonstrates to the satisfaction of the Secretary that the State has or can develop an alternative system or systems that enable the State—

''(i) for purposes of section 409(a)(8), to achieve the paternity establishment percentages (as defined in section 452(g)(2)) and other performance measures that may be established by the Secretary;

''(ii) to submit data under section 454(15)(B) that is complete and reliable;

''(iii) to substantially comply with the requirements of this part; and

''(iv) in the case of a request to waive the single statewide system requirement, to—

''(I) meet all functional requirements of sections 454(16) and 454A;

''(II) ensure that the calculation of distribution of collected support is according to the requirements of section 457;

''(III) ensure that there is only 1 point of contact in the State for all interstate case processing and coordinated intrastate case management;

''(IV) ensure that standardized data elements, forms, and definitions are used throughout the State; and

''(V) complete the alternative system in no more time than it would take to complete a single statewide system that meets such requirement;

''(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(c); or

''(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program; and

''(C) in the case of a request to waive the single statewide system requirement, the State has submitted to the Secretary separate estimates of the total cost of a single statewide system that meets such requirement, and of any such alternative system or systems, which shall include estimates of the cost of developing and completing the system and of operating the system for 5 years, and the Secretary has agreed with the estimates.''.

(b) PAYMENTS TO STATES.—Section 455(a)(1) of such Act (42 U.S.C. 655(a)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (B);

(2) by striking the semicolon at the end of subparagraph (C) and inserting '', and''; and

(3) by inserting after subparagraph (C) the following:

''(D) equal to 66 percent of the sums expended by the State during the quarter for an alternative statewide system for which a waiver has been granted under section 452(d)(3), but only to the extent that the total of the sums so expended by the State on or after the date of the enactment of this subparagraph does not exceed the least total cost estimate submitted by the State pursuant to section 452(d)(3)(C) in the request for the waiver.''.

MEMORANDUM OF UNDERSTANDING

This agreement is entered into by Wayne A. Stanton, Administrator, Family Support Administration (FSA), Department of Health and Human Services, Ira Reiner, Los Angeles County District Attorney, Richard B. Dixon, Los Angeles County Chief Administrative Officer, and Dennis Boyle, Deputy Director, State Department of Social Services, to resolve certain issues relating to needed improvement in the Los Angeles County child support enforcement program.

It is understood and agreed that there is a top level management commitment to accomplish management standards to performance and to develop an automated system that can adequately support the program operations and to employ sufficient staff to carry out the duties of the Child Support Program.

It is further understood and agreed that the lack of an automation system that can adequately support the program operations and the present number of employees assigned to carry out the duties of the family support program have significantly contributed to the current level of child support collections.

All concerned parties will work together to quickly complete Requests For Proposals for the following areas consistent with applicable County charter and ordinance provisions which require findings of cost effectiveness or feasibility:

1. To replace, enlarge, or modify Los Angeles County's existing Automated Child Support Enforcement System;

2. Supplemental locate and collection services for hard-to-find absent parents;
3. An automated billing system;
4. Process serving;
5. Banking/Court Trustee operations;
6. Blood testing;
7. Data preparation of case backlog in anticipation of automation.

The District Attorney's Office will immediately begin hiring within current budgetary authorizations the necessary additional qualified employees to provide required child support enforcement program services.

All concerned parties will work together to:

1. Develop and approve a six to ten page planning Advance Planning Document (as detailed on the Attachment).
2. Revise Request For Proposals and Advance Planning Document so as to require the use of existing hardware.

The FSA will advise the State that Los Angeles County, in recognition of the size of its caseload, is eligible to establish its own automated system which may be separate from any other system(s) which may be required of other countries.

The State will request and FSA will consider in a timely manner an 1115 waiver so as to provide Los Angeles County 90% funding to replace, enlarge or modify Los Angeles County's existing Automated Child Support Enforcement System and not jeopardize 90% funding for other systems within the State.

This document expresses the will and commitment of the Federal, State, and County Governments to expedite the approval processes necessary to accomplish the goals set forth herein.

WAYNE A. STANTON,
Administator, Family Support Administration.
GREGORY THOMPSON,
Chief, Deputy District Attorney, District Attorney's Office.
RICHARD B. DIXON,
Chief Administrative Officer, Chief, Administrative Office.
DENNIS BOYLE,
Deputy Director, State Department of Social Services.

EXCERPTS FROM 45 CFR PART 307

AUTOMATED DATA PROCESSING FUNDING LIMITATION FOR CHILD SUPPORT ENFORCEMENT SYSTEMS

Summary: The Federal share of funding available at an 80 percent matching rate for child support enforcement automated systems changes resulting from the Personal Responsibility and Work Opportunity Reconciliation Act is limited to a total of $400,000,000 for fiscal years 1996 through 2001. This proposed rule responds to the requirement that the Secretary of Health and Human Services issue regulations which specify a formula for allocating this sum among the States, Territories and eligible systems.

PRWORA requires the Secretary of Health and Human Services to issue regulations which specify a formula for allocating the $400,000,000 available at 80 percent FFP among the States and Territories. The Balanced Budget Act Amendments add specified systems to the entities included in the formula. The allocation formula must take into account the relative size of State and systems IV–D (child support enforcement) caseloads and the level of automation needed to meet title IV–D automated data processing requirements. Accordingly, we propose to revise 45 CFR Part 307 to include conforming changes and to add §307.31.

Conditions That Must Be Met for 80 Percent Federal Financial Participation

Pub. L. 104–193 provides enhanced funds to complete development of child support enforcement systems which meet the requirements of both the Family Support Act and PRWORA. From this we conclude that no change in the conditions for receipt of funds was anticipated by Congress. Thus, we propose to retain in 45 CFR Part 307.31 the same conditions for receipt funds at 80 percent FFP which appear at §307.30 (a), (b), (c), and (d) and apply to claims for FFP at the 90 percent rate.

Throughout this notice of proposed rulemaking we use ''State'' as the inclusive term for States, Territories and approved systems as described in 42 U.S.C. 655(a)(3)(B)(iii) (section 455(a)(3)(B)(iii) of the Act) as added to the Act by section 5555 of the Balanced Budget Act of 1997 (Pub. L. 105–33). The technical amendments to section 455(a)(3)(B) of the Act changed the entities included in the allocation formula by adding ''system'' to States and Territories. For purposes of this proposed rule, a system eligible for enhanced funding is a system approved by the Secretary to receive funding at the 90 percent rate for the purpose of developing a system that meets the requirements of section 454(16) of the Act (42 U.S.C. 654(16)) (as in effect on and after September 30, 1995) and section 454A of the Act (42 U.S.C. 654A), including a system that received funding for this purpose pursuant to a waiver under section 1115(a) of the Act (42 U.S.C. 1315(a)).

Allocation Formula

Section 344(b)(3)(C) of PRWORA requires the Secretary to allocate by formula the $400,000,000 available at the 80 percent FFP rate. This section specifies that the formula take into account the relative size of State IV–D caseloads and the level of automation needed to meet applicable automatic data processing requirements. The legislative history does not elaborate on the meaning of these factors.

The allocation formula proposed in this section is the product of consultation with a wide range of stakeholders. We sought information from child support enforcement systems experts, financial experts, economists, State IV–D directors, and national associations. Before drafting regulations we asked States to suggest approaches for allocating the available Federal share of the funds. In a number of open forums we sought suggestions for the allocation formula. An internal working group considered the information from States, reviewed the suggestions, then developed the proposed allocation formula.

Simply stated, the proposed formula first allots a base amount of $2,000,000 to each State to take into account the level of automation needed to meet the automated data processing requirements of title IV–D. The formula, then, allots an additional amount to States based on both their reported IV–D caseload and their potential caseload based on Census data on children living with one parent.

As indicated earlier, we use ''State'' as the inclusive term for States, Territories and systems described in 42 U.S.C. 655(a)(3)(B)(iii) (455(a)(3)(B)(iii) of the Act) as amended by section 5555 of the Balanced Budget Act of 1997. The technical amendments to section 455(a)(3)(B) of the Act changed the entities included in the allocation formula by adding ''system'' to States.

At this time caseload and census data are not available for Los Angeles County. Therefore, the tables in appendix A show a base amount allocated to Los Angeles County and blank cells for the caseload factor and the census factor. With a base amount assigned for Los Angeles County, we can calculate the total remaining funds available for allocation among the other States. California's caseload factor and census factor represent the total for the State, including Los Angeles County. The California IV–D agency and the Los Angeles County IV–D agency have been asked to provide us with caseload and census data, as described below, showing Los Angeles County's share of the California total.

By Mr. MCCAIN:

S. 1799. A bill to amend section 121 of the Internal Revenue Code of 1986 to provide that a member of the Armed Forces of the United States shall be treated as using a principal residence while away from home on extended active duty; to the Committee on Finance.

TAX EXCLUSION LEGISLATION

Mr. MCCAIN. Mr. President, I am proud to sponsor this bill to amend the Internal Revenue Code. This bill would modify the home ownership test for Sales of Primary Residence so that members of our Armed Forces, who are away on active duty, qualify for the existing tax relief on the profit generated when they sell their main residence. This amendment will not create a new tax benefit; it merely modifies current law to include the time military personnel are away from home on active duty when calculating the number of years the home owner has lived in their primary residence. In short, this amendment is narrowly tailored to remedy a specific dilemma.

The Taxpayer Relief Act of 1997 delivered sweeping tax relief to millions of Americans through a wide variety of important tax changes that affect individuals, families, investors and businesses. It is also one of the most complex tax laws enacted in recent memory.

Mr. President, as with any complex legislation, there are winners and losers. But in this instance, there is an unintended loser: military personnel. The 1997 act gives taxpayers who sell their principal residence a much-needed tax break when they sell their primary residence. Under the old rule, taxpayers received a one-time exclusion on the profit they made when they sold their principal residence, but the taxpayer had to be at least 55 years old and live in the residence for 2 of the 5 years preceding the sale. This provision primarily benefited elderly taxpayers, while not providing any relief to younger taxpayers and their families.

Fortunately, the 1997 act addressed this issue. Under the new law, all taxpayers who sell their personal residence on or after May 7, 1997, are not taxed on the first $250,000 of profit from the sale. Joint filers are not taxed on the first $500,000 of profit they made from selling their principal residence.

Mr. President, I applaud the bi-partisan cooperation that resulted in this much-needed form of tax relief. The home sales provision sounds great, and it is. However, when we delve deeper

into this law, we note that the taxpayer must meet two requirements to qualify for this tax relief. To qualify, the taxpayer must (1) own the home for at least 2 of the 5 years preceding the sale, and (2) live in the home as their MAIN home for at least 2 years of the last 5 years.

The second part of this test unintentionally prohibits many of our women and men in the Armed Services from qualifying for this beneficial tax relief. Constant travel across the U.S. and abroad is inherent to military service. Nonetheless, some military personnel choose to purchase a home in a certain locale, even though they will not live there for much of the time. Under the new law, if you do not have a spouse, and are also forced to travel, you will not qualify for the full benefit of the new home sales provision, because no one ''lives'' in the home for the required period of time. The current law also hits dual-military couples that are often away on active duty. They, would not qualify for the home sales exclusion because neither spouse ''lives'' in the house for enough time to qualify for the exclusion.

Today, the United States has approximately 37,000 men and women deployed to the Persian Gulf region, preparing to go into combat, if so ordered. There are another 8,000 American troops deployed in Bosnia, and another 70,000 U.S. military personnel deployed in support of other commitments worldwide. That is a total of 108,000 women and men deployed outside of the United States, away from their primary home. These women and men are abroad protecting and furthering the freedoms we Americans hold so dear.

It is fundamentally unfair to deny these men and women the same tax relief as their civilian counterparts. The newly enacted current home sale provision unintentionally discourages home ownership among military personnel. Many of our troops simply do not qualify for the homes sales tax relief because they are away from their home so much of the time.

Discouraging home ownership among military personnel is unfair and bad fiscal policy. Home ownership has numerous benefits for communities and individual homeowners. Having a fixed home provides Americans with a sense of community, and adds stability to our nation's neighborhoods. Home ownership also generates valuable property taxes for our nation's communities.

We are in a period of robust growth. Americans who are fortunate enough to do so, reap the benefits of our country's growth by investing in the stock market. Many of our nation's recent millionaires became millionaires through the stock market. However, many middle- and lower-income Americans don't hold vast amounts of stocks, bonds, mutual funds, and the like. Therefore, how does the average American participate in our nation's robust growth? Through home ownership.

Appreciation in the value of a home resulting from our country's overall economic growth allows everyday Americans to participate in our country's prosperity. Fortunately, the Taxpayer Relief Act of 1997 recognized this, and provided this break to lessen the amount of tax most Americans will pay on the profit they make when they sell their main homes.

This bill simply remedies an inequality in the new law. The bill amends the Internal Revenue Code so that members of our Armed Forces will be considered to be using their house as their main residence for any period that they are away on extended active duty. In short, military personnel will be deemed to be using their house as their main home, even if they are stationed in Bosnia, the Persian Gulf, in the ''no man's land,'' commonly called the DMZ between North and South Korea, or anywhere else on active duty orders.

We cannot afford to discourage Military service by penalizing military personnel with higher taxes merely because they are doing their job. Military service in itself entails sacrifice, such as long periods of time away from friends and family, and the constant threat of mobilization into hostile territory. We must not use the tax code to heap additional burdens upon our women and men in uniform.

In my view, the way to decrease the likelihood of further inequities such as the current Home Sales provision is to adopt a fairer, flatter tax that is far less complicated than our current system. But, in the meantime, we must insure that the tax code is fair and equitable.

The Taxpayers' relief Act of 1997 was designed to provide sweeping tax relief to all Americans, including our women and men in uniform. Yes, it is true that there are winners and losers in any tax code. However, this inequity is unintended. We should enact this narrowly tailored remedy to grant equal tax relief to the members of our Armed Services.

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

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

S. 1799

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

SECTION 1. ARMED FORCES MEMBER TREATED AS USING PRINCIPAL RESIDENCE WHILE AWAY FROM HOME ON ACTIVE DUTY.

(a) IN GENERAL.—Section 121(d) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following new paragraph:

''(9) DETERMINATION OF USE DURING PERIODS OF ACTIVE DUTY WITH ARMED FORCES.—

''(A) IN GENERAL.—A taxpayer shall be treated as using property as a principal residence during any period the taxpayer (or the taxpayer's spouse) is serving on extended active duty with the Armed Forces of the United States, but only if the taxpayer used the property as a principal residence for any period before the period of extended active duty.

''(B) EXTENDED ACTIVE DUTY.—For purposes of this paragraph, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after May 6, 1997.

By Mr. GLENN (for himself and Mr. DEWINE):

S. 1800. A bill to designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the ''Joseph P. Kinneary United States Courthouse''; to the Committee on Environment and Public Works.

JOSEPH KINNEARY UNITED STATES COURTHOUSE LEGISLATION

Mr. GLENN. Mr. President, I rise today to introduce a bill naming the Federal Building and Courthouse at 85 Marconi Boulevard in Columbus, Ohio after one of my home state's most highly esteemed members of the federal bench, Judge Joseph P. Kinneary.

Judge Kinneary has served on the United States District Court of Ohio for over 32 years. But Judge Kinneary's commitment to public service goes much further beyond these past three decades. He has given a lifetime to public service. In fact, that service continues even today where, at age 92, Judge Kinneary continues to serve as a senior judge carrying a docket of cases.

I'd like to take a few minutes of my colleagues' time to talk about this amazing gentleman and what he's done for my home state of Ohio and our entire nation.

Judge Kinneary graduated from the University of Cincinnati's College of Law in 1935. After practicing law in both Columbus and Cincinnati for two years, Judge Kinneary served as Assistant Attorney General of Ohio until 1939.

But, as happened to many Americans in those days, World War II changed Joseph Kinneary's career plans. He served in the Army from 1942 to 1946, and worked as the Chief of the Legal Branch for the Field Headquarters of the Quartermaster Corps.

After his war service, Judge Kinneary returned to private practice. In 1949, however, Judge Kinneary returned to public service and became the First Assistant Attorney General of Ohio. And, in 1961, President Kennedy appointed Judge Kinneary to United States Attorney for the Southern District of Ohio where he served until 1966.

In 1966, President Johnson appointed Judge Kinneary to the District Court for the Southern District of Ohio. Well-respected among his colleagues, he served as Chief Judge from January 1973 to September 1975.

And, today, 32 years after his appointment to the bench, Judge Kinneary still presides and draws a docket that is approximately 80 percent of an active judge. I find Judge Kinneary's dedication to the people of

Ohio and America inspiring, as I'm sure many of my colleagues do on hearing of his career.

I can think of no better way for the U.S. Senate, for the entire country, to honor Judge Kinneary than to name one of Columbus, Ohio's, most important federal buildings and courthouses in his honor. So, it is with great thanks and a deep sense of honor that I introduce today a bill to name the Columbus Courthouse after Judge Kinneary. I urge my colleagues to give this legislation quick consideration and approval.

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

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

S. 1800

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

SECTION 1. DESIGNATION OF JOSEPH P. KINNEARY UNITED STATED COURTHOUSE.

The Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, shall be known and designated as the ''Joseph P. Kinneary United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Joseph P. Kinneary United States Courthouse''.

By Mr. LAUTENBERG:

S. 1801. A bill to suspend until December 31, 2000, the duty on Benzenepropanal, 4-(1, 1-Dimethylethyl)-Methyl-; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation to temporarily reduce the rate of duty imposed on a fragrance additive with the chemical name of Benzenepropanal, 4-(1,1-Dimethylethyl)-Methyl-. The chemical has a lily-like floral aroma and used in fragrances.

My constituent who requested this duty reduction, Bush Boake Allen Inc. of Montvale, New Jersey, knows of no opposition to this legislation. The last United States manufacturer of this chemical, Givaudan-Roure, will cease all production of this additive by June 1998. I have drafted this legislation to ensure that it will not go into effect before July 15. Givaudan-Roure, which is also a constituent, knows of this legislation and the effective date, and does not oppose it.

I ask my colleagues to support this legislation. Reducing the duties paid by American companies for products which have no American manufacturer keep our companies from being placed at a competitive disadvantage in the global marketplace. In addition, these lower duties will benefit American consumers and business customers of Bush Boake Allen Inc.

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

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

S. 1801

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

SECTION 1. REDUCTION OF DUTY ON BENZENEPROPANAL, 4-(1,1-DIMETHYLETHYL)-METHYL-.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new item:

''	9902.29.57	Benzenepropanal, 4-(1,1-Dimethylethyl)-Methyl- (CAS No. 80–54–6) provided for in subheading 2912.29.60)	6%	No change	No change	On or before 12/31/2000	''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the later of—

(1) the 15th day after the date of enactment of this Act; or

(2) July 15, 1998.

By Mr. MCCAIN (for himself, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. LOTT, and Mr. FORD):

S. 1802. A bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, and 2001; to the Committee on Commerce, Science, and Transportation.

THE SURFACE TRANSPORTATION BOARD REAUTHORIZATION ACT OF 1998

Mr. MCCAIN. Mr. President, today I am introducing the Surface Transportation Board (STB) Reauthorization Act of 1998. I am pleased to be joined in sponsoring this measure by several members of the Senate Committee on Commerce, Science, and Transportation, including Senator HOLLINGS, Ranking Member, Senators HUTCHISON and INOUYE, Chair and Ranking Member of the Surface Transportation and Merchant Marine Subcommittee, as well as Senators LOTT and FORD.

Mr. President, the introduction of this bill today is intended to demonstrate our Committee's firm commitment to enact legislation extending the authorization for the Surface Transportation Board during this session of Congress. The bill we are introducing is simple. It proposes to reauthorize the STB for three years and provide sufficient resources to ensure the agency is able to continue to carry out its serious responsibilities.

Mr. President, I want to stress to my colleagues that this is a working piece of legislation. The Senate Commerce Committee intends to fully explore the resource needs of the Board, along with proposals to provide for any statutory changes as may be necessary. The Surface Transportation and Merchant Marine Subcommittee has already scheduled a hearing on the STB reauthorization for March 31st and I want to commend Chairman HUTCHISON for her expeditious action on this important reauthorization hearing.

During the reauthorization process, I further anticipate we will continue our examination of rail service and rail shipper problems in addition to the more general reauthorization issues. The Surface Transportation and Merchant Marine Subcommittee has held two fields hearings and a third hearing on rail service problems will be conducted next month.

Rail service and rail shipper issues warrant serious consideration, but I believe specific rail service and rail shipper problems and cases are best resolved by the Board. The Congress established the STB as an independent non-political authority to deal with these very exact problems and I believe we must continue to assist the Board in fulfilling its statutory duties responsibly and independently.

I look forward to working on this important transportation legislation and hope my colleagues will agree to join with me and the other sponsors in expeditiously moving this necessary transportation reauthorization through the legislative process.

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

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

S. 1802

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Surface Transportation Board Reauthorization Act of 1998''.

SEC. 2. AUTHORIZATION LEVELS.

There are authorized to be appropriated to the Surface Transportation Board $16,190,000 for fiscal year 1999, $16,642,000 for fiscal year 2000, and $17,111,000 for fiscal year 2001.

Mr. HOLLINGS. Mr. President, I am happy to cosponsor, along with Senators MCCAIN, INOUYE, HUTCHISON, LOTT, and FORD, this bill to reauthorize appropriations for the Surface Transportation Board (Board). The Board is the independent agency which oversees the nation's rail transportation industry. The Board also has some authority over the interstate bus system, pipeline system, and rail labor-management disputes. It should be said that the Congress gave this small agency, with less than 150 people, the job that had been done by the old Interstate Commerce Commission with, at its peak, 1600 people. We demanded that

the Board do more with less and we demanded that it be evenhanded, fair-minded, and tackle some very tough, contentious issues. I am happy to report that the Board has done all of that and more.

Since its inception, the Board has had a pending caseload of between 400 and 500 adjudications related to all of its functions. The number of rail cases pending at the Board remains relatively constant because, even as cases are resolved, new cases are filed. Even with its relatively meager resources the Board has met every rulemaking deadline set by Congress in the Interstate Commerce Commission Termination Act. It has resolved close to 200 motor carrier undercharge cases. It has set and met deadlines and established simplified procedures for handling pending cases. It has also dealt with the important and difficult issue of rail carriers providing rates to shippers in the so-called ''bottleneck'' cases. While this issue is now before the courts, it is the Board that has tried to steer a course allowing the rail carriers to earn a decent return on their investment while providing shippers with needed transportation at reasonable rates.

In the area of rail regulation, the Board has worked on several important rail restructuring cases, including several complex line construction cases, the Union Pacific/Southern Pacific merger, and the pending Conrail acquisition case (in which approximately 80 decisions have already been issued). It has tackled the rail service emergency in the West in many ways, including its issuance of an emergency service order on October 31, 1997, which has been extended and expanded upon twice and is in place through August 2, 1998. In addition, the Board is holding two days of hearings on the rail service emergency in the beginning of next month. We must applaud Linda Morgan, the Chairman of the Board, on her leadership and the men and women of the Board on their hard work and dedication and as we do so we must be mindful that more, much more, will be expected of them. Two additional rail mergers have been announced, both of critical importance to the nation. I have every confidence in Chairman Morgan and the STB to meet and surmount these latest challenges.

This bill represents my commitment to seeing that the Board is reauthorized for a multi-year span and is given the resources it needs to continue its vital work. Absent the Board, neither shippers nor rail carriers would have an effective forum to adjudicate disputes and ensure a first rate nationwide rail transportation system.

By Mr. ROBB:

S. 1803. A bill to reform agricultural credit programs of the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE AGRICULTURAL CREDIT RESTORATION ACT

Mr. ROBB. Mr. President, every day small and minority farmers are struggling to survive. They struggle in the field as they try to grow a plentiful crop, they struggle with the ever unpredictable Mother Nature, and they struggle to compete with large farm operations. They have a very tough job, but they provide us, the consumers, with the abundant food supply we take for granted. Historically, when credit is unavailable from private sources, farmers have turned to USDA to finance land, seed, equipment and fertilizer, or for funds to offset disaster losses. USDA direct and guaranteed operating loan programs allow small farmers to be self-sustaining, successful, contributing members of their rural communities.

But Mr. President, a little, unknown provision in the 1996 Farm Bill is prohibiting farmers and ranchers from receiving USDA loans if their farm debt has been written off, or forgiven, by the Department in the past for any reason. This provision constitutes a lifetime ban, is more severe than private sector lending policies, and particularly disadvantages small and minority farmers who often have difficulty securing credit. It is a one strike you're out policy and Mr. President, it is simply un-American.

I believe this provision that prohibits farmers who have had their farm debt written-off or restructured from ever receiving a USDA loan again was probably added to the 1996 Farm bill to protect the public interest. However, it is actually forcing some small and minority farmers into impoverished retirement.

That is why I rise today to introduce the Agricultural Credit Restoration Act of 1998. While safeguarding the integrity of USDA lending programs, this bill provides credit-worthy farmers and ranchers a second opportunity to participate in lending programs. The legislation, which was formulated by the USDA, eliminates the lifetime ban. It limits eligibility to two write-downs and farmers and ranchers are given a second opportunity to participate in USDA lending programs. Secondly, an exemption from the ban is included for one write-down that may result from a natural disaster or medical condition affecting farmers or their immediate family, or where discrimination by USDA has occurred. Thirdly, the bill gives the Secretary of Agriculture the authority to give loan funds for socially disadvantaged farmers to states where need is greatest.

In my state, Virginia, and throughout the South, farmers have been denied or delayed loans by USDA local agents because of their race. This has been confirmed by USDA and acknowledged by Agriculture Secretary Dan Glickman and President Clinton. This discrimination has forced farmers into bankruptcy and statistics show that the black farmer is dwindling at three times the rate of other farmers in the United States.

In the Dakotas, farmers were devastated by the great floods of 1997. Due to a terrible act by Mother Nature, they lost everything and had to declare bankruptcy.

Whether it is a man-mad or a natural disaster, conditions beyond a farmer's control have left him or her in a desperate position. This does not mean these are bad farmers with bad business sense. They have simply experienced bad times, and USDA, the lender of last resort, should not be forbidden from lending these farmers a helping hand.

Last year, responding to complaints by Virginia farmers, I added $50 million in direct operating loan funding to the 1997 Supplemental Appropriations bill. Many deserving farmers were unable to access these funds because of the lifetime ban included in the 1996 Farm bill.

Mr. President, it is time to repeal this unjust one strike you're out provision. We need to do so now, before another planting season goes by and farmers are denied the resources they need to get their corps in the ground.

Small farmers are hardworking individuals with many daily struggles. The Federal government should be there to offer them a chance to survive, not forcing them to move out of the farming business.

Mr. President, I ask unanimous consent that the full text of my bill be inserted in the RECORD, and I urge my fellow colleagues to support small farmers and pass this legislation.

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

S. 1803

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Agricultural Credit Restoration Act''.

SEC. 2. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) Section 343(a)(12)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(12)(B)) is amended to read as follows:

''(B) EXCEPTION.—The term 'debt forgiveness' does not include—

''(i) consolidation, rescheduling, reamortization, or deferral of a loan;

''(ii) 1 debt forgiveness in the form of a restructuring, write-down, or net recovery buy-out during the lifetime of the borrower that is due to a financial problem of the borrower relating to a natural disaster or a medical condition of the borrower or of a member of the immediate family of the borrower (or, in the case of a borrower that is an entity, a principal owner of the borrower or a member of the immediate family of such an owner); and

''(iii) any restructuring, write-down, or net recovery buy-out provided as a part of a resolution of a discrimination complaint against the Secretary.''.

(b) Section 353(m) of such Act (7 U.S.C. 2001(m)) is amended by striking all that precedes paragraph (2) and inserting the following:

''(m) LIMITATION ON NUMBER OF WRITE-DOWNS AND NET RECOVERY BUT-OUTS PER BORROWER.—

''(1) IN GENERAL.—The Secretary may provide a write-down or net recovery but-out under this section or not more than 2 occasions per borrower with respect to loans made after January 6, 1988.''.

(c) Section 353 of such Act (7 U.S.C. 2001) is amended by striking subsection (o).

(d) Section 355(c)(2) of such Act (7 U.S.C. 2003(c)(2)) is amended to read as follows:

''(2) RESERVATION AND ALLOCATION.—

''(A) IN GENERAL.—The Secretary shall, to the greatest extent practicable, reserve and allocate the proportion of each State's loan funds made available under subtitle B that is equal to that State's target participation rate for use by the socially disadvantaged farmers or ranchers in that State. The Secretary shall, to the extent practicable, distribute the total so derived on a county by county basis according to the number of socially disadvantaged farmers or ranchers in the county.

''(B) REALLOCATION OF UNUSED FUNDS.—The Secretary may pool any funds reserved and allocated under this paragraph with respect to a State that are not used as described in subparagraph (A) in a State in the first 10 months of a fiscal year with the funds similarly not so used in other States, and may reallocate such pooled funds in the discretion of the Secretary for use by socially disadvantaged farmers and ranchers in other States.''.

(e) Section 373(b)(1) of such Act (7 U.S.C. 2008h(b)(1)) is amended to read as follows:

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may not make or guarantee a loan under subtitle A or B to a borrower who on, 2 or more occasions, received debt forgiveness on a loan made or guaranteed under this title.''.

(f) Section 373(c) of such Act (7 U.S.C. 2008h(c)) is amended to read as follows:

''(c) NO MORE THAN 2 DEBT FORGIVENESSES PER BORROWER ON DIRECT LOANS.—The Secretary may not, on 2 or more occasions, provide debt forgiveness to a borrower on a direct loan made under this title.''.

SEC. 2. REGULATIONS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate regulations necessary to carry out the amendments made by this Act, without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code; and

(2) the statement of policy of the Secretary of Agriculture relating to notices of proposed rulemaking and public participation in rulemaking that became effective on July 24, 1971 (36 Fed. Reg. 13804).

By Mr. KENNEDY:

S. 1804. A bill to amend title XXVII of the Public Health Service Act to limit the amount of any increase in the payments required by health insurance issuers for health insurance coverage provided to individuals who are guaranteed an offer of enrollment under individual health insurance coverage relative to other individuals who purchase health insurance coverage; to the Committee on Labor and Human Resources.

AFFORDABLE HEALTH INSURANCE ACT OF 1998

Mr. KENNEDY. Mr. President, a recent GAO report makes clear that significant insurance company abuses are undercutting the effectiveness of one of the key parts of the Kassebaum-Kennedy health insurance reforms enacted in 1996. The legislation that I am introducing today will stop these unconscionable practices.

The 1996 legislation was enacted in response to several serious problems. Large numbers of Americans felt locked into their jobs because of pre-existing health conditions that would have subjected them to exclusions coverage if they changed jobs.

Many more who did change jobs found themselves and members of their families exposed to devastating financial risks because of exclusions for such conditions. Other families faced the same problems if their employers changed insurance plans. Still others were unable to buy individual coverage because of health problems if they left their job or lost their job and did not have access to employer-based coverage.

The legislation addressed each of these problems. It banned exclusions for pre-existing conditions for people who maintained coverage, even if they changed jobs or changed insurers. It required insurance companies to sell insurance policies to small businesses and individuals losing group coverage, regardless of their health status. It banned higher charges for those in poor health in employment-based groups.

A GAO study in 1995 had found that 25 million Americans faced one or more of these problems and would be helped by the Kassebaum-Kennedy proposal. For the vast majority of these Americans, the legislation is working well. They can change jobs without fear of new exclusions for pre-existing conditions, denial of coverage, or insurance company gouging.

But as the GAO study released last week makes clear, many of the two million people a year who lose employer-based group coverage are vulnerable to flagrant industry price-gouging if they try to purchase individual coverage. Under the Kassebaum-Kennedy legislation, individuals who leave their jobs and want to buy coverage in the individual market are guaranteed access to coverage without regard to their health status and without being subject to pre-existing condition exclusions. But there is no clear limit in the Federal law on how much they can be charged for that coverage—and some unscrupulous companies are taking advantage of that loophole to effectively deny coverage to those in poor health by requiring them to pay exorbitant premiums.

We recognized that potential problem in 1996, but Republican opposition blocked clear, strict federal limits to prevent such abuse, on the ground that state regulation would be an adequate remedy. At least in some states, as the GAO report makes clear, state regulation is no match for insurance industry price-gouging.

The legislation that I am introducing today is a straightforward response to that problem. It will limit insurance company charges to eligible individuals, so that they will have to pay no more than 150% of the rate charged to those in good health. That is well within the range that the American Academy of Actuaries said would have negligible impact on the premiums of those who already have coverage, but it will end the worst of the current price-gouging. This approach of limiting premium increases based on health conditions has worked and worked well in the small group market for many years. It should have been included in the 1996 bill, and Congress should act on it promptly this year.

The verdict of experience is in. The GAO report makes clear that some insurance firms are guilty of abuse beyond a reasonable doubt, and Congress has to act.

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

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

S. 1804

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Affordable Health Insurance Act of 1998''.

SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) PREMIUM LIMITATIONS WITH RESPECT TO INDIVIDUAL COVERAGE.—Section 2741 of the Public Health Service Act (42 U.S.C. 300gg–41) is amended—

(1) by redesignating the second subsection (e) and subsection (f) as subsection (f) and (g) respectively; and

(2) by adding at the end thereof the following:

''(h) PREMIUM LIMITATIONS.—

''(1) IN GENERAL.—With respect to an eligible individual desiring to enroll in, or renew, individual health insurance coverage under this section, the health insurance issuer that offers such coverage shall not charge such individual a premium rate for such coverage that is higher than a rate equal to 150 percent of the average standard risk rate (as determined under paragraph (2)) of the issuer for individual health insurance offered in the State or applicable marketing or service area (as determined pursuant to regulations).

''(2) AVERAGE STANDARD RISK RATE.—As used in paragraph (1), the term 'average standard risk rate' means the following:

''(A) GUARANTEED ISSUE OF ALL POLICIES.—In the case of a health insurance issuer that meets the requirements of this section with respect to individual health insurance coverage by meeting the requirements of subsection (a)(1), the standard risk rate for the policy in which the eligible individual is enrolled or desires to enroll.

''(B) GUARANTEED ISSUE OF TWO MOST POPULAR POLICIES.—In the case of a health insurance issuer that meets the requirements of this section with respect to individual health insurance coverage through a mechanism described in subsection (c)(2), the standard risk rate for the policy in which the eligible individual is enrolled or desires to enroll.

''(C) GUARANTEED ISSUE OF TWO POLICY FORMS WITH REPRESENTATIVE COVERAGE.—In the case of a health insurance issuer that meets the requirements of this section with respect to individual health insurance coverage through a mechanism described in subsection (c)(3), the average of the standard risk rates for the most common policy forms offered by the issuer in the State or applicable marketing or service area (as determined pursuant to regulations), established using reasonable actuarial techniques to adjust for the difference in actuarial values among

such policy forms, subject to review and approval or disapproval of the applicable regulatory authority.

(b) STATE FLEXIBILITY.—Section 2744(c) of the Public Health Service Act (42 U.S.C. 300gg–44(c)) is amended—

(1) in paragraph (1), by inserting before the period the following: '', except that in applying any such model act, an eligible individual shall not be charged a premium rate that is higher than a rate equal to 150 percent of the standard risk rate of the issuer'';

(2) in paragraph (2)(B), by inserting before the period the following: '', except that an eligible individual shall not be charged a premium rate that is higher than a rate equal to 150 percent of the standard risk rate as determined under the Model Plan''; and

(3) by adding at the end the following:

''(4) LIMITATION.—

''(A) IN GENERAL.—In the case of a mechanism described in subparagraph (A) or (B) of paragraph (3), a State shall not be considered to be implementing an acceptable alternative mechanism unless the mechanism limits the amount of premium rates that may be charged to eligible individuals to not more than 150 percent of the standard risk rate.

''(B) STANDARD RISK RATE.—For purposes of subparagraph (A), the term 'standard risk rate' means—

''(i) in the case of a mechanism under paragraph (3)(A), and as determined by the Secretary to be appropriate with respect to the State mechanism involved—

''(I) the rate determined under section 2741(h)(2)(A);

''(II) the rate determined pursuant to the standards included in the Model Plan described in paragraph (2)(B); or

''(III) the rate determined pursuant to such other method of calculation as is determined by the State and approved by the Secretary as appropriate to achieve the goal of this subsection; and

''(ii) in the case of a mechanism under paragraph (3)(B), the rate determined under section 2741(h)(2)(A).''.

SEC. 3. EFFECTIVE DATE.

The amendments made by—

(1) section 2(a) shall apply to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on the date that is 6 months after the date of enactment of this Act; and

(2) section 2(b) shall apply with respect to a State that adopted an alternative mechanism under section 2744 of the Public Health Service Act (42 U.S.C. 300gg–44) on the date that is 1 year after the date of enactment of this Act.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. DASCHLE, Mr. INOUYE, Mr. BUMPERS, Mr. LEAHY, Mr. MOYNIHAN, Mr. SARBANES, Mr. LEVIN, Mr. LAUTENBERG, Mr. HARKIN, Mr. KERRY, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. WELLSTONE, Mrs. BOXER, Mr. FEINGOLD, Mrs. FEINSTEIN, Ms. MOSELEY-BRAUN, Mr. DURBIN, Mr. REED, and Mr. TORRICELLI):

S. 1805. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage; to the Committee on Labor and Human Resources.

THE FAIR MINIMUM WAGE ACT OF 1998

Mr. KENNEDY. Mr. President, it is an honor to join with Senator DASCHLE and other Democratic Senators to introduce the Fair Minimum Wage Act of 1998. This proposal is strongly supported by President Clinton, and is also being introduced today in the House of Representatives by Congressman DAVID BONIOR, Democratic Leader RICHARD GEPHARDT, and many of their colleagues.

The federal minimum wage is now $5.15 an hour. Our bill will raise it by $1.00 over the next two years—a 50 cent increase on January 1, 1999, and another 50 cent increase on January 1, 2000, so that the minimum wage will reach the level of $6.15 at the turn of the century.

These modest increases will help 20 million workers and their families. Twelve million Americans earning less than $6.15 an hour today will see a direct increase in their pay, and another 8 million Americans earning between $6.15 and $7.15 an hour are also likely to benefit from the increase.

The nation's economy is the best it has been in decades. Under the leadership of President Clinton, the country as a whole is enjoying a remarkable period of growth and prosperity. Enterprise and entrepreneurship are flourishing—generating an extraordinary expansion, with remarkable efficiencies and job creation. The stock market is soaring. Inflation is low, unemployment is low, and interest rates are low.

In the past 30 years, the stock market, adjusted for inflation, has gone up by 115%. In 1997, the average compensation of a Wall Street executive was $280,000—a stunning $120,000 increase over 1996. These lavish salaries contrast starkly with the 30% decline in the value of the minimum wage over the past three decades. To have the purchasing power it had in 1968, the minimum wage would have to be $7.38 an hour today, instead of $5.15.

But the benefits of this prosperity have not flowed fairly to minimum wage earners. Working 40 hours a week, 52 weeks a year, they earn $10,712 a year—$2,600 below the poverty line for a family of three.

According to the Department of Labor, 60% of minimum wage earners are women. Nearly three-fourths are adults. Three-fifths are the sole breadwinners in their families. More than half work full time. These families need help, and they deserve this increase in the minimum wage.

Increasing the minimum wage can make all the difference to these workers and their families. They will be able to survive without food stamps or other social services to supplement their incomes. They can fix up their homes and invest in their neighborhoods. They can spend more at the local grocery store. They can work two jobs rather than three, and spend more time with their families. Their utilities won't be cut off. They can pay the medical bills they accumulated from not having health benefits at their jobs. As one minimum wage earner told me earlier this year, ''The best welfare reform is an increase in the minimum wage.''

Opponents typically claim that, if the minimum wage goes up, the sky will fall—small businesses will collapse and jobs will be lost. This hasn't happened in the past, and it won't happen in the future. In fact, in the time that has passed since the most recent increases in the federal minimum wage—a 50-cent increase on October 1, 1996 and a 40-cent increase on September 1, 1997—employment has increased in all sectors of the population.

Since September 1996, 700,000 new retail jobs have been added in the economy, including 200,000 new restaurant jobs. Overall employment is at an all-time high. Overall unemployment is at an historically low rate—4.6 %. The teenage unemployment rate has declined by 1.3 percentage points. The unemployment rate for African-Americans has declined by 1 percentage point over the same period.

Seventeen renowned economists—including Nobel Prize winner Lawrence R. Klein and former Secretary of Labor Ray Marshall—recently wrote to President Clinton, supporting an increase in the minimum wage. According to these experts, ''the 1996 and 1997 increases had a beneficial effect, not only on those whose earnings were increased by 90 cents an hour, but also on the economy as a whole. Billions in added consumer demand helped fuel our expanding economy in those years. . . . Given the nation's low unemployment rate and strong economy without inflation, now is the time to deepen our public commitment to a decent minimum wage.''

The American people understand that you can't raise a family on $5.15 an hour. We intend to do all we can to see that the minimum wage is increased this year. No one who works for a living should have to live in poverty.

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

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

S. 1805

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

SECTION 1. SHORT TITLE.

This act may be cited as the ''Fair Minimum Wage Act of 1998''.

SEC. 2. MINIMUM WAGE INCREASE.

(a) WAGE.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.65 an hour during the year beginning on January 1, 1999; and

''(B) $6.15 an hour during the year beginning on January 1, 2000.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 1999.

By Mr. COCHRAN (for himself and Mr. INOUYE):

S. 1806. A bill to state the policy of the United States regarding the deployment of a missile defense system

capable of defending the territory of the United States against limited ballistic missile attack; to the Committee on Armed Services.

THE AMERICAN MISSILE PROTECTION ACT OF 1998

Mr. COCHRAN. Mr. President, I am introducing today a bill to make it the policy of the United States to deploy a national missile defense system as soon as technology permits. I am pleased that the distinguished Senator from Hawaii, Mr. INOUYE, is joining me as cosponsor of this legislation, the American Missile Protection Act of 1998.

A new type of ballistic missile threat is emerging in the world today, one that derives not from a cold war strategic balance but from the increasing proliferation of ballistic missile technology, from the stated desire of some nation states to acquire such delivery systems, and from their evident progress in doing so. Last year, the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services held a series of 11 hearings examining proliferation-related issues. The evidence from those hearings forms the basis for the findings in this bill.

First, we found, and this bill recites, that the threat of weapons of mass destruction delivered by long-range ballistic missiles is among the most serious security issues facing the United States. There is widespread agreement on this. For the last 4 years, the President has annually declared that the proliferation of nuclear, biological, and chemical weapons, and the means of delivering such weapons, constitute ''an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.'' And the Senate said in legislation in 1996 that ''it is in the supreme interest of the United States to defend itself from the threat of limited ballistic missile attack, whatever the source.''

The second finding in the bill is that the long-range ballistic missile threat to the United States is increasing. The leaders of several rogue states have stated their belief that missiles capable of striking our territory would enable them to coerce or deter the United States, and they have declared their desire and intent to acquire these delivery systems. Ballistic missiles are increasingly the weapon of choice. They were used only once between World War II and 1980, but thousands have been fired in at least six conflicts since 1980. Furthermore, the clear trend is toward missiles with greater range. For example, since the early 1980s, North Korea has progressed from having to purchase 300-kilometer-range Scud missiles to developing its own 6,000-kilometer-range ballistic missile, which the intelligence community says may be capable of striking Alaska and Hawaii in less than 15 years. Iran's progress in developing extended range missiles has been dramatic and sudden, posing a new threat to U.S. forces in the Middle East.

The technological advances of the information age have made vast amounts of previously classified, arcane technical information available to anyone with Internet access. Advances in commercial aerospace have made once-exotic components and materials commonplace and more easily obtainable, and the demand for space-based telecommunications has vastly increased demand for space launch vehicles. These developments mean that the technical information, hardware, and other resources necessary to build ballistic missiles are increasingly available and accessible worldwide.

So, too, is scientific and technical expertise from Russia and China, which have been primary suppliers of equipment, materials, and technology related to weapons of mass destruction. Efforts by the administration to stop such assistance from these two countries have not been successful.

America's well-known vulnerability serves to feed this growing threat. As long as potential adversaries know we cannot defend ourselves against these weapons, they have every incentive to acquire or develop them.

The third finding in the bill is that the ability of the United States to anticipate the rate of progress in rogue ballistic missile programs is questionable. In the past, the United States has been surprised by the technical innovation of other nations, particularly with respect to ballistic missiles. There are many reasons for this, including help from other nations and the willingness of some states to field systems with lower accuracy requirements than would be acceptable to the United States. In both cases, the result can be progress that is more rapid than expected. Just 2 months ago, for example, the Director of Central Intelligence stated, ''Iran's success in getting technology and materials from Russian companies, combined with recent indigenous Iranian advances means that it could have a medium-range missile much sooner than I assessed last year.''

That year, last year, in 1997, Mr. Tenet testified that Iran could have such a missile by 2007, the year 2007. While he didn't say how much sooner than 2007 when he testified recently, State Department officials have testified since then that Iran could develop this missile this year, 9 years earlier than had been predicted only a year ago.

Iran's rapid progress demonstrates how external assistance can affect the pace of missile programs. And, of course, predicting the amount of outside assistance any nation will receive is nearly impossible. The CIA has recognized this difficulty, stating recently to the Senate that, ''gaps and uncertainties preclude a good projection of exactly when 'rest of the world' countries will deploy ICBMs.''

This bill's fourth finding is that the failure to prepare a defense against ballistic missiles could have grave security and foreign policy consequences for the United States. An attack on the United States by a ballistic missile equipped with a weapon of mass destruction would be catastrophic, inflicting death and injury to potentially thousands of American citizens. Even the threat of such an attack could constrain American options in dealing with regional challenges to our interests, deter us from taking action, or prompt allies to question America's security guarantees. All of this would have serious consequences for the United States and international stability.

The fifth finding is that it is imperative for the United States to be prepared for rogue nations acquiring long-range ballistic missiles armed with weapons of mass destruction. The Senate, in its resolution of ratification for the START II treaty, declared that ''. . . because deterrence may be inadequate to protect the United States against long-range ballistic missile threats, missile defenses are a necessary part of new deterrent strategies.'' Former Defense Secretary Perry said in 1994 that we have an opportunity to move from ''mutual assured destruction'' to ''mutual assured safety.'' And in 1997, the Under Secretary of Defense for Policy testified in the Senate that we ''are quite willing to acknowledge that if we saw a rogue state, a potential proliferant, beginning to develop a long-range ICBM capable of reaching the United States, we would have to give very, very serious attention to deploying a limited national missile defense.'' Mr. President, our Nation's interests will be served better being prepared 1 year too soon rather than 1 year too late.

This bill's sixth and final finding acknowledges the United States has no defenses deployed against weapons of mass destruction delivered by long-range ballistic missiles and no policy to deploy such a national missile defense system. We have only a policy to wait and see.

The bill in its final paragraph provides, ''It is the policy of the United States to deploy as soon as technologically possible, a National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate).''

This policy statement accomplishes two things. It sends a clear message to any rogue state seeking ballistic missile delivery systems that America will not be vulnerable to these weapons indefinitely. And, second, it affirms that the United States will take the steps necessary to protect its citizens from missile attack. That is what the bill is. That is what it says.

Now, let me briefly say what it is not. It is not a referendum on the ABM Treaty. It does not prescribe a specific system architecture. It does not mandate a deployment date, only that we deploy as soon as the technology is ready. It is not a directive to negotiate or cooperate on missile defense programs. It does not initiate studies or

reports. Nor is it a declaration that the only weapon of mass destruction threat to the United States is from weapons delivered by long-range ballistic missiles—other delivery methods are also of concern but we have programs in place to defend against those threats. This bill is designed to deal only with the accelerating proliferation threat.

In his State of the Union Address President Clinton said, ''preparing for a far off storm that may reach our shores is far wiser than ignoring the thunder 'til the clouds are just overhead.'' He wasn't talking about national missile defense, but his words do apply precisely to this dilemma. We are hearing the thunder now, and the time has come to declare to our citizens and to the world and to demonstrate by our actions that the United States will not remain defenseless against ballistic missiles. That should be our policy and this bill states that it is our policy.

A letter to all Senators is going out inviting cosponsors to join us when we reintroduce the bill within the next 2 weeks. I ask unanimous consent a copy of the bill be printed in the RECORD.

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

S. 1806

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

SECTION 1. SHORT TITLE.

This Act may be cited at the ''American Missile Protection Act of 1998''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The threat of weapons of mass destruction delivered by long-range ballistic missiles is among the most serious security issues facing the United States.

(A) In a 1994 Executive Order, President Clinton certified, that ''I ... find that the proliferation of nuclear, biological, and chemical weapons ('weapons of mass destruction') and the means of delivering such weapons, constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.'' This state of emergency was reaffirmed in 1995, 1996, and 1997.

(B) In 1994 the President stated, that ''there is nothing more important to our security and the world's stability than preventing the spread of nuclear weapons and ballistic missiles''.

(C) Several countries hostile to the United States have been particularly determined to acquire missiles and weapons of mass destruction. President Clinton observed in January of 1998, for example, that ''Saddam Hussein has spent the better part of this decade, and much of his nation's wealth, not on providing for the Iraqi people, but on developing nuclear, chemical and biological weapons and the missiles to deliver them''.

(D) In 1996, the Senate affirmed that, ''it is in the supreme interest of the United States to defend itself from the threat of limited ballistic missile attack, whatever the source.''

(2) The long-range ballistic missile threat to the United States is increasing.

(A) Several adversaries of the United States have stated their intention to acquire intercontinental ballistic missiles capable of attacking the United States.

(i) Libyan leader Muammar Qaddafi has stated, ''If they know that you have a deterrent force capable of hitting the United States, they would not be able to hit you. If we had possessed a deterrent—missiles that could reach New York—we would have hit it at the same moment. Consequently, we should build this force so that they and others will no longer think about an attack.''

(ii) Abu Abbas, the head of the Palestine Liberation Front, has stated, ''I would love to be able to reach the American shore, but this is very difficult. Someday an Arab country will have ballistic missiles. Someday an Arab country will have a nuclear bomb. It is better for the United States and for Israel to reach peace with the Palestinians before that day.''

(iii) Saddam Hussein has stated, ''Our missiles cannot reach Washington. If we could reach Washington, we would strike if the need arose.''

(iv) Iranian actions speak for themselves. Iran's aggressive pursuit of medium-range ballistic missiles capable of striking Central Europe—aided by the continuing collaboration of outside agents—demonstrates Tehran's intent to acquire ballistic missiles of ever-increasing range.

(B) Over 30 non-NATO countries possess ballistic missiles, with at least 10 of those countries developing over 20 new types of ballistic missiles.

(C) From the end of World War II until 1980, ballistic missiles were used in one conflict. Since 1980, thousands of ballistic missiles have been fired in at least six different conflicts.

(D) The clear trend among countries hostile to the United States is toward having ballistic missiles of greater range.

(i) North Korea first acquired 300-kilometer range Scud Bs, then developed and deployed 500-kilometer range Scud Cs, is currently deploying the 1000-kilometer range No-Dong, and is developing the 2000-kilometer range Taepo-Dong 1 and 6000-kilometer range Taepo-Dong 2, which would be capable of striking Alaska and Hawaii.

(ii) Iran acquired 150-kilometer range CSS-8s, progressed through the Scud B and Scud C, and is developing the 1300-kilometer range Shahab-3 and 2000-kilometer range Shahab-4, which would allow Iran to strike Central Europe.

(iii) Iraq, in a two-year crash program, produced a new missile, the Al-Hussein, with twice the range of its Scud Bs.

(iv) Experience gained from extending the range of short- and medium-range ballistic missiles facilitates the development of intercontinental ballistic missiles.

(E) The technical information, hardware, and other resources necessary to build ballistic missiles are increasingly available and accessible worldwide.

(i) Due to advances in information technology, a vast amount of technical information relating to ballistic missile design, much of it formerly classified, has become widely available and is increasingly accessible through the Internet and other distribution avenues.

(ii) Components, tools, and materials to support ballistic missile development are increasingly available in the commercial aerospace industry.

(iii) Increasing demand for satellite-based telecommunications is adding to the demand for commercial Space Launch Vehicles, which employ technology that is essentially identical to that of intercontinental ballistic missiles. As this increasing demand is met, the technology and expertise associated with space launch vehicles also proliferate.

(F) Russia and China have provided significant technical assistance to rogue nation ballistic missile programs, accelerating the pace of those efforts. In June of 1997, the Director of Central Intelligence, reporting to Congress on weapons of mass destruction-related equipment, materials, and technology, stated that ''China and Russia continued to be the primary suppliers, and are key to any future efforts to stem the flow of dual-use goods and modern weapons to countries of concern.''

(G) Russia and China continue to engage in missile proliferation.

(i) Despite numerous Russian assurances not to assist Iran with its ballistic missile program, the Deputy Assistant Secretary of State for Nonproliferation testified to the Senate, that ''the problem is this: there is a disconnect between those reassurances, which we welcome, and what we believe is actually occurring.''

(ii) Regarding China's actions to demonstrate the sincerity of its commitment to nonproliferation, the Director of Central Intelligence testified to the Senate on January 28, 1998, that, ''the jury is still out on whether the recent changes are broad enough in scope and whether they will hold over the longer term. As such, Chinese activities in this area will require continued close watching.''

(H) The inability of the United States to defend itself against weapons of mass destruction delivered by long-range ballistic missile provides additional incentive for hostile nations to develop long-range ballistic missiles with which to threaten the United States. Missiles are widely viewed as valuable tools for deterring and coercing a vulnerable United States.

(3) The ability of the United States to anticipate future ballistic missile threats is questionable.

(A) The Intelligence Community has failed to anticipate many past technical innovations (for example, Iraq's extended-range Al-Hussein missiles and its development of a space launch vehicle) and outside assistance enables rogue states to surmount traditional technological obstacles to obtaining or developing ballistic missiles of increasing range.

(B) In June of 1997, the Director of Central Intelligence reported to Congress that ''many Third World countries—with Iran being the most prominent example—are responding to Western counter-proliferation efforts by relying more on legitimate commercial firms as procurement fronts and by developing more convoluted procurement networks.''

(C) In June of 1997, the Director of Central Intelligence stated to Congress that ''gaps and uncertainties preclude a good projection of exactly when 'rest of the world' countries will deploy ICBMs.''

(D) In 1997, the Director of Central Intelligence testified that Iran would have a medium-range missile by 2007. One year later the Director stated, ''since I testified, Iran's success in getting technology and materials from Russian companies, combined with recent indigenous Iranian advances, means that it could have a medium-range missile much sooner than I assessed last year.'' Department of State officials have testified that Iran could be prepared to deploy such a missile as early as late 1998, nine years earlier than had been predicted one year before by the Director of Central Intelligence.

(4) The failure to prepare adequately for long-range ballistic missile threats could have severe national security and foreign policy consequences for the United States.

(A) An attack on the United States by a ballistic missile equipped with a weapon of mass destruction could inflict catastrophic death or injury to citizens of the United States and severe damage to their property.

(B) A rogue state's ability to threaten the United States with an intercontinental ballistic missile may constrain the United States' options in dealing with regional threats to its interests, deter the United States from taking appropriate action, or prompt allies to question United States security guarantees, thereby weakening alliances of the United States and the United States' world leadership position.

(5) The United States must be prepared for rogue nations acquiring long-range ballistic missiles armed with weapons of mass destruction.

(A) In its resolution of ratification for the START II Treaty, the United States Senate declared that ''because deterrence may be inadequate to protect the United States against long-range ballistic missile threats, missile defenses are a necessary part of new deterrent strategies.''

(B) In September of 1994, Secretary of Defense Perry stated that in the post-Cold War era, ''we now have opportunity to create a new relationship based not on MAD, not on Mutual Assured Destruction, but rather on another acronym, MAS, or Mutual Assured Safety.''

(C) On February 12, 1997, the Under Secretary of Defense for Policy testified to the Senate that ''I and the administration are quite willing to acknowledge that if we saw a rogue state, a potential proliferant, beginning to develop a long-range ICBM capable of reaching the United States, we would have to give very, very serious attention to deploying a limited national missile defense.''

(6) The United States has no defense deployed against weapons of mass destruction delivered by long-range ballistic missiles and no policy to deploy such a national missile defense system.

SEC. 3. NATIONAL MISSILE DEFENSE POLICY.

It is the policy of the United States to deploy as soon as is technologically possible a National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate).

ADDITIONAL COSPONSORS

S. 217

At the request of Mr. BIDEN, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 217, a bill to amend title 38, United States Code, to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in cemeteries of such States.

S. 597

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 597, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 766

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 778

At the request of Mr. LUGAR, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 778, a bill to authorize a new trade and investment policy for sub-Saharan African.

S. 1321

At the request of Mr. TORRICELLI, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1321, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 1325

At the request of Mr. FRIST, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maine (Ms. SNOWE), and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 1325, a bill to authorize appropriations for the Technology Administration of the Department of Commerce for fiscal years 1998 and 1999, and for other purposes.

S. 1352

At the request of Mr. GRASSLEY, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1352, A bill to amend Rule 30 of the Federal Rules of Civil Procedure to restore the stenographic preference for depositions.

S. 1413

At the request of Mr. LUGAR, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1423

At the request of Mr. HAGEL, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1423, a bill to modernize and improve the Federal Home Loan Bank System.

S. 1504

At the request of Mr. GRAHAM, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1504, a bill to adjust the immigration status of certain Haitian nationals who were provided refuge in the United States.

S. 1572

At the request of Mr. BRYAN, the names of the Senator from Indiana (Mr. COATS), the Senator from Nebraska (Mr. HAGEL), and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 1572, a bill to prohibit the Secretary of the Interior from promulgating certain regulations relating to Indian gaming activities.

S. 1621

At the request of Mr. GRAMS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1621, a bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes.

S. 1644

At the request of Mr. REED, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1644, a bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 regarding Grants to States for State Student Incentives.

S. 1647

At the request of Mr. BAUCUS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1667

At the request of Mr. GRASSLEY, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1667, a bill to amend section 2164 of title 10, United States Code, to clarify the eligibility of dependents of United States Service employees to enroll in Department of Defense dependents schools in Puerto Rico.

S. 1677

At the request of Mr. CHAFEE, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1695

At the request of Mr. CAMPBELL, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1695, a bill to establish the Sand Creek Massacre National Historic Site in the State of Colorado.

S. 1747

At the request of Mr. GRASSLEY, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1747, a bill to amend the Internal Revenue Code of 1986 to provide for additional taxpayer rights and taxpayer education, notice, and resources, and for other purposes.

S. 1758

At the request of Mr. LUGAR, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

S. 1760

At the request of Mr. LEVIN, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1760, a bill to amend the National Sea Grant College Program Act to clarify the term Great Lakes.

S. 1764

At the request of Mr. THURMOND, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1764, a bill to amend sections 3345

through 3349 of title 5, United States Code (commonly referred to as the ''Vacancies Act'') to clarify statutory requirements relating to vacancies in certain Federal offices, and for other purposes.

SENATE JOINT RESOLUTION 40

At the request of Mr. GRAHAM, his name was added as a cosponsor of Senate Joint Resolution 40, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

SENATE RESOLUTION 176

At the request of Mr. DOMENICI, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of Senate Resolution 176, a resolution proclaiming the week of October 18 through October 24, 1998, as ''National Character Counts Week.''

SENATE RESOLUTION 189

At the request of Mr. TORRICELLI, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Ohio (Mr. GLENN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. KOHL), the Senator from Virginia (Mr. ROBB), and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of Senate Resolution 189, a resolution honoring the 150th anniversary of the United States Women's Rights Movement that was initiated by the 1848 Women's Rights Convention held in Seneca Falls, New York, and calling for a national celebration of women's rights in 1998.

SENATE RESOLUTION 195

At the request of Mrs. HUTCHISON, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. TORRICELLI), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of Senate Resolution 195, a bill designating the week of March 22 through March 28, 1998, as ''National Corrosion Prevention Week.''

SENATE RESOLUTION 198

At the request of Mr. MACK, the names of the Senator from Arkansas (Mr. HUTCHINSON) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of Senate Resolution 198, a resolution designating April 1, 1998, as ''National Breast Cancer Survivors' Day.''

AMENDMENTS SUBMITTED

THE EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

COATS AMENDMENT NO. 2024

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes; as follows:

At the end of title I, add the following:

SEC. ___. ADDITIONAL INCENTIVE TO MAKE DONATIONS TO SCHOOLS OR ORGANIZATIONS WHICH OFFER SCHOLARSHIPS.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following:

''(m) TREATMENT OF AMOUNTS PAID TO CERTAIN EDUCATIONAL ORGANIZATIONS.—

''(1) IN GENERAL.—For purposes of this section, 110 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

''(2) AMOUNT DESCRIBED.—For purposes of paragraph (1), an amount is described in this paragraph if the amount—

''(A) is paid in cash by the taxpayer to or for the benefit of a qualified organization, and

''(B) is used by such organization to provide qualified scholarships (as defined in section 117(b)) to any individual attending kindergarten through grade 12 whose family income does not exceed 185 percent of the poverty line for a family of the size involved.

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

''(A) QUALIFIED ORGANIZATION.—The term 'qualified organization' means—

''(i) an educational organization—

''(I) which is described in subsection (b)(1)(A)(ii), and

''(II) which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law, or

''(ii) an organization which is described in section 501(c)(3) and exempt from taxation under section 501(a).

''(B) POVERTY LINE.—The term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.''

(b) PROHIBITION ON ANY DEDUCTION FOR GAMBLING LOSSES.—Section 165(d) (relating to wagering losses) is amended to read as follows:

''(d) NO DEDUCTION FOR WAGERING LOSSES.—No deduction shall be allowed for losses from wagering transactions.''

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

JEFFORDS AMENDMENT NO. 2025

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike section 101 and insert:

SEC. 101. TRUST FUND FOR DC SCHOOLS.

(a) IN GENERAL.—Subchapter W of chapter 1 (relating to District of Columbia Enterprise Zone) is amended by adding at the end the following:

''SEC. 1400D. TRUST FUND FOR DC SCHOOLS.

''(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

''(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

''(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to 50 percent of the revenues received in the Treasury resulting from the amendment made by section 201 of the Parent and Student Savings Account PLUS Act.

''(2) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. 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) EXPENDITURES FROM FUND.—

''(1) IN GENERAL.—Amounts in the Trust Fund for DC Schools shall be available, without fiscal year limitation, in an amount not to exceed $2,000,000,000 for the period beginning after December 31, 1998, and ending before January 1, 2009, for qualified service expenses with respect to State or local bonds issued by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia.

''(2) QUALIFIED SERVICE EXPENSES.—The term 'qualified service expenses' means expenses incurred after December 31, 1998, and certified by the District of Columbia Control Board as meeting the requirements of paragraph (1) after giving notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

''(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

''(e) INVESTMENT.—

''(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

''(A) on original issue at the issue price, or

''(B) by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

''(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and form a part of the Trust Fund for DC Schools.''

(b) CONFORMING AMENDMENT.—The table of sections for subchapter W of chapter 1 is amended by adding after the item relating to section 1400C the following:

''Sec. 1400D. Trust Fund for DC Schools.''

In section 103(a), strike ''December 31, 2002'' and insert ''June 30, 2002''.

CONRAD AMENDMENT NO. 2026

(Ordered to lie on the table.)

Mr. CONRAD submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike section 101 and insert the following:

SEC. 101. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) TAX-FREE EXPENDITURES FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(2) is amended to read as follows:

''(2) QUALIFIED EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified education expenses' means—

''(i) qualified higher education expenses (as defined in section 529(e)(3)), and

''(ii) qualified elementary and secondary education expenses (as defined in paragraph (4)), but only if the account is, at the time the account is created or organized, designated solely for payment of qualified elementary and secondary education expenses of the designated beneficiary.

Such expenses shall be reduced as provided in section 25A(g)(2).

''(B) QUALIFIED STATE TUITION PROGRAMS.—Except in the case of an account described in subparagraph (A)(ii), such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)) for the benefit of the beneficiary of the account.''

(2) ADJUSTED GROSS INCOME LIMITATION.—Section 530(c) is amended by redesignating paragraph (2) as paragraph (4) and by inserting after paragraph (1) the following:

''(2) SPECIAL RULE FOR ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Notwithstanding paragraph (1), in the case of an account designated under subsection (b)(2)(A)(ii), the maximum amount which a contributor could otherwise make to an account under this section shall be reduced by an amount which bears the same ratio to such maximum amount as—

''(A) the excess of—

''(i) the contributor's modified adjusted gross income for such taxable year, over

''(ii) $60,000, bears to

''(B) $15,000.

''(3) CONTRIBUTIONS TREATED AS MADE BY INDIVIDUAL ELIGIBLE FOR DEPENDENCY EXEMPTION.—For purposes of applying this subsection, any contribution by a person other than the taxpayer with respect to whom a deduction is allowable under section 151(c)(1) for a designated beneficiary shall be treated as having been made by such taxpayer.''

(3) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Section 530(b) is amended by adding at the end the following new paragraph:

''(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means—

''(i) tuition, fees, tutoring, special needs services, books, or supplies in connection with the enrollment or attendance of the designated beneficiary of the trust at a public, private, or religious school, or

''(ii) computer equipment (including related software and services) and other equipment, transportation, and supplementary expenses required or provided by a public, private, or religious school in connection with such enrollment or attendance.

''(B) SPECIAL RULE FOR HOME-SCHOOLING.—Such term shall include expenses described in subparagraph (A) required for education provided by homeschooling if the requirements of any applicable State or local law are met with respect to such education.

''(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.''

(4) NO ROLLOVERS BETWEEN COLLEGE ACCOUNTS AND NON-COLLEGE ACCOUNTS.—Section 530(d)(5) is amended by adding at the end the following: ''This paragraph shall not apply to a transfer of an amount between an account not described in subsection (b)(2)(A)(ii) and an account so described.''

(5) CONFORMING AMENDMENTS.—Subsections (b)(1) and (d)(2) of section 530 are each amended by striking ''higher'' each place it appears in the text and heading thereof.

(b) TEMPORARY INCREASE IN MAXIMUM ANNUAL CONTRIBUTIONS FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(2) CONTRIBUTION LIMIT.—Section 530(b) is amended by adding at the end the following new paragraph:

''(4) CONTRIBUTION LIMIT.—The term 'contribution limit' means—

''(A) except as provided in subparagraph (B), $500, or

''(B) in the case of an account designated under paragraph (2)(A)(ii)—

''(i) $2,500 for any taxable year ending before January 1, 2003, and

''(ii) zero for any taxable year ending on or after such date.''

(3) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4)(C) is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(B) Section 4973(e)(1)(A) is amended by striking ''$500'' and inserting ''the contribution limit (as defined in section 530(b)(4)) for such taxable year''.

(c) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Paragraph (1) of section 530(b) is amended by adding at the end the following flush sentence:

''The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).''

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

BIDEN AMENDMENT NO. 2027

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

At the appropriate place, add the following:

SEC. .

(a) IN GENERAL.—Paragraph (2) of section 135(b) of the Internal Revenue Code 1986 is amended to read as follows:

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $95,000 ($150,000 in the case of a joint return), the amount which would (but for this paragraph) be excludable from gross income under subsection (a) shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so excludable as such excess bears to $15,000 ($10,000 in the case of a joint return).

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

REED AMENDMENT NO. 2028

(Ordered to lie on the table.)

Mr. REED submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike section 101, and insert the following:

SEC. 101. TEACHER EXCELLENCE IN AMERICA CHALLENGE.

(a) AMENDMENT.—Part A of title V of the Higher Education Act of 1965 (20 U.S.C. 1102 et seq.) is amended to read as follows:

"PART A—TEACHER EXCELLENCE IN AMERICA CHALLENGE

"SEC. 501. SHORT TITLE.

''This part may be cited as the 'Teacher Excellence in America Challenge Act of 1997'.

"SEC. 502. PURPOSE.

''The purpose of this part is to improve the preparation and professional development of teachers and the academic achievement of students by encouraging partnerships among institutions of higher education, elementary schools or secondary schools, local educational agencies, State educational agencies, teacher organizations, and nonprofit organizations.

"SEC. 503. GOALS.

''The goals of this part are as follows:

''(1) To support and improve the education of students and the achievement of higher academic standards by students, through the enhanced professional development of teachers.

''(2) To ensure a strong and steady supply of new teachers who are qualified, well-trained, and knowledgeable and experienced in effective means of instruction, and who represent the diversity of the American people, in order to meet the challenges of working with students by strengthening preservice education and induction of individuals into the teaching profession.

''(3) To provide for the continuing development and professional growth of veteran teachers.

''(4) To provide a research-based context for reinventing schools, teacher preparation programs, and professional development programs, for the purpose of building and sustaining best educational practices and raising student academic achievement.

"SEC. 504. DEFINITIONS.

''In this part:

''(1) ELEMENTARY SCHOOL.—The term 'elementary school' means a public elementary school.

''(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution of higher education that—

''(A) has a school, college, or department of education that is accredited by an agency recognized by the Secretary for that purpose; or

''(B) the Secretary determines has a school, college, or department of education of a quality equal to or exceeding the quality of schools, colleges, or departments so accredited.

''(3) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

''(4) PROFESSIONAL DEVELOPMENT PARTNERSHIP.—The term 'professional development partnership' means a partnership among 1 or more institutions of higher education, 1 or more elementary schools or secondary schools, and 1 or more local educational agency based on a mutual commitment to improve teaching and learning. The partnership may include a State educational agency, a teacher organization, or a nonprofit organization whose primary purpose is education research and development.

''(5) PROFESSIONAL DEVELOPMENT SCHOOL.—The term 'professional development school' means an elementary school or secondary school that collaborates with an institution of higher education for the purpose of—

''(A) providing high quality instruction to students and educating students to higher academic standards;

''(B) providing high quality student teaching and internship experiences at the school for prospective and beginning teachers; and

''(C) supporting and enabling the professional development of veteran teachers at the school, and of faculty at the institution of higher education.

''(6) SECONDARY SCHOOL.—The term 'secondary school' means a public secondary school.

''(7) TEACHER.—The term 'teacher' means an elementary school or secondary school teacher.''

''SEC. 505. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—From the amount appropriated under section 511 and not reserved under section 509 for a fiscal year, the Secretary may award grants, on a competitive basis, to professional development partnerships to enable the partnerships to pay the Federal share of the cost of providing teacher preparation, induction, classroom experience, and professional development opportunities to prospective, beginning, and veteran teachers while improving the education of students in the classroom.

''(b) DURATION; PLANNING.—The Secretary shall award grants under this part for a period of 5 years, the first year of which may be used for planning to conduct the activities described in section 506.

''(c) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

''(1) PAYMENTS.—The Secretary shall make annual payments pursuant to a grant awarded under this part.

''(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (a)(1) shall be 80 percent.

''(3) NON-FEDERAL SHARE.—The non-Federal share of the costs described in subsection (a)(1) may be in cash or in-kind, fairly evaluated.

''(d) CONTINUING ELIGIBILITY.—

''(1) 2ND AND 3D YEARS.—The Secretary may make a grant payment under this section for each of the 2 fiscal years after the first fiscal year a professional development partnership receives such a payment, only if the Secretary determines that the partnership, through the activities assisted under this part, has made reasonable progress toward meeting the criteria described in paragraph (3).

''(2) 4TH AND 5TH YEARS.—The Secretary may make a grant payment under this section for each of the 2 fiscal years after the third fiscal year a professional development partnership receives such a payment, only if the Secretary determines that the partnership, through the activities assisted under this part, has met the criteria described in paragraph (3).

''(3) CRITERIA.—The criteria referred to in paragraphs (1) and (2) are as follows:

''(A) Increased student achievement as determined by increased graduation rates, decreased dropout rates, or higher scores on local, State, or national assessments for a year compared to student achievement as determined by the rates or scores, as the case may be, for the year prior to the year for which a grant under this part is received.

''(B) Improved teacher preparation and development programs, and student educational programs.

''(C) Increased opportunities for enhanced and ongoing professional development of teachers.

''(D) An increased number of well-prepared individuals graduating from a school, college, or department of education within an institution of higher education and entering the teaching profession.

''(E) Increased recruitment to, and graduation from, a school, college, or department of education within an institution of higher education with respect to minority individuals.

''(F) Increased placement of qualified and well-prepared teachers in elementary schools or secondary schools, and increased assignment of such teachers to teach the subject matter in which the teachers received a degree or specialized training.

''(G) Increased dissemination of teaching strategies and best practices by teachers associated with the professional development school and faculty at the institution of higher education.

''(e) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to professional development partnerships serving elementary schools, secondary schools, or local educational agencies, that serve high percentages of children from families below the poverty line.

''SEC. 506. AUTHORIZED ACTIVITIES.

''(a) IN GENERAL.—Each professional development partnership receiving a grant under this part shall use the grant funds for—

''(1) creating, restructuring, or supporting professional development schools;

''(2) enhancing and restructuring the teacher preparation program at the school, college, or department of education within the institution of higher education, including—

''(A) coordinating with, and obtaining the participation of, schools, colleges, or departments of arts and science;

''(B) preparing teachers to work with diverse student populations; and

''(C) preparing teachers to implement research-based, demonstrably successful, and replicable, instructional programs and practices that increase student achievement;

''(3) incorporating clinical learning in the coursework for prospective teachers, and in the induction activities for beginning teachers;

''(4) mentoring of prospective and beginning teachers by veteran teachers in instructional skills, classroom management skills, and strategies to effectively assess student progress and achievement;

''(5) providing high quality professional development to veteran teachers, including the rotation, for varying periods of time, of veteran teachers—

''(A) who are associated with the partnership to elementary schools or secondary schools not associated with the partnership in order to enable such veteran teachers to act as a resource for all teachers in the local educational agency or State; and

''(B) who are not associated with the partnership to elementary schools or secondary schools associated with the partnership in order to enable such veteran teachers to observe how teaching and professional development occurs in professional development schools;

''(6) preparation time for teachers in the professional development school and faculty of the institution of higher education to jointly design and implement the teacher preparation curriculum, classroom experiences, and ongoing professional development opportunities;

''(7) preparing teachers to use technology to teach students to high academic standards;

''(8) developing and instituting ongoing performance-based review procedures to assist and support teachers' learning;

''(9) activities designed to involve parents in the partnership;

''(10) research to improve teaching and learning by teachers in the professional development school and faculty at the institution of higher education; and

''(11) activities designed to disseminate information, regarding the teaching strategies and best practices implemented by the professional development school, to—

''(A) teachers in elementary schools or secondary schools, which are served by the local educational agency or located in the State, that are not associated with the professional development partnership; and

''(B) institutions of higher education in the State.

''(b) CONSTRUCTION PROHIBITED.—No grant funds provided under this part may be used for the construction, renovation, or repair of any school or facility.

''SEC. 507. APPLICATIONS.

''Each professional development partnership desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

''(1) describe the composition of the partnership;

''(2) describe how the partnership will include the participation of the schools, colleges, or departments of arts and sciences within the institution of higher education to ensure the integration of pedagogy and content in teacher preparation;

''(3) identify how the goals described in section 503 will be met and the criteria that will be used to evaluate and measure whether the partnership is meeting the goals;

''(4) describe how the partnership will restructure and improve teaching, teacher preparation, and development programs at the institution of higher education and the professional development school, and how such systemic changes will contribute to increased student achievement;

''(5) describe how the partnership will prepare teachers to implement research-based, demonstrably successful, and replicable, instructional programs and practices that increase student achievement;

''(6) describe how the teacher preparation program in the institution of higher education, and the induction activities and ongoing professional development opportunities in the professional development school, incorporate—

''(A) an understanding of core concepts, structure, and tools of inquiry as a foundation for subject matter pedagogy; and

''(B) knowledge of curriculum and assessment design as a basis for analyzing and responding to student learning;

''(7) describe how the partnership will prepare teachers to work with diverse student populations, including minority individuals and individuals with disabilities;

''(8) describe how the partnership will prepare teachers to use technology to teach students to high academic standards;

''(9) describe how the research and knowledge generated by the partnership will be disseminated to and implemented in—

''(A) elementary schools or secondary schools served by the local educational agency or located in the State; and

''(B) institutions of higher education in the State;

''(10)(A) describe how the partnership will coordinate the activities assisted under this part with other professional development activities for teachers, including activities assisted under titles I and II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq., 6601 et seq.), the Goals 2000: Educate America Act (20 U.S.C. 5801 et

seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.); and

''(B) describe how the activities assisted under this part are consistent with Federal and State educational reform activities that promote student achievement of higher academic standards;

''(11) describe which member of the partnership will act as the fiscal agent for the partnership and be responsible for the receipt and disbursement of grant funds under this part;

''(12) describe how the grant funds will be divided among the institution of higher education, the elementary school or secondary school, the local educational agency, and any other members of the partnership to support activities described in section 506;

''(13) provide a description of the commitment of the resources of the partnership to the activities assisted under this part, including financial support, faculty participation, and time commitments; and

''(14) describe the commitment of the partnership to continue the activities assisted under this part without grant funds provided under this part.

''SEC. 508. ASSURANCES.

''Each application submitted under this part shall contain an assurance that the professional development partnership—

''(1) will enter into an agreement that commits the members of the partnership to the support of students' learning, the preparation of prospective and beginning teachers, the continuing professional development of veteran teachers, the periodic review of teachers, standards-based teaching and learning, practice-based inquiry, and collaboration among members of the partnership;

''(2) will use teachers of excellence, who have mastered teaching techniques and subject areas, including teachers certified by the National Board for Professional Teaching Standards, to assist prospective and beginning teachers;

''(3) will provide for adequate preparation time to be made available to teachers in the professional development school and faculty at the institution of higher education to allow the teachers and faculty time to jointly develop programs and curricula for prospective and beginning teachers, ongoing professional development opportunities, and the other authorized activities described in section 506; and

''(4) will develop organizational structures that allow principals and key administrators to devote sufficient time to adequately participate in the professional development of their staffs, including frequent observation and critique of classroom instruction.

''SEC. 509. NATIONAL ACTIVITIES.

''(a) IN GENERAL.—The Secretary shall reserve a total of not more than 10 percent of the amount appropriated under section 511 for each fiscal year for evaluation activities under subsection (b), and the dissemination of information under subsection (c).

''(b) NATIONAL EVALUATION.—The Secretary, by grant or contract, shall provide for an annual, independent, national evaluation of the activities of the professional development partnerships assisted under this part. The evaluation shall be conducted not later than 3 years after the date of enactment of the Teacher Excellence in America Challenge Act of 1997 and each succeeding year thereafter. The Secretary shall report to Congress and the public the results of such evaluation. The evaluation, at a minimum, shall assess the short-term and long-term impacts and outcomes of the activities assisted under this part, including—

''(1) the extent to which professional development partnerships enhance student achievement;

''(2) how, and the extent to which, professional development partnerships lead to improvements in the quality of teachers;

''(3) the extent to which professional development partnerships improve recruitment and retention rates among beginning teachers, including beginning minority teachers; and

''(4) the extent to which professional development partnerships lead to the assignment of beginning teachers to public elementary or secondary schools that have a shortage of teachers who teach the subject matter in which the teacher received a degree or specialized training.

''(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information (including creating and maintaining a national database) regarding outstanding professional development schools, practices, and programs.

''SEC. 510. SUPPLEMENT NOT SUPPLANT.

''Funds appropriated under section 511 shall be used to supplement and not supplant other Federal, State, and local public funds expended for the professional development of elementary school and secondary school teachers.

''SEC. 511. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part $100,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003.''.

(b) REPEALS.—Part B of title V of the Higher Education Act of 1965 (20 U.S.C. 1103 et seq.), subparts 1 and 3 of part C of such title (20 U.S.C. 1104 et seq., 1106 et seq.), subparts 3 and 4 of part D of such title (20 U.S.C. 1109 et seq., 1110 et seq.), subpart 1 of part E of such title (20 U.S.C. 1111 et seq.), and part F of such title (20 U.S.C. 1113 et seq.), are repealed.

KERREY AMENDMENT NO. 2029

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Internal Revenue Service Restructuring and Reform Act of 1997''.

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

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Executive Branch Governance and Senior Management

Sec. 101. Internal Revenue Service Oversight Board.
Sec. 102. Commissioner of Internal Revenue; other officials.
Sec. 103. Other personnel.
Sec. 104. Prohibition on executive branch influence over taxpayer audits and other investigations.

Subtitle B—Personnel Flexibilities

Sec. 111. Personnel flexibilities.

TITLE II—ELECTRONIC FILING

Sec. 201. Electronic filing of tax and information returns.
Sec. 202. Due date for certain information returns filed electronically.
Sec. 203. Paperless electronic filing.
Sec. 204. Return-free tax system.
Sec. 205. Access to account information.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

Sec. 300. Short title.

Subtitle A—Burden of Proof

Sec. 301. Burden of proof.

Subtitle B—Proceedings by Taxpayers

Sec. 311. Expansion of authority to award costs and certain fees.
Sec. 312. Civil damages for negligence in collection actions.
Sec. 313. Increase in size of cases permitted on small case calendar.

Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

Sec. 321. Spouse relieved in whole or in part of liability in certain cases.
Sec. 322. Suspension of statute of limitations on filing refund claims during periods of disability.

Subtitle D—Provisions Relating to Interest

Sec. 331. Elimination of interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.
Sec. 332. Increase in overpayment rate payable to taxpayers other than corporations.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

Sec. 341. Privilege of confidentiality extended to taxpayer's dealings with non-attorneys authorized to practice before Internal Revenue Service.
Sec. 342. Expansion of authority to issue taxpayer assistance orders.
Sec. 343. Limitation on financial status audit techniques.
Sec. 344. Limitation on authority to require production of computer source code.
Sec. 345. Procedures relating to extensions of statute of limitations by agreement.
Sec. 346. Offers-in-compromise.
Sec. 347. Notice of deficiency to specify deadlines for filing Tax Court petition.
Sec. 348. Refund or credit of overpayments before final determination.
Sec. 349. Threat of audit prohibited to coerce Tip Reporting Alternative Commitment Agreements.

Subtitle F—Disclosures to Taxpayers

Sec. 351. Explanation of joint and several liability.
Sec. 352. Explanation of taxpayers' rights in interviews with the Internal Revenue Service.
Sec. 353. Disclosure of criteria for examination selection.
Sec. 354. Explanations of appeals and collection process.

Subtitle G—Low Income Taxpayer Clinics

Sec. 361. Low income taxpayer clinics.

Subtitle H—Other Matters

Sec. 371. Actions for refund with respect to certain estates which have elected the installment method of payment.
Sec. 372. Cataloging complaints.
Sec. 373. Archive of records of Internal Revenue Service.
Sec. 374. Payment of taxes.

Sec. 375. Clarification of authority of Secretary relating to the making of elections.
Sec. 376. Limitation on penalty on individual's failure to pay for months during period of installment agreement.
Subtitle I—Studies
Sec. 381. Penalty administration.
Sec. 382. Confidentiality of tax return information.
TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE
Subtitle A—Oversight
Sec. 401. Expansion of duties of the Joint Committee on Taxation.
Sec. 402. Coordinated oversight reports.
Subtitle B—Budget
Sec. 411. Funding for century date change.
Sec. 412. Financial Management Advisory Group.
Subtitle C—Tax Law Complexity
Sec. 421. Role of the Internal Revenue Service.
Sec. 422. Tax complexity analysis.
TITLE V—CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION
Sec. 501. Clarification of deduction for deferred compensation.
TITLE VI—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE
Sec. 601. Short title.
Sec. 602. Definitions.
Sec. 603. Amendments related to title I of 1997 Act.
Sec. 604. Amendments related to title II of 1997 Act.
Sec. 605. Amendments related to title III of 1997 Act.
Sec. 606. Amendments related to title V of 1997 Act.
Sec. 607. Amendments related to title VII of 1997 Act.
Sec. 608. Amendments related to title IX of 1997 Act.
Sec. 609. Amendments related to title X of 1997 Act.
Sec. 610. Amendments related to title XI of 1997 Act.
Sec. 611. Amendments related to title XII of 1997 Act.
Sec. 612. Amendments related to title XIII of 1997 Act.
Sec. 613. Amendments related to title XIV of 1997 Act.
Sec. 614. Amendments related to title XV of 1997 Act.
Sec. 615. Amendments related to title XVI of 1997 Act.
Sec. 616. Amendments related to Omibus Budget Reconciliation Act of 1993.
Sec. 617. Amendments related to Tax Reform Act of 1984.
Sec. 618. Amendments related to Tax Reform Act of 1986.
Sec. 619. Miscellaneous clerical and deadwood changes.
Sec. 620. Effective date.

TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Executive Branch Governance and Senior Management

SEC. 101. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

(a) IN GENERAL.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

''(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (hereafter in this subchapter referred to as the 'Oversight Board').

''(b) MEMBERSHIP.—

''(1) COMPOSITION.—The Oversight Board shall be composed of 11 members, as follows:

''(A) 8 members shall be individuals who are not Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

''(B) 1 member shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury.

''(C) 1 member shall be the Commissioner of Internal Revenue.

''(D) 1 member shall be an individual who is a representative of an organization that represents a substantial number of Internal Revenue Service employees and who is appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS AND TERMS.—

''(A) QUALIFICATIONS.—Members of the Oversight Board described in paragraph (1)(A) shall be appointed solely on the basis of their professional experience and expertise in 1 or more of the following areas:

''(i) Management of large service organizations.

''(ii) Customer service.

''(iii) Federal tax laws, including tax administration and compliance.

''(iv) Information technology.

''(v) Organization development.

''(vi) The needs and concerns of taxpayers.

In the aggregate, the members of the Oversight Board described in paragraph (1)(A) should collectively bring to bear expertise in all of the areas described in the preceding sentence.

''(B) TERMS.—Each member who is described in paragraph (1)(A) or (D) shall be appointed for a term of 5 years, except that of the members first appointed under paragraph (1)(A)—

''(i) 1 member shall be appointed for a term of 1 year,

''(ii) 1 member shall be appointed for a term of 2 years,

''(iii) 2 members shall be appointed for a term of 3 years, and

''(iv) 2 members shall be appointed for a term of 4 years.

Such terms shall begin on the date of appointment.

''(C) REAPPOINTMENT.—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Oversight Board.

''(D) VACANCY.—Any vacancy on the Oversight Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

''(E) SPECIAL GOVERNMENT EMPLOYEES.—During the entire period that an individual appointed under paragraph (1)(A) is a member of the Oversight Board, such individual shall be treated as—

''(i) serving as a special government employee (as defined in section 202 of title 18, United States Code) and as described in section 207(c)(2) of such title 18, and

''(ii) serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act.

''(3) QUORUM.—6 members of the Oversight Board shall constitute a quorum. A majority of members present and voting shall be required for the Oversight Board to take action.

''(4) REMOVAL.—

''(A) IN GENERAL.—Any member of the Oversight Board may be removed at the will of the President.

''(B) SECRETARY AND COMMISSIONER.—An individual described in subparagraph (B) or (C) of paragraph (1) shall be removed upon termination of employment.

''(C) REPRESENTATIVE OF INTERNAL REVENUE SERVICE EMPLOYEES.—The member described in paragraph (1)(D) shall be removed upon termination of employment, membership, or other affiliation with the organization described in such paragraph.

''(5) CLAIMS.—

''(A) IN GENERAL.—Members of the Oversight Board who are described in paragraph (1)(A) or (D) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member. The preceding sentence shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious conduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Oversight Board.

''(B) EFFECT ON OTHER LAW.—This paragraph shall not be construed—

''(i) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions,

''(ii) to affect any other right or remedy against the United States under applicable law, or

''(iii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

''(c) GENERAL RESPONSIBILITIES.—

''(1) IN GENERAL.—The Oversight Board shall oversee the Internal Revenue Service in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

''(2) EXCEPTIONS.—The Oversight Board shall have no responsibilities or authority with respect to—

''(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

''(B) law enforcement activities of the Internal Revenue Service, including compliance activities such as criminal investigations, examinations, and collection activities, or

''(C) specific procurement activities of the Internal Revenue Service.

''(3) RESTRICTION ON DISCLOSURE OF RETURN INFORMATION TO OVERSIGHT BOARD MEMBERS.—No return, return information, or taxpayer return information (as defined in section 6103(b)) may be disclosed to any member of the Oversight Board described in subsection (b)(1)(A) or (D). Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by a member of the Oversight Board so described to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary and the Joint Committee on Taxation.

''(d) SPECIFIC RESPONSIBILITIES.—The Oversight Board shall have the following specific responsibilities:

''(1) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

''(A) mission and objectives, and standards of performance relative to either, and

''(B) annual and long-range strategic plans.

''(2) OPERATIONAL PLANS.—To review the operational functions of the Internal Revenue Service, including—

''(A) plans for modernization of the tax system,

''(B) plans for outsourcing or managed competition, and

''(C) plans for training and education.

''(3) MANAGEMENT.—To—

''(A) recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner,

''(B) review the Commissioner's selection, evaluation, and compensation of senior managers, and

''(C) review and approve the Commissioner's plans for any major reorganization of the Internal Revenue Service.

''(4) BUDGET.—To—

''(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

''(B) submit such budget request to the Secretary of the Treasury, and

''(C) ensure that the budget request supports the annual and long-range strategic plans.

The Secretary shall submit the budget request referred to in paragraph (4)(B) for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

''(e) BOARD PERSONNEL MATTERS.—

''(1) COMPENSATION OF MEMBERS.—

''(A) IN GENERAL.—Each member of the Oversight Board who is described in subsection (b)(1)(A) shall be compensated at a rate not to exceed $30,000 per year. All other members of the Oversight Board shall serve without compensation for such service.

''(B) CHAIRPERSON.—In lieu of the amount specified in subparagraph (A), the Chairperson of the Oversight Board shall be compensated at a rate not to exceed $50,000.

''(2) TRAVEL EXPENSES.—The members of the Oversight Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business for purposes of attending meetings of the Oversight Board.

''(3) STAFF.—At the request of the Chairperson of the Oversight Board, the Commissioner shall detail to the Oversight Board such personnel as may be necessary to enable the Oversight Board to perform its duties. Such detail shall be without interruption or loss of civil service status or privilege.

''(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(f) ADMINISTRATIVE MATTERS.—

''(1) CHAIR.—The members of the Oversight Board shall elect for a 2-year term a chairperson from among the members appointed under subsection (b)(1)(A).

''(2) COMMITTEES.—The Oversight Board may establish such committees as the Oversight Board determines appropriate.

''(3) MEETINGS.—The Oversight Board shall meet at least once each month and at such other times as the Oversight Board determines appropriate.

''(4) REPORTS.—The Oversight Board shall each year report to the President and the Congress with respect to the conduct of its responsibilities under this title.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4946(c) (relating to definitions and special rules for chapter 42) is amended—

(A) by striking ''or'' at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting '', or'', and

(C) by adding at the end the following new paragraph:

''(7) a member of the Internal Revenue Service Oversight Board.''.

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

''Sec. 7802. Internal Revenue Service Oversight Board.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) NOMINATIONS TO INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—The President shall submit nominations under section 7802 of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act.

SEC. 102. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

(a) IN GENERAL.—Section 7803 (relating to other personnel) is amended to read as follows:

''SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

''(a) COMMISSIONER OF INTERNAL REVENUE.—

''(1) APPOINTMENT.—

''(A) IN GENERAL.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate, to a 5-year term. The appointment shall be made without regard to political affiliation or activity.

''(B) VACANCY.—Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which such individual's predecessor was appointed shall be appointed only for the remainder of that term.

''(C) REMOVAL.—The Commissioner may be removed at the will of the President.

''(2) DUTIES.—The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

''(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and ax conventions to which the United States is a party; and

''(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel.

If the Secretary determines not to delegate a power specified in subparagraph (A) or (B), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives, the Committees on Finance, Government Operations, and Appropriations of the Senate, and the Joint Committee on Taxation.

''(3) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Oversight Board on all matters set forth in paragraphs (2) and (3) (other than paragraph (3)(A)) of section 7802(d).

''(b) ASSISTANT COMMISSIONER FOR EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS.—There is established within the Internal Revenue Service an office to be known as the 'Office of Employee Plans and Exempt Organizations' to be under the supervision and direction of an Assistant Commissioner of Internal Revenue. As head of the Office, the Assistant Commissioner shall be responsible for carrying out such functions as the Secretary may prescribe with respect to organizations exempt from tax under section 501(a) and with respect to plans to which part I of subchapter D of chapter 1 applies (and with respect to organizations designed to be exempt under such section and plans designed to be plans to which such part applies) and other nonqualified deferred compensation arrangements. The Assistant Commissioner shall report annually to the Commissioner with respect to the Assistant Commissioner's responsibilities under this section.

''(c) OFFICE OF TAXPAYER ADVOCATE.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall be appointed with the approval of the Oversight Board by the Commissioner of Internal Revenue and shall report directly to the Commissioner. The Taxpayer Advocate shall be entitled to compensation at the same rate as the highest level official reporting directly to the Commissioner of Internal Revenue.

''(B) RESTRICTION ON SUBSEQUENT EMPLOYMENT.—An individual who is an officer or employee of the Internal Revenue Service may be appointed as Taxpayer Advocate only if such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the Taxpayer Advocate.

''(2) FUNCTIONS OF OFFICE.—

''(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

''(i) assist taxpayers in resolving problems with the Internal Revenue Service,

''(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

''(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

''(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

''(B) ANNUAL REPORTS.—

''(i) OBJECTIVES.—Not later than June 30 of each calendar year, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

''(ii) ACTIVITIES.—Not later than December 31 of each calendar year, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

''(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

''(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

''(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

''(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

''(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

''(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

''(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

''(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

''(IX) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems,

''(X) in conjunction with the National Director of Appeals, identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes, and

''(XI) include such other information as the Taxpayer Advocate may deem advisable.

''(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the committees described in clauses (i) and (ii) without any prior review or comment from the Oversight Board, the Secretary of the Treasury, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

''(C) OTHER RESPONSIBILITIES.—The Taxpayer Advocate shall—

''(i) monitor the coverage and geographic allocation of problem resolution officers, and

''(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to problem resolution officers.

''(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate within 3 months after submission to the Commissioner.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7803 and inserting the following new item:

''Sec. 7803. Commissioner of Internal Revenue; other officials.''.

(2) Subsection (b) of section 5109 of title 5, United States Code, is amended by striking ''7802(b)'' and inserting ''7803(b)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) CURRENT OFFICERS.—

(A) In the case of an individual serving as Commissioner of Internal Revenue on the date of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7803(a)(1) of the Internal Revenue Code of 1986, as added by this section, shall begin as of the date of such appointment.

(B) Section 7803(c)(1)(B) of such Code, as added by this section, shall not apply to the individual serving as Taxpayer Advocate on the date of the enactment of this Act.

SEC. 103. OTHER PERSONNEL.

(a) IN GENERAL.—Section 7804 (relating to the effect of reorganization plans) is amended to read as follows:

''SEC. 7804. OTHER PERSONNEL.

''(a) APPOINTMENT AND SUPERVISION.—Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

''(b) POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.—Unless otherwise prescribed by the Secretary—

''(1) DESIGNATION OF POST OF DUTY.—The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

''(2) DETAIL OF PERSONNEL FROM FIELD SERVICE.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

''(c) DELINQUENT INTERNAL REVENUE OFFICERS AND EMPLOYEES.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 6344 is amended by striking ''section 7803(d)'' and inserting ''section 7804(c)''.

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7804 and inserting the following new item:

''Sec. 7804. Other personnel.''.

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

SEC. 104. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.

(a) IN GENERAL.—Part I of subchapter A of chapter 75 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7216 the following new section:

''SEC. 7217. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.

''(a) PROHIBITION.—It shall be unlawful for any applicable person to request any officer or employee of the Internal Revenue Service to conduct or terminate an audit or other investigation of any particular taxpayer with respect to the tax liability of such taxpayer.

''(b) REPORTING REQUIREMENT.—Any officer or employee of the Internal Revenue Service receiving any request prohibited by subsection (a) shall report the receipt of such request to the Chief Inspector of the Internal Revenue Service.

''(c) EXCEPTIONS.—Subsection (a) shall not apply to—

''(1) any request made to an applicable person by the taxpayer or a representative of the taxpayer and forwarded by such applicable person to the Internal Revenue Service,

''(2) any request by an applicable person for disclosure of return or return information under section 6103 if such request is made in accordance with the requirements of such section, or

''(3) any request by the Secretary of the Treasury as a consequence of the implementation of a change in tax policy.

''(d) PENALTY.—Any person who willfully violates subsection (a) or fails to report under subsection (b) shall be punished upon conviction by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

''(e) APPLICABLE PERSON.—For purposes of this section, the term 'applicable person' means—

''(1) the President, the Vice President, any employee of the executive office of the President, and any employee of the executive office of the Vice President, and

''(2) any individual (other than the Attorney General of the United States) serving in a position specified in section 5312 of title 5, United States Code.''.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 75 is amended by adding after the item relating to section 7216 the following new item:

''Sec. 7217. Prohibition on executive branch influence over taxpayer audits and other investigations.''.

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

Subtitle B—Personnel Flexibilities

SEC. 111. PERSONNEL FLEXIBILITIES.

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

''Subpart I—Miscellaneous

''CHAPTER 93—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE

''Sec.
''9301. General requirements.
''9302. Flexibilities relating to performance management.
''9303. Staffing flexibilities.
''9304. Flexibilities relating to demonstration projects.

''§ 9301. General requirements

''(a) CONFORMANCE WITH MERIT SYSTEM PRINCIPLES, ETC.—Any flexibilities under this chapter shall be exercised in a manner consistent with—

''(1) chapter 23, relating to merit system principles and prohibited personnel practices; and

''(2) provisions of this title (outside of this subpart) relating to preference eligibles.

''(b) REQUIREMENT RELATING TO UNITS REPRESENTED BY LABOR ORGANIZATIONS.—

''(1) WRITTEN AGREEMENT REQUIRED.—Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to the exercise of any flexibility under section 9302, 9303, or 9304, unless there is a written agreement between the Internal Revenue Service and the organization permitting such exercise.

''(2) DEFINITION OF A WRITTEN AGREEMENT.—In order to satisfy paragraph (1), a written agreement—

''(A) need not be a collective bargaining agreement within the meaning of section 7103(8); and

''(B) may not be an agreement imposed by the Federal Service Impasses Panel under section 7119.

''(3) INCLUDIBLE MATTERS.—The written agreement may address any flexibilities under section 9302, 9303, or 9304, including any matter proposed to be included in a demonstration project under section 9304.

''§ 9302. Flexibilities relating to performance management

''(a) IN GENERAL.—The Commissioner of Internal Revenue shall, within a year after the date of the enactment of this chapter, establish a performance management system which—

''(1) subject to section 9301(b), shall cover all employees of the Internal Revenue Service other than—

''(A) the members of the Internal Revenue Service Oversight Board;

''(B) the Commissioner of Internal Revenue; and

''(C) the Chief Counsel for the Internal Revenue Service;

''(2) shall maintain individual accountability by—

''(A) establishing standards of performance which—

''(i) shall permit the accurate evaluation of each employee's performance on the basis of the individual and organizational performance requirements applicable with respect to the evaluation period involved, taking into account individual contributions toward the attainment of any goals or objectives under paragraph (3);

''(ii) shall be communicated to an employee before the start of any period with respect to which the performance of such employee is to be evaluated using such standards; and

''(iii) shall include at least 2 standards of performance, the lowest of which shall denote the retention standard and shall be equivalent to fully successful performance;

''(B) providing for periodic performance evaluations to determine whether employees are meeting all applicable retention standards; and

''(C) using the results of such employee's performance evaluation as a basis for adjustments in pay and other appropriate personnel actions; and

''(3) shall provide for (A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with Internal Revenue Service performance planning procedures, including those established under the Government Performance and Results Act of 1993, the Information Technology Management Reform Act of 1996, Revenue Procedure 64–22 (as in effect on July 30, 1997), and taxpayer service surveys, (B) communicating such goals or objectives to employees, and (C) using such goals or objectives to make performance distinctions among employees or groups of employees.

For purposes of this title, performance of an employee during any period in which such employee is subject to standards of performance under paragraph (2) shall be considered to be 'unacceptable' if the performance of such employee during such period fails to meet any retention standard.

''(b) AWARDS.—

''(1) FOR SUPERIOR ACCOMPLISHMENTS.—In the case of a proposed award based on the efforts of an employee or former employee of the Internal Revenue Service, any approval required under the provisions of section 4502(b) shall be considered to have been granted if the Office of Personnel Management does not disapprove the proposed award within 60 days after receiving the appropriate certification described in such provisions.

''(2) FOR EMPLOYEES WHO REPORT DIRECTLY TO THE COMMISSIONER.—

''(A) IN GENERAL.—In the case of an employee of the Internal Revenue Service who reports directly to the Commissioner of Internal Revenue, a cash award in an amount up to 50 percent of such employee's annual rate of basic pay may be made if the Commissioner finds such an award to be warranted based on such employee's performance.

''(B) NATURE OF AN AWARD.—A cash award under this paragraph shall not be considered to be part of basic pay.

''(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

''(D) ELIGIBLE EMPLOYEES.—Whether or not an employee is an employee who reports directly to the Commissioner of Internal Revenue shall, for purposes of this paragraph, be determined under regulations which the Commissioner shall prescribe, except that in no event shall more than 8 employees be eligible for a cash award under this paragraph in any calendar year.

''(E) LIMITATION ON COMPENSATION.—For purposes of applying section 5307 to an employee in connection with any calendar year to which an award made under this paragraph to such employee is attributable, subsection (a)(1) of such section shall be applied by substituting 'to equal or exceed the annual rate of compensation for the Vice President for such calendar year' for 'to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year'.

''(F) APPROVAL REQUIRED.—An award under this paragraph may not be made unless—

''(i) the Commissioner of Internal Revenue certifies to the Office of Personnel Management that such award is warranted; and

''(ii) the Office approves, or does not disapprove, the proposed award within 60 days after the date on which it is so certified.

''(3) BASED ON SAVINGS.—

''(A) IN GENERAL.—The Commissioner of Internal Revenue may authorize the payment of cash awards to employees based on documented financial savings achieved by a group or organization which such employees comprise, if such payments are made pursuant to a plan which—

''(i) specifies minimum levels of service and quality to be maintained while achieving such financial savings; and

''(ii) is in conformance with criteria prescribed by the Office of Personnel Management.

''(B) FUNDING.—A cash award under this paragraph may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting.

''(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

''(c) OTHER PROVISIONS.—

''(1) NOTICE PROVISIONS.—In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, '15 days' shall be substituted for '30 days'.

''(2) APPEALS.—Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

''§ 9303. Staffing flexibilities

''(a) ELIGIBILITY TO COMPETE FOR A PERMANENT APPOINTMENT IN THE COMPETITIVE SERVICE.—

''(1) ELIGIBILITY OF QUALIFIED VETERANS.—

''(A) IN GENERAL.—No veteran described in subparagraph (B) shall be denied the opportunity to compete for an announced vacant competitive service position within the Internal Revenue Service by reason of—

''(i) not having acquired competitive status; or

''(ii) not being an employee of that agency.

''(B) DESCRIPTION.—An individual shall, for purposes of a position for which such individual is applying, be considered a veteran described in this subparagraph if such individual—

''(i) is either a preference eligible, or an individual (other than a preference eligible) who has been separated from the armed forces under honorable conditions after at least 3 years of active service; and

''(ii) meets the minimum qualification requirements for the position sought.

''(2) ELIGIBILITY OF CERTAIN TEMPORARY EMPLOYEES.—

''(A) IN GENERAL.—No temporary employee described in subparagraph (B) shall be denied the opportunity to compete for an announced vacant competitive service position within the Internal Revenue Service by reason of not having acquired competitive status.

''(B) DESCRIPTION.—An individual shall, for purposes of a position for which such individual is applying, be considered a temporary employee described in this subparagraph if—

''(i) such individual is then currently serving as a temporary employee in the Internal Revenue Service;

''(ii) such individual has completed at least 2 years of current continuous service in the competitive service under 1 or more term appointments, each of which was made under competitive procedures prescribed for permanent appointments;

''(iii) such individual's performance under each term appointment referred to in clause (ii) met all applicable retention standards; and

''(iv) such individual meets the minimum qualification requirements for the position sought.

''(b) RATING SYSTEMS.—

''(1) IN GENERAL.—Notwithstanding subchapter I of chapter 33, the Commissioner of Internal Revenue may establish category rating systems for evaluating job applicants for positions in the competitive service, under which qualified candidates are divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings. Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant's knowledge, skills, and abilities relative to those needed for successful performance in the job to be filled.

''(2) TREATMENT OF PREFERENCE ELIGIBLES.—Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS–9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

''(3) SELECTION PROCESS.—An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories. Notwithstanding the preceding sentence, the appointing authority may not pass over a preference eligible in the same or a higher category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied, except that in no event may certification of a preference eligible under this subsection be discontinued by the Internal Revenue Service under section 3317(b) before the end of the 6-month period beginning on

the date of such employee's first certification.

''(c) INVOLUNTARY REASSIGNMENTS AND REMOVALS OF CAREER APPOINTEES IN THE SENIOR EXECUTIVE SERVICE.—Neither section 3395(e)(1) nor section 3592(b)(1) shall apply with respect to the Internal Revenue Service.

''(d) PROBATIONARY PERIODS.—Notwithstanding any other provision of law or regulation, the Commissioner of Internal Revenue may establish a period of probation under section 3321 of up to 3 years for any position if, as determined by the Commissioner, a shorter period would be insufficient for the incumbent to demonstrate complete proficiency in such position.

''(e) PROVISIONS THAT REMAIN APPLICABLE.—No provision of this section exempts the Internal Revenue Service from—

''(1) any employment priorities established under direction of the President for the placement of surplus or displaced employees; or

''(2) its obligations under any court order or decree relating to the employment practices of the Internal Revenue Service.

''§ 9304. Flexibilities relating to demonstration projects

''(a) AUTHORITY TO CONDUCT.—The Commissioner of Internal Revenue may, in accordance with this section, conduct 1 or more demonstration projects to improve personnel management; provide increased individual accountability; eliminate obstacles to the removal of or imposing any disciplinary action with respect to poor performers, subject to the requirements of due process; expedite appeals from adverse actions or performance-based actions; and promote pay based on performance.

''(b) GENERAL REQUIREMENTS.—Except as provided in subsection (c), each demonstration project under this section shall comply with the provisions of section 4703.

''(c) SPECIAL RULES.—For purposes of any demonstration project under this section—

''(1) AUTHORITY OF COMMISSIONER.—The Commissioner of Internal Revenue shall exercise the authority provided to the Office of Personnel Management under section 4703.

''(2) PROVISIONS NOT APPLICABLE.—The following provisions of section 4703 shall not apply:

''(A) Paragraphs (3) through (6) of subsection (b).

''(B) Paragraphs (1), (2)(B)(ii), and (4) of subsection (c).

''(C) Subsections (d) through (g).

''(d) NOTIFICATION REQUIRED TO BE GIVEN.—

''(1) TO EMPLOYEES.—The Commissioner of Internal Revenue shall notify employees likely to be affected by a project proposed under this section at least 90 days in advance of the date such project is to take effect.

''(2) TO CONGRESS AND OPM.—The Commissioner of Internal Revenue shall, with respect to each demonstration project under this section, provide each House of Congress and the Office of Personnel Management with a report, at least 30 days in advance of the date such project is to take effect, setting forth the final version of the plan for such project. Such report shall, with respect to the project to which it relates, include the information specified in section 4703(b)(1).

''(e) LIMITATIONS.—No demonstration project under this section may—

''(1) provide for a waiver of any regulation prescribed under any provision of law referred to in paragraph (2)(B)(i) or (3) of section 4703(c);

''(2) provide for a waiver of subchapter V of chapter 63 or subpart G of part III (or any regulations prescribed under such subchapter or subpart);

''(3) provide for a waiver of any law or regulation relating to preference eligibles as defined in section 2108 or subchapter II or III of chapter 73 (or any regulations prescribed thereunder);

''(4) permit collective bargaining over pay or benefits, or require collective bargaining over any matter which would not be required under section 7106; or

''(5) include a system for measuring performance that provides for only 1 level of performance at or above the level of fully successful or better.

''(f) PERMISSIBLE PROJECTS.—Notwithstanding any other provision of law, a demonstration project under this section—

''(1) may establish alternative means of resolving any dispute within the jurisdiction of the Equal Employment Opportunity Commission, the Merit Systems Protection Board, the Federal Labor Relations Authority, or the Federal Service Impasses Panel; and

''(2) may permit the Internal Revenue Service to adopt any alternative dispute resolution procedure that a private entity may lawfully adopt.

''(g) CONSULTATION AND COORDINATION.—The Commissioner of Internal Revenue shall consult with the Director of the Office of Personnel Management in the development and implementation of each demonstration project under this section and shall submit such reports to the Director as the Director may require. The Director or the Commissioner of Internal Revenue may terminate a demonstration project under this section if either of them determines that the project creates a substantial hardship on, or is not in the best interests of, the public, the Federal Government, employees, or qualified applicants for employment with the Internal Revenue Service.

''(h) TERMINATION.—Each demonstration project under this section shall terminate before the end of the 5-year period beginning on the date on which the project takes effect, except that any such project may continue beyond the end of such period, for not to exceed 2 years, if the Commissioner of Internal Revenue, with the concurrence of the Director, determines such extension is necessary to validate the results of the project. Not later than 6 months before the end of the 5-year period and any extension under the preceding sentence, the Commissioner of Internal Revenue shall, with respect to the demonstration project involved, submit a legislative proposal to the Congress if the Commissioner determines that such project should be made permanent, in whole or in part.''.

(b) CLERICAL AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by adding at the end the following:

''Subpart I—Miscellaneous

''93. Personnel Flexibilities Relating to the Internal Revenue Service ..... 9301''.

(c) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

TITLE II—ELECTRONIC FILING

SEC. 201. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.

(a) IN GENERAL.—It is the policy of the Congress that paperless filing should be the preferred and most convenient means of filing tax and information returns, and that by the year 2007, no more than 20 percent of all such returns should be filed on paper.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the ''Secretary'') shall establish a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days. To the extent practicable, such plan shall provide that all returns prepared electronically for taxable years beginning after 2001 shall be filed electronically.

(2) ELECTRONIC COMMERCE ADVISORY GROUP.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the small business community and from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

(c) PROMOTION OF ELECTRONIC FILING AND INCENTIVES.—Section 6011 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) PROMOTION OF ELECTRONIC FILING.—

''(1) IN GENERAL.—The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration programs, as they become available, through the use of mass communications and other means.

''(2) INCENTIVES.—The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns.''.

(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1997, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary, and the Chairperson of the electronic commerce advisory group established under subsection (b)(2) shall report to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Joint Committee on Taxation, on—

(1) the progress of the Internal Revenue Service in meeting the goal of receiving electronically 80 percent of tax and information returns by 2007;

(2) the status of the plan required by subsection (b); and

(3) the legislative changes necessary to assist the Internal Revenue Service in meeting such goal.

SEC. 202. DUE DATE FOR CERTAIN INFORMATION RETURNS FILED ELECTRONICALLY.

(a) IN GENERAL.—Section 6071 (relating to time for filing returns and other documents) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

''(b) ELECTRONICALLY FILED INFORMATION RETURNS.—Returns made under subparts B and C of part III of this subchapter which are filed electronically shall be filed on or before March 31 of the year following the calendar year to which such returns relate.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns required to be filed after December 31, 1999.

SEC. 203. PAPERLESS ELECTRONIC FILING.

(a) IN GENERAL.—Section 6061 (relating to signing of returns and other documents) is amended—

(1) by striking ''Except as otherwise provided by'' and inserting the following:

''(a) GENERAL RULE.—Except as otherwise provided by subsection (b) and'', and

(2) by adding at the end the following new subsection:

''(b) ELECTRONIC SIGNATURES.—

''(1) IN GENERAL.—The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form.

Until such time as such procedures are in place, the Secretary may waive the requirement of a signature for all returns or classes of returns, or may provide for alternative methods of subscribing all returns, declarations, statements, or other documents required or permitted to be made or written under internal revenue laws and regulations.

''(2) TREATMENT OF ALTERNATIVE METHODS.—Notwithstanding any other provision of law, any return, declaration, statement or other document filed without signature under the authority of this subsection or verified, signed or subscribed under any method adopted under paragraph (1) shall be treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though signed and subscribed. Any such return, declaration, statement or other document shall be presumed to have been actually submitted and subscribed by the person on whose behalf it was submitted.

''(3) PUBLISHED GUIDANCE.—The Secretary shall publish guidance as appropriate to define and implement any waiver of the signature requirements.''.

(b) ACKNOWLEDGMENT OF ELECTRONIC FILING.—Section 7502(c) is amended to read as follows:

''(c) REGISTERED AND CERTIFIED MAILING; ELECTRONIC FILING.—

''(1) REGISTERED MAIL.—For purposes of this section, if any return, claim, statement, or other document, or payment, is sent by United States registered mail—

''(A) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed, and

''(B) the date of registration shall be deemed the postmark date.

''(2) CERTIFIED MAIL; ELECTRONIC FILING.—The Secretary is authorized to provide by regulations the extent to which the provisions of paragraph (1) with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail and electronic filing.''.

(c) ESTABLISHMENT OF PROCEDURES FOR OTHER INFORMATION.—In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures to accept, in electronic form, any other information, statements, elections, or schedules, from taxpayers filing returns electronically, so that such taxpayers will not be required to file any paper.

(d) PROCEDURES FOR COMMUNICATIONS BETWEEN IRS AND PREPARER OF ELECTRONICALLY FILED RETURNS.—The Secretary shall establish procedures for taxpayers to authorize, on electronically filed returns, the preparer of such returns to communicate with the Internal Revenue Service on matters included on such returns.

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

SEC. 204. RETURN-FREE TAX SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall develop procedures for the implementation of a return-free tax system under which appropriate individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

(b) REPORT.—Not later than June 30 of each calendar year after 1999, such Secretary shall report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on—

(1) what additional resources the Internal Revenue Service would need to implement such a system,

(2) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system,

(3) the procedures developed pursuant to subsection (a), and

(4) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a).

SEC. 205. ACCESS TO ACCOUNT INFORMATION.

Not later than December 31, 2006, the Secretary of the Treasury or the Secretary's delegate shall develop procedures under which a taxpayer filing returns electronically would be able to review the taxpayer's account electronically, but only if all necessary safeguards to ensure the privacy of such account information are in place.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

SEC. 300. SHORT TITLE.

This title may be cited as the ''Taxpayer Bill of Rights 3''.

Subtitle A—Burden of Proof

SEC. 301. BURDEN OF PROOF.

(a) IN GENERAL.—Chapter 76 (relating to judicial proceedings) is amended by adding at the end the following new subchapter:

''Subchapter E—Burden of Proof

''Sec. 7491. Burden of proof.

''SEC. 7491. BURDEN OF PROOF.

''(a) GENERAL RULE.—The Secretary shall have the burden of proof in any court proceeding with respect to any factual issue relevant to ascertaining the income tax liability of a taxpayer.

''(b) LIMITATIONS.—Subsection (a) shall only apply with respect to an issue if—

''(1) the taxpayer asserts a reasonable dispute with respect to such issue,

''(2) the taxpayer has fully cooperated with the Secretary with respect to such issue, including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer, as reasonably requested by the Secretary, and

''(3) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430(c)(4)(A)(ii).

''(c) SUBSTANTIATION.—Nothing in this section shall be construed to override any requirement of this title to substantiate any item.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6201 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(2) The table of subchapters for chapter 76 is amended by adding at the end the following new item:

''Subchapter E. Burden of proof.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to court proceedings arising in connection with examinations commencing after the date of the enactment of this Act.

Subtitle B—Proceedings by Taxpayers

SEC. 311. EXPANSION OF AUTHORITY TO AWARD COSTS AND CERTAIN FEES.

(a) AWARD OF HIGHER ATTORNEY'S FEES BASED ON COMPLEXITY OF ISSUES.—Clause (iii) of section 7430(c)(1)(B) (relating to the award of costs and certain fees) is amended by inserting ''the difficulty of the issues presented in the case, or the local availability of tax expertise,'' before ''justifies a higher rate''.

(b) AWARD OF ADMINISTRATIVE COSTS INCURRED AFTER 30-DAY LETTER.—Paragraph (2) of section 7430(c) is amended by striking the last sentence and inserting the following: ''Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, (ii) the date of the notice of deficiency, or (iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.''.

(c) AWARD OF FEES FOR CERTAIN ADDITIONAL SERVICES.—Paragraph (3) of section 7430(c) is amended to read as follows:

''(3) ATTORNEY'S FEES.—

''(A) IN GENERAL.—For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

''(B) PRO BONO SERVICES.—In any case in which the court could have awarded attorney's fees under subsection (a) but for the fact that an individual is representing the prevailing party for no fee or for a fee which (taking into account all the facts and circumstances) is no more than a nominal fee, the court may also award a judgment or settlement for such amounts as the court determines to be appropriate (based on hours worked and costs expended) for services of such individual but only if such award is paid to such individual or such individual's employer.''.

(d) DETERMINATION OF WHETHER POSITION OF UNITED STATES IS SUBSTANTIALLY JUSTIFIED.—Subparagraph (B) of section 7430(c)(4) is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

''(iii) EFFECT OF LOSING ON SUBSTANTIALLY SIMILAR ISSUES.—In determining for purposes of clause (i) whether the position of the United States was substantially justified, the court shall take into account whether the United States has lost in courts of appeal for other circuits on substantially similar issues.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred (and, in the case of the amendment made by subsection (c), services performed) more than 180 days after the date of the enactment of this Act.

SEC. 312. CIVIL DAMAGES FOR NEGLIGENCE IN COLLECTION ACTIONS.

(a) IN GENERAL.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended—

(1) in subsection (a), by inserting '', or by reason of negligence,'' after ''recklessly or intentionally'', and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''($100,000, in the case of negligence)'' after ''$1,000,000'', and

(B) in paragraph (1), by inserting ''or negligent'' after ''reckless or intentional''.

(b) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—Paragraph (1) of section 7433(d) is amended to read as follows:

''(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 313. INCREASE IN SIZE OF CASES PERMITTED ON SMALL CASE CALENDAR.

(a) IN GENERAL.—Subsection (a) of section 7463 (relating to disputes involving $10,000 or

less) is amended by striking ''$10,000'' each place it appears and inserting ''$25,000''.

(b) CONFORMING AMENDMENTS.—

(1) The section heading for section 7463 is amended by striking ''**$10,000**'' and inserting ''**$25,000**''.

(2) The item relating to section 7463 in the table of sections for part II of subchapter C of chapter 76 is amended by striking ''$10,000'' and inserting ''$25,000''.

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

Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

SEC. 321. SPOUSE RELIEVED IN WHOLE OR IN PART OF LIABILITY IN CERTAIN CASES.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 is amended by inserting after section 6014 the following new section:

''SEC. 6015. INNOCENT SPOUSE RELIEF; PETITION TO TAX COURT.

''(a) SPOUSE RELIEVED OF LIABILITY IN CERTAIN CASES.—

''(1) IN GENERAL.—Under procedures prescribed by the Secretary, if—

''(A) a joint return has been made under section 6013 for a taxable year,

''(B) on such return there is an understatement of tax attributable to erroneous items of 1 spouse,

''(C) the other spouse establishes that in signing the return he or she did not know, and had no reason to know, that there was such understatement,

''(D) taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax for such taxable year attributable to such understatement, and

''(E) the other spouse claims (in such form as the Secretary may prescribe) the benefits of this subsection not later than the date which is 2 years after the date of the assessment of such deficiency,

then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such understatement.

''(2) APPORTIONMENT OF RELIEF.—If a spouse who, but for paragraph (1)(C), would be relieved of liability under paragraph (1), establishes that in signing the return such spouse did not know, and had no reason to know, the extent of such understatement, then such spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent that such liability is attributable to the portion of such understatement of which such spouse did not know and had no reason to know.

''(3) UNDERSTATEMENT.—For purposes of this subsection, the term 'understatement' has the meaning given to such term by section 6662(d)(2)(A).

''(4) SPECIAL RULE FOR COMMUNITY PROPERTY INCOME.—For purposes of this subsection, the determination of the spouse to whom items of gross income (other than gross income from property) are attributable shall be made without regard to community property laws.

''(b) PETITION FOR REVIEW BY TAX COURT.—In the case of an individual who has filed a claim under subsection (a) within the period specified in subsection (a)(1)(E)—

''(1) IN GENERAL.—Such individual may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine such claim if such petition is filed during the 90-day period beginning on the earlier of—

''(A) the date which is 6 months after the date such claim is filed with the Secretary, or

''(B) the date on which the Secretary mails by certified or registered mail a notice to such individual denying such claim.

Such 90-day period shall be determined by not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day of such period.

''(2) RESTRICTIONS APPLICABLE TO COLLECTION OF ASSESSMENT.—

''(A) IN GENERAL.—Except as otherwise provided in section 6851 or 6861, no levy or proceeding in court for collection of any assessment to which such claim relates shall be made, begun, or prosecuted, until the expiration of the 90-day period described in paragraph (1), nor, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Rules similar to the rules of section 7485 shall apply with respect to the collection of such assessment.

''(B) AUTHORITY TO ENJOIN COLLECTION ACTIONS.—Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time the prohibition under subparagraph (A) is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this paragraph to enjoin any action or proceeding unless a timely petition for a determination of such claim has been filed and then only in respect of the amount of the assessment to which such claim relates.

''(C) JEOPARDY COLLECTION.—If the Secretary makes a finding that the collection of the tax is in jeopardy, nothing in this subsection shall prevent the immediate collection of such tax.

''(c) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS.—The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under subsection (b) relates shall be suspended for the period during which the Secretary is prohibited by subsection (b) from collecting by levy or a proceeding in court and for 60 days thereafter.

''(d) APPLICABLE RULES.—

''(1) ALLOWANCE OF APPLICATION.—Except as provided in paragraph (2), notwithstanding any other law or rule of law (other than section 6512(b), 7121, or 7122), credit or refund shall be allowed or made to the extent attributable to the application of this section.

''(2) RES JUDICATA.—In the case of any claim under subsection (a), the determination of the Tax Court in any prior proceeding for the same taxable periods in which the decision has become final, shall be conclusive except with respect to the qualification of the spouse for relief which was not an issue in such proceeding. The preceding sentence shall not apply if the Tax Court determines that the spouse participated meaningfully in such prior proceeding.

''(3) LIMITATION ON TAX COURT JURISDICTION.—If a suit for refund is begun by either spouse pursuant to section 6532, the Tax Court shall lose jurisdiction of the spouse's action under this section to whatever extent jurisdiction is acquired by the district court or the United States Court of Federal Claims over the taxable years that are the subject of the suit for refund.''.

(b) SEPARATE FORM FOR APPLYING FOR SPOUSAL RELIEF.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall develop a separate form with instructions for use by taxpayers in applying for relief under section 6015(a) of the Internal Revenue Code of 1986, as added by this section.

(c) CONFORMING AMENDMENTS.—

(1) Section 6013 is amended by striking subsection (e).

(2) Subparagraph (A) of section 6230(c)(5) is amended by striking ''section 6013(e)'' and inserting ''section 6015''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by inserting after the item relating to section 6014 the following new item:

''Sec. 6015. Innocent spouse relief; petition to Tax Court.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to understatements for taxable years beginning after the date of the enactment of this Act.

SEC. 322. SUSPENSION OF STATUTE OF LIMITATIONS ON FILING REFUND CLAIMS DURING PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) RUNNING OF PERIODS OF LIMITATION SUSPENDED WHILE TAXPAYER IS UNABLE TO MANAGE FINANCIAL AFFAIRS DUE TO DISABILITY.—

''(1) IN GENERAL.—In the case of an individual, the running of the periods specified in subsections (a), (b), and (c) shall be suspended during any period of such individual's life that such individual is financially disabled.

''(2) FINANCIALLY DISABLED.—

''(A) IN GENERAL.—For purposes of paragraph (1), an individual is financially disabled if such individual is unable to manage his financial affairs by reason of his medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to have such an impairment unless proof of the existence thereof is furnished in such form and manner as the Secretary may require.

''(B) EXCEPTION WHERE INDIVIDUAL HAS GUARDIAN, ETC.—An individual shall not be treated as financially disabled during any period that such individual's spouse or any other person is authorized to act on behalf of such individual in financial matters.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods of disability before, on, or after the date of the enactment of this Act but shall not apply to any claim for credit or refund which (without regard to such amendment) is barred by the operation of any law or rule of law (including res judicata) as of January 1, 1998.

Subtitle D—Provisions Relating to Interest

SEC. 331. ELIMINATION OF INTEREST RATE DIFFERENTIAL ON OVERLAPPING PERIODS OF INTEREST ON INCOME TAX OVERPAYMENTS AND UNDERPAYMENTS.

(a) IN GENERAL.—Section 6621 (relating to determination of rate of interest) is amended by adding at the end the following new subsection:

''(d) ELIMINATION OF INTEREST ON OVERLAPPING PERIODS OF INCOME TAX OVERPAYMENTS AND UNDERPAYMENTS.—To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by chapters 1 and 2, the net rate of interest under this section on such amounts shall be zero for such period.''.

(b) CONFORMING AMENDMENT.—Subsection (f) of section 6601 (relating to satisfaction by credits) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to the extent that section 6621(d) applies.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest for calendar quarters beginning after the date of the enactment of this Act.

SEC. 332. INCREASE IN OVERPAYMENT RATE PAYABLE TO TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 6621(a)(1) (defining overpayment rate) is amended to read as follows:

''(B) 3 percentage points (2 percentage points in the case of a corporation).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest for calendar quarters beginning after the date of the enactment of this Act.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

SEC. 341. PRIVILEGE OF CONFIDENTIALITY EXTENDED TO TAXPAYER'S DEALINGS WITH NON-ATTORNEYS AUTHORIZED TO PRACTICE BEFORE INTERNAL REVENUE SERVICE.

Section 7602 (relating to examination of books and witnesses) is amended by adding at the end the following new subsection:

''(d) PRIVILEGE OF CONFIDENTIALITY EXTENDED TO TAXPAYER'S DEALINGS WITH NON-ATTORNEYS AUTHORIZED TO PRACTICE BEFORE INTERNAL REVENUE SERVICE.—

''(1) IN GENERAL.—In any noncriminal proceeding before the Internal Revenue Service, the taxpayer shall be entitled to the same common law protections of confidentiality with respect to tax advice furnished by any qualified individual (in a manner consistent with State law for such individual's profession) as the taxpayer would have if such individual were an attorney.

''(2) QUALIFIED INDIVIDUAL.—For purposes of paragraph (1), the term 'qualified individual' means any individual (other than an attorney) who is authorized to practice before the Internal Revenue Service.''.

SEC. 342. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

Section 7811(a) (relating to taxpayer assistance orders) is amended—

(1) by striking ''Upon application'' and inserting the following:

''(1) IN GENERAL.—Upon application'',

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraphs:

''(2) ISSUANCE OF TAXPAYER ASSISTANCE ORDERS.—For purposes of determining whether to issue a taxpayer assistance order, the Taxpayer Advocate shall consider the following factors, among others:

''(A) Whether there is an immediate threat of adverse action.

''(B) Whether there has been an unreasonable delay in resolving taxpayer account problems.

''(C) Whether the taxpayer will have to pay significant costs (including fees for professional representation) if relief is not granted.

''(D) Whether the taxpayer will suffer irreparable injury, or a long-term adverse impact, if relief is not granted.

''(3) STANDARD WHERE ADMINISTRATIVE GUIDANCE NOT FOLLOWED.—In cases where any Internal Revenue Service employee is not following applicable published administrative guidance (including the Internal Revenue Manual), the Taxpayer Advocate shall construe the factors taken into account in determining whether to issue a taxpayer assistance order in the manner most favorable to the taxpayer.''.

SEC. 343. LIMITATION ON FINANCIAL STATUS AUDIT TECHNIQUES.

Section 7602 is amended by adding at the end the following new subsection:

''(e) LIMITATION ON EXAMINATION ON UNREPORTED INCOME.—The Secretary shall not use financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the Secretary has a reasonable indication that there is a likelihood of such unreported income.''.

SEC. 344. LIMITATION ON AUTHORITY TO REQUIRE PRODUCTION OF COMPUTER SOURCE CODE.

(a) IN GENERAL.—Section 7602 is amended by adding at the end the following new subsection:

''(f) LIMITATION ON AUTHORITY TO REQUIRE PRODUCTION OF COMPUTER SOURCE CODE.—

''(1) IN GENERAL.—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, to produce or examine any tax-related computer source code.

''(2) EXCEPTION WHERE INFORMATION NOT OTHERWISE AVAILABLE TO VERIFY CORRECTNESS OF ITEM ON RETURN.—Paragraph (1) shall not apply to any portion of a tax-related computer source code if—

''(A) the Secretary is unable to otherwise reasonably ascertain the correctness of any item on a return from—

''(i) the taxpayer's books, papers, records, or other data, or

''(ii) the computer software program and the associated data which, when executed, produces the output to prepare the return for the period involved, and

''(B) the Secretary identifies with reasonable specificity such portion as to be used to verify the correctness of such item.

The Secretary shall be treated as meeting the requirements of subparagraphs (A) and (B) after the 90th day after the Secretary makes a formal request to the taxpayer and the owner or developer of the computer software program for the material described in subparagraph (A)(ii) if such material is not provided before the close of such 90th day.

''(3) OTHER EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A) any inquiry into any offense connected with the administration or enforcement of the internal revenue laws, and

''(B) any tax-related computer source code developed by (or primarily for the benefit of) the taxpayer or a related person (within the meaning of section 267 or 707(b)) for internal use by the taxpayer or such person and not for commercial distribution.

''(4) TAX-RELATED COMPUTER SOURCE CODE.—For purposes of this subsection, the term 'tax-related computer source code' means—

''(A) the computer source code for any computer software program for accounting, tax return preparation or compliance, or tax planning, or

''(B) design and development materials related to such a software program (including program notes and memoranda).

''(5) RIGHT TO CONTEST SUMMONS.—The determination of whether the requirements of subparagraphs (A) and (B) of paragraph (2) are met or whether any exception under paragraph (3) applies may be contested in any proceeding under section 7604.

''(6) PROTECTION OF TRADE SECRETS AND OTHER CONFIDENTIAL INFORMATION.—In any court proceeding to enforce a summons for any portion of a tax-related computer source code, the court may issue any order necessary to prevent the disclosure of trade secrets or other confidential information with respect to such source code, including providing that any information be placed under seal to be opened only as directed by the court.''.

(b) APPLICATION OF SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.—Paragraph (3) of section 7609(a) (defining third-party recordkeeper) is amended by striking ''and'' at the end of subparagraph (H), by striking a period at the end of subparagraph (I) and inserting '', and'', and by adding at the end the following:

''(J) any owner or developer of a tax-related computer source code (as defined in section 7602(f)(4)).

Subparagraph (J) shall apply only with respect to a summons requiring the production of the source code referred to in subparagraph (J) or the program and data described in section 7602(f)(2)(A)(ii) to which such source code relates.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses issued more than 90 days after the date of the enactment of this Act.

SEC. 345. PROCEDURES RELATING TO EXTENSIONS OF STATUTE OF LIMITATIONS BY AGREEMENT.

(a) IN GENERAL.—Paragraph (4) of section 6501(c) (relating to the period for limitations on assessment and collection) is amended—

(1) by striking ''Where'' and inserting the following:

''(A) IN GENERAL.—Where'',

(2) by moving the text 2 ems to the right, and

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

''(B) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—The Secretary shall notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues, on each occasion when the taxpayer is requested to provide such consent.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to requests to extend the period of limitations made after the date of the enactment of this Act.

SEC. 346. OFFERS-IN-COMPROMISE.

(a) ALLOWANCES FOR BASIC LIVING EXPENSES.—Section 7122 (relating to offers-in-compromise) is amended by adding at the end the following new subsection:

''(c) ALLOWANCES FOR BASIC LIVING EXPENSES.—The Secretary shall develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.''.

(b) PREPARATION OF STATEMENT RELATING TO OFFERS-IN-COMPROMISE.—The Secretary of the Treasury shall prepare a statement which sets forth in simple, nontechnical terms the rights of a taxpayer and the obligations of the Internal Revenue Service relating to offers-in-compromise. Such statement shall—

(1) advise taxpayers who have entered into a compromise agreement of the advantages of promptly notifying the Internal Revenue Service of any change of address or marital status, and

(2) provide notice to taxpayers that in the case of a compromise agreement terminated due to the actions of 1 spouse or former spouse, the Internal Revenue Service will, upon application, reinstate such agreement with the spouse or former spouse who remains in compliance with such agreement.

SEC. 347. NOTICE OF DEFICIENCY TO SPECIFY DEADLINES FOR FILING TAX COURT PETITION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall include on each notice of deficiency under section 6212 of the Internal Revenue Code of 1986 the date determined by such Secretary (or delegate) as the last day on which the taxpayer may file a petition with the Tax Court.

(b) LATER FILING DEADLINES SPECIFIED ON NOTICE OF DEFICIENCY TO BE BINDING.—Subsection (a) of section 6213 (relating to restrictions applicable to deficiencies; petition to

Tax Court) is amended by adding at the end the following new sentence: ''Any petition filed with the Tax Court on or before the last date specified for filing such petition by the Secretary in the notice of deficiency shall be treated as timely filed.''.

(c) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (b) shall apply to notices mailed after December 31, 1998.

SEC. 348. REFUND OR CREDIT OF OVERPAYMENTS BEFORE FINAL DETERMINATION.

(a) TAX COURT PROCEEDINGS.—Subsection (a) of section 6213 is amended—

(1) by striking '', including the Tax Court.'' and inserting '', including the Tax Court, and a refund may be ordered by such court of any amount collected within the period during which the Secretary is prohibited from collecting by levy or through a proceeding in court under the provisions of this subsection.'', and

(2) by striking ''to enjoin any action or proceeding'' and inserting ''to enjoin any action or proceeding or order any refund''.

(b) OTHER PROCEEDINGS.—Subsection (a) of section 6512 is amended by striking the period at the end of paragraph (4) and inserting '', and'', and by inserting after paragraph (4) the following new paragraphs:

''(5) As to any amount collected within the period during which the Secretary is prohibited from making the assessment or from collecting by levy or through a proceeding in court under the provisions of section 6213(a), and

''(6) As to overpayments the Secretary is authorized to refund or credit pending appeal as provided in subsection (b).''.

(c) REFUND OR CREDIT PENDING APPEAL.—Paragraph (1) of section 6512(b) is amended by adding at the end the following new sentence: ''If a notice of appeal in respect of the decision of the Tax Court is filed under section 7483, the Secretary is authorized to refund or credit the overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal.''.

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

SEC. 349. THREAT OF AUDIT PROHIBITED TO COERCE TIP REPORTING ALTERNATIVE COMMITMENT AGREEMENTS.

The Secretary of the Treasury or the Secretary's delegate shall instruct employees of the Internal Revenue Service that they may not threaten to audit any taxpayer in an attempt to coerce the taxpayer into entering into a Tip Reporting Alternative Commitment Agreement.

Subtitle F—Disclosures to Taxpayers

SEC. 351. EXPLANATION OF JOINT AND SEVERAL LIABILITY.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish procedures to clearly alert married taxpayers of their joint and several liabilities on all appropriate publications and instructions.

SEC. 352. EXPLANATION OF TAXPAYERS' RIGHTS IN INTERVIEWS WITH THE INTERNAL REVENUE SERVICE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) to more clearly inform taxpayers of their rights—

(1) to be represented at interviews with the Internal Revenue Service by any person authorized to practice before the Internal Revenue Service, and

(2) to suspend an interview pursuant to section 7521(b)(2) of the Internal Revenue Code of 1986.

SEC. 353. DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any information the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including whether taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

SEC. 354. EXPLANATIONS OF APPEALS AND COLLECTION PROCESS.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, include with any 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals an explanation of the appeals process and the collection process with respect to such proposed deficiency.

Subtitle G—Low Income Taxpayer Clinics

SEC. 361. LOW INCOME TAXPAYER CLINICS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7525. LOW INCOME TAXPAYER CLINICS.

''(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics.

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

''(1) QUALIFIED LOW INCOME TAXPAYER CLINIC.—

''(A) IN GENERAL.—The term 'qualified low income taxpayer clinic' means a clinic that—

''(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

''(ii)(I) represents low income taxpayers in controversies with the Internal Revenue Service, or

''(II) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title.

''(B) REPRESENTATION OF LOW INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(ii)(I) if—

''(i) at least 90 percent of the taxpayers represented by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, and

''(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

''(2) CLINIC.—The term 'clinic' includes—

''(A) a clinical program at an accredited law school in which students represent low income taxpayers in controversies arising under this title, and

''(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

''(3) QUALIFIED REPRESENTATIVE.—The term 'qualified representative' means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service or the applicable court.

''(c) SPECIAL RULES AND LIMITATIONS.—

''(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $3,000,000 per year (exclusive of costs of administering the program) to grants under this section.

''(2) LIMITATION ON ANNUAL GRANTS TO A CLINIC.—The aggregate amount of grants which may be made under this section to a clinic for a year shall not exceed $100,000.

''(3) MULTI-YEAR GRANTS.—Upon application of a qualified low income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

''(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary shall consider—

''(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

''(B) the existence of other low income taxpayer clinics serving the same population,

''(C) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing service to low income taxpayers, and

''(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic.

''(5) REQUIREMENT OF MATCHING FUNDS.—A low income taxpayer clinic must provide matching funds on a dollar for dollar basis for all grants provided under this section. Matching funds may include—

''(A) the salary (including fringe benefits) of individuals performing services for the clinic, and

''(B) the cost of equipment used in the clinic.

Indirect expenses, including general overhead of the institution sponsoring the clinic, shall not be counted as matching funds.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new section:

''Sec. 7525. Low income taxpayer clinics.''.

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

Subtitle H—Other Matters

SEC. 371. ACTIONS FOR REFUND WITH RESPECT TO CERTAIN ESTATES WHICH HAVE ELECTED THE INSTALLMENT METHOD OF PAYMENT.

(a) IN GENERAL.—Section 7422 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) SPECIAL RULE FOR ACTIONS WITH RESPECT TO ESTATES FOR WHICH AN ELECTION UNDER SECTION 6166 IS MADE.—

''(1) IN GENERAL.—The district courts of the United States and the United States Court of Federal Claims shall have jurisdiction over any action brought by the representative of

an estate to which this subsection applies to determine the correct amount of the estate tax liability of such estate (or for any refund with respect thereto) even if the full amount of such liability has not been paid.

''(2) ESTATES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any estate if, as of the date the action is filed—

''(A) an election under section 6166 is in effect with respect to such estate,

''(B) no portion of the installments payable under such section have been accelerated, and

''(C) all installments the due date for which is on or before the date the action is filed have been paid.

''(3) PROHIBITION ON COLLECTION OF DISALLOWED LIABILITY.—If the court redetermines under paragraph (1) the estate tax liability of an estate, no part of such liability which is disallowed by a decision of such court which has become final may be collected by the Secretary, and amounts paid in excess of the installments determined by the court as currently due and payable shall be refunded.''.

(b) EXTENSION OF TIME TO FILE REFUND SUIT.—Section 7479 (relating to declaratory judgments relating to eligibility of estate with respect to installment payments under section 6166) is amended by adding at the end the following new subsection:

''(c) EXTENSION OF TIME TO FILE REFUND SUIT.—The 2-year period in section 6532(a)(1) for filing suit for refund after disallowance of a claim shall be suspended during the 90-day period after the mailing of the notice referred to in subsection (b)(3) and, if a pleading has been filed with the Tax Court under this section, until the decision of the Tax Court has become final.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any claim for refund filed after the date of the enactment of this Act.

SEC. 372. CATALOGING COMPLAINTS.

In collecting data for the report required under section 1211 of Taxpayer Bill of Rights 2 (Public Law 104–168), the Secretary of the Treasury or the Secretary's delegate shall maintain records of taxpayer complaints of misconduct by Internal Revenue Service employees on an individual employee basis.

SEC. 373. ARCHIVE OF RECORDS OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

''(17) DISCLOSURE TO NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention. No such officer or employee shall, except to the extent authorized by subsections (f), (i)(7), or (p), disclose any return or return information disclosed under the preceding sentence to any person other than to the Secretary, or to another officer or employee of the National Archives and Records Administration whose official duties require such disclosure for purposes of such appraisal.''.

(b) CONFORMING AMENDMENTS.—Section 6103(p) is amended—

(1) in paragraph (3)(A), by striking ''or (16)'' and inserting ''(16), or (17)'',

(2) in paragraph (4), by striking ''or (14)'' and inserting '', (14), or (17)'' in the matter preceding subparagraph (A), and

(3) in paragraph (4)(F)(ii), by striking ''or (15)'' and inserting '', (15), or (17)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made by the Archivist of the United States after the date of the enactment of this Act.

SEC. 374. PAYMENT OF TAXES.

The Secretary of the Treasury or the Secretary's delegate shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order made payable to the United States Treasury.

SEC. 375. CLARIFICATION OF AUTHORITY OF SECRETARY RELATING TO THE MAKING OF ELECTIONS.

Subsection (d) of section 7805 is amended by striking ''by regulations or forms''.

SEC. 376. LIMITATION ON PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.

(a) IN GENERAL.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

''(h) LIMITATION ON PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.—No addition to the tax shall be imposed under paragraph (2) or (3) of subsection (a) with respect to the tax liability of an individual for any month during which an installment agreement under section 6159 is in effect for the payment of such tax to the extent that imposing an addition to the tax under such paragraph for such month would result in the aggregate number of percentage points of such addition to the tax exceeding 9.5.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for purposes of determining additions to the tax for months beginning after the date of the enactment of this Act.

Subtitle I—Studies

SEC. 381. PENALTY ADMINISTRATION.

The Joint Committee on Taxation shall conduct a study—

(1) reviewing the administration and implementation by the Internal Revenue Service of the penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989, and

(2) making any legislative and administrative recommendations it deems appropriate to simplify penalty administration and reduce taxpayer burden.

Such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 9 months after the date of enactment of this Act.

SEC. 382. CONFIDENTIALITY OF TAX RETURN INFORMATION.

The Joint Committee on Taxation shall conduct a study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as it deems appropriate, to the Congress not later than one year after the date of the enactment of this Act. Such study shall examine the present protections for taxpayer privacy, the need for third parties to use tax return information, and the ability to achieve greater levels of voluntary compliance by allowing the public to know who is legally required to file tax returns, but does not file tax returns.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

Subtitle A—Oversight

SEC. 401. EXPANSION OF DUTIES OF THE JOINT COMMITTEE ON TAXATION.

(a) IN GENERAL.—Section 8021 (relating to the powers of the Joint Committee on Taxation) is amended by adding at the end the following new subsections:

''(e) INVESTIGATIONS.—The Joint Committee shall review all requests (other than requests by the chairman or ranking member of a Committee or Subcommittee) for investigations of the Internal Revenue Service by the General Accounting Office, and approve such requests when appropriate, with a view towards eliminating overlapping investigations, ensuring that the General Accounting Office has the capacity to handle the investigation, and ensuring that investigations focus on areas of primary importance to tax administration.

''(f) RELATING TO JOINT HEARINGS.—

''(1) IN GENERAL.—The Chief of Staff, and such other staff as are appointed pursuant to section 8004, shall provide such assistance as is required for joint hearings described in paragraph (2).

''(2) JOINT HEARINGS.—On or before April 1 of each calendar year after 1997, there shall be a joint hearing of two members of the majority and one member of the minority from each of the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, to review the strategic plans and budget for the Internal Revenue Service. After the conclusion of the annual filing season, there shall be a second annual joint hearing to review the other matters outlined in section 8022(3)(C).''.

(b) EFFECTIVE DATES.—

(1) Subsection (e) of section 8021 of the Internal Revenue Code of 1986, as added by subsection (a) of this section, shall apply to requests made after the date of enactment of this Act.

(2) Subsection (f) of section 8021 of the Internal Revenue Code of 1986, as added by subsection (a) of this section, shall take effect on the date of the enactment of this Act.

SEC. 402. COORDINATED OVERSIGHT REPORTS.

(a) IN GENERAL.—Paragraph (3) of section 8022 (relating to the duties of the Joint Committee on Taxation) is amended to read as follows:

''(3) REPORTS.—

''(A) To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and, in its discretion, to the Senate or House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

''(B) To report, annually, to the Committee on Finance and the Committee on Ways and Means on the overall state of the Federal tax system, together with recommendations with respect to possible simplification proposals and other matters relating to the administration of the Federal tax system as it may deem advisable.

''(C) To report, annually, to the Committees on Finance, Appropriations, and Government Affairs of the Senate, and to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, with respect to—

''(i) strategic and business plans for the Internal Revenue Service;

''(ii) progress of the Internal Revenue Service in meeting its objectives;

''(iii) the budget for the Internal Revenue Service and whether it supports its objectives;

''(iv) progress of the Internal Revenue Service in improving taxpayer service and compliance;

''(v) progress of the Internal Revenue Service on technology modernization; and

''(vi) the annual filing season.''.

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

Subtitle B—Budget

SEC. 411. FUNDING FOR CENTURY DATE CHANGE.

It is the sense of Congress that the Internal Revenue Service efforts to resolve the century date change computing problems should be funded fully to provide for certain resolution of such problems.

SEC. 412. FINANCIAL MANAGEMENT ADVISORY GROUP.

The Commissioner shall convene a financial management advisory group consisting of individuals with expertise in governmental accounting and auditing from both the private sector and the Government to advise the Commissioner on financial management issues, including—

(1) the continued partnership between the Internal Revenue Service and the General Accounting Office;

(2) the financial accounting aspects of the Internal Revenue Service's system modernization;

(3) the necessity and utility of year-round auditing; and

(4) the Commissioner's plans for improving its financial management system.

Subtitle C—Tax Law Complexity

SEC. 421. ROLE OF THE INTERNAL REVENUE SERVICE.

It is the sense of Congress that the Internal Revenue Service should provide the Congress with an independent view of tax administration, and that during the legislative process, the tax writing committees of the Congress should hear from front-line technical experts at the Internal Revenue Service with respect to the administrability of pending amendments to the Internal Revenue Code of 1986.

SEC. 422. TAX COMPLEXITY ANALYSIS.

(a) REQUIRING ANALYSIS TO ACCOMPANY CERTAIN LEGISLATION.—

(1) IN GENERAL.—Chapter 92 (relating to powers and duties of the Joint Committee on Taxation) is amended by adding at the end the following new section:

"SEC. 8024. TAX COMPLEXITY ANALYSIS.

''(a) IN GENERAL.—If—

''(1) a bill or joint resolution is reported by the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, or any committee of conference, and

''(2) such legislation includes any provision amending the Internal Revenue Code of 1986, the report for such legislation shall contain a Tax Complexity Analysis unless the committee involved causes to have the Tax Complexity Analysis printed in the Congressional Record prior to the consideration of the legislation in the House of Representatives or the Senate (as the case may be).

''(b) LEGISLATION SUBJECT TO POINT OF ORDER.—It shall not be in order in the Senate to consider any bill or joint resolution described in subsection (a) required to be accompanied by a Tax Complexity Analysis that does not contain a Tax Complexity Analysis.

''(c) RESPONSIBILITIES OF THE COMMISSIONER.—The Commissioner shall provide the Joint Committee on Taxation with such information as is necessary to prepare Tax Complexity Analyses.

''(d) TAX COMPLEXITY ANALYSIS DEFINED.—For purposes of this section, the term 'Tax Complexity Analysis' means, with respect to a bill or joint resolution, a report which is prepared by the Joint Committee on Taxation and which identifies the provisions of the legislation adding significant complexity or providing significant simplification (as determined by the Joint Committee) and includes the basis for such determination.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 92 is amended by adding at the end the following new item:

''Sec. 8024. Tax complexity analysis.''.

(b) LEGISLATION SUBJECT TO POINT OF ORDER IN HOUSE OF REPRESENTATIVES.—

(1) LEGISLATION REPORTED BY COMMITTEE ON WAYS AND MEANS.—Clause 2(l) of rule XI of the Rules of the House of Representatives is amended by adding at the end the following new subparagraph:

''(8) The report of the Committee on Ways and Means on any bill or joint resolution containing any provision amending the Internal Revenue Code of 1986 shall include a Tax Complexity Analysis prepared by the Joint Committee on Taxation in accordance with section 8024 of the Internal Revenue Code of 1986 unless the Committee on Ways and Means causes to have such Analysis printed in the Congressional Record prior to the consideration of the bill or joint resolution.''.

(2) CONFERENCE REPORTS.—Rule XXVIII of the Rules of the House of Representatives is amended by adding at the end the following new clause:

''7. It shall not be in order to consider the report of a committee of conference which contains any provision amending the Internal Revenue Code of 1986 unless—

''(a) the accompanying joint explanatory statement contains a Tax Complexity Analysis prepared by the Joint Committee on Taxation in accordance with section 8024 of the Internal Revenue Code of 1986, or

''(b) such Analysis is printed in the Congressional Record prior to the consideration of the report.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to legislation considered on or after January 1, 1998.

TITLE V—CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION

SEC. 501. CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION.

(a) IN GENERAL.—Subsection (a) of section 404 is amended by adding at the end the following new paragraph:

''(11) DETERMINATIONS RELATING TO DEFERRED COMPENSATION.—

''(A) IN GENERAL.—For purposes of determining under this section—

''(i) whether compensation of an employee is deferred compensation, and

''(ii) when deferred compensation is paid,

no amount shall be treated as received by the employee, or paid, until it is actually received by the employee.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to severance pay.''.

(b) SICK LEAVE PAY TREATED LIKE VACATION PAY.—Paragraph (5) of section 404(a) is amended by inserting ''or sick leave pay'' after ''vacation pay''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after October 8, 1997.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year ending after October 8, 1997—

(A) such change shall be treated as initiated by the taxpayer,

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

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

TITLE VI—TAX TECHNICAL CORRECTIONS ACT OF 1997

SEC. 601. SHORT TITLE.

This title may be cited as the ''Tax Technical Corrections Act of 1997''.

SEC. 602. DEFINITIONS.

For purposes of this title—

(1) 1986 CODE.—The term ''1986 Code'' means the Internal Revenue Code of 1986.

(2) 1997 ACT.—The term ''1997 Act'' means the Taxpayer Relief Act of 1997.

SEC. 603. AMENDMENTS RELATED TO TITLE I OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 101(a) OF 1997 ACT.—

(1) Subsection (d) of section 24 of the 1986 Code is amended—

(A) by striking paragraphs (3) and (4),

(B) by redesignating paragraph (5) as paragraph (3), and

(C) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

''(1) IN GENERAL.—In the case of a taxpayer with 3 or more qualifying children for any taxable year, the aggregate credits allowed under subpart C shall be increased by the lesser of—

''(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a), or

''(B) the amount by which the aggregate amount of credits allowed by this subpart (without regard to this subsection) would increase if the limitation imposed by section 26(a) were increased by the excess (if any) of—

''(i) the taxpayer's social security taxes for the taxable year, over

''(ii) the credit allowed under section 32 (determined without regard to subsection (n)) for the taxable year.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a).

''(2) REDUCTION OF CREDIT TO TAXPAYER SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit determined under this subsection for the taxable year shall be reduced by the excess (if any) of—

''(A) the amount of tax imposed by section 55 (relating to alternative minimum tax) with respect to such taxpayer for such taxable year, over

''(B) the amount of the reduction under section 32(h) with respect to such taxpayer for such taxable year.''.

(2) Paragraph (3) of section 24(d) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking ''paragraph (3)'' and inserting ''paragraph (1)''.

(b) AMENDMENTS RELATED TO SECTION 101(b) OF 1997 ACT.—

(1) The subsection (m) of section 32 of the 1986 Code added by section 101(b) of the 1997 Act is amended to read as follows:

''(n) SUPPLEMENTAL CHILD CREDIT.—

''(1) IN GENERAL.—In the case of a taxpayer with respect to whom a credit is allowed under section 24 for the taxable year, the credit otherwise allowable under this section shall be increased by the lesser of—

''(A) the credit which would be allowed under section 24 without regard to this subsection and the limitation under section 26(a), or

''(B) the amount by which the aggregate amount of credits allowed by subpart A (without regard to this subsection) would be reduced if the limitation imposed by section 26(a) were reduced by the excess (if any) of—

''(i) the credit allowed by this section (without regard to this subsection) for the taxable year, over

''(ii) the taxpayer's social security taxes (as defined in section 24(d)) for the taxable year.

The credit determined under this subsection shall be allowed without regard to any other provision of this section, including subsection (d).

''(2) COORDINATION WITH OTHER CREDITS.—

''(A) IN GENERAL.—The amount of the credit under this subsection shall reduce the amount of the credit otherwise allowable under section 24, but the amount of the credit under this subsection (and such reduction) shall not otherwise be taken into account in determining the amount of any other credit allowable under this part.

''(B) TREATMENT OF CREDIT UNDER SECTION 24(d).—For purposes of this subsection, the credit determined under section 24(d) shall be treated as not allowed under section 24.''.

SEC. 604. AMENDMENTS RELATED TO TITLE II OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 201 OF 1997 ACT.—

(1) The item relating to section 25A in the table of sections for subpart A of part IV of subchapter A of chapter 1 of the 1986 Code is amended to read as follows:

''Sec. 25A. Hope and Lifetime Learning credits.''.

(2) Subsection (a) of section 6050S of the 1986 Code is amended to read as follows:

''(a) IN GENERAL.—Any person—

''(1) which is an eligible educational institution—

''(A) which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year, or

''(B) which makes reimbursements or refunds (or similar amounts) to any individual of qualified tuition and related expenses,

''(2) which is engaged in a trade or business of making payments to any individual under an insurance arrangement as reimbursements or refunds (or similar amounts) of qualified tuition and related expenses, or

''(3) except as provided in regulations, any person which is engaged in a trade or business and, in the course of which, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.''.

(3) Subparagraph (A) of section 201(c)(2) of the 1997 Act is amended to read as follows:

''(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:

'''(x) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),'''.

(b) AMENDMENTS RELATED TO SECTION 211 OF 1997 ACT.—

(1) Paragraph (3) of section 135(c) of the 1986 Code is amended to read as follows:

''(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 529(e)(5).''.

(2) Subparagraph (A) of section 529(c)(3) of the 1986 Code is amended by striking ''section 72(b)'' and inserting ''section 72''.

(c) AMENDMENTS RELATED TO SECTION 213 OF 1997 ACT.—

(1)(A) Section 530(b)(1)(E) of the 1986 Code (defining education individual retirement account) is amended to read as follows:

''(E) Any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death to the estate of such beneficiary.''.

(B) Subsection (d) of section 530 of the 1986 Code is amended by adding at the end the following new paragraph:

''(8) DEEMED DISTRIBUTION ON REQUIRED DISTRIBUTION DATE.—In any case in which a distribution is required under subsection (b)(1)(E), any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period.''.

(2)(A) Paragraph (1) of section 530(d) of the 1986 Code is amended by striking ''section 72(b)'' and inserting ''section 72''.

(B) Subsection (e) of section 72 of the 1986 Code is amended by inserting after paragraph (8) the following new paragraph:

''(9) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED STATE TUITION PROGRAMS AND EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (2)(B) shall apply to amounts received under a qualified State tuition program (as defined in section 529(b)) or under an education individual retirement account (as defined in section 530(b)). The rule of paragraph (8)(B) shall apply for purposes of this paragraph.''.

(3) So much of section 530(d)(4)(C) of the 1986 Code as precedes clause (ii) thereof is amended to read as follows:

''(C) CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

''(i) such distribution is made on or before the day prescribed by law (including extensions of time) for filing the beneficiary's return of tax for the taxable year or, if the beneficiary is not required to file such a return, the 15th day of the 4th month of the taxable year following the taxable year, and''.

(4) Subparagraph (C) of section 135(c)(2) of the 1986 Code is amended—

(A) by inserting ''AND EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS'' in the heading after ''PROGRAM'', and

(B) by striking ''section 529(c)(3)(A)'' and inserting ''section 72''.

(5) Subparagraph (A) of section 4973(e)(1) of the 1986 Code is amended by inserting before the comma ''(or, if less, the sum of the maximum amounts permitted to be contributed under section 530(c) by the contributors to such accounts for such year)''.

(d) AMENDMENT RELATED TO SECTION 224 OF 1997 ACT.—Section 170(e)(6)(F) of the 1986 Code (relating to termination) is amended by striking ''1999'' and inserting ''2000''.

(e) AMENDMENTS RELATED TO SECTION 225 OF 1997 ACT.—

(1) The last sentence of section 108(f)(2) of the 1986 Code is amended to read as follows: ''The term 'student loan' includes any loan made by an educational organization described in section 170(b)(1)(A)(ii) or by an organization exempt from tax under section 501(a) to refinance a loan to an individual to assist the individual in attending any such educational organization but only if the refinancing loan is pursuant to a program of the refinancing organization which is designed as described in subparagraph (D)(ii).''.

(2) Section 108(f)(3) of the 1986 Code is amended by striking ''(or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D))''.

(f) AMENDMENTS RELATED TO SECTION 226 OF 1997 ACT.—

(1) Section 226(a) of the 1997 Act is amended by striking ''section 1397E'' and inserting ''section 1397D''.

(2) Section 1397E(d)(4)(B) of the 1986 Code is amended by striking ''local education agency as defined'' and inserting ''local educational agency as defined''.

SEC. 605. AMENDMENTS RELATED TO TITLE III OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 301 OF 1997 ACT.—Section 219(g) of the 1986 Code is amended—

(1) by inserting ''or the individual's spouse'' after ''individual'' in paragraph (1), and

(2) by striking paragraph (7) and inserting:

''(7) SPECIAL RULE FOR SPOUSES WHO ARE NOT ACTIVE PARTICIPANTS.—If this subsection applies to an individual for any taxable year solely because their spouse is an active participant, then, in applying this subsection to the individual (but not their spouse)—

''(A) the applicable dollar amount under paragraph (3)(B)(i) shall be $150,000, and

''(B) the amount applicable under paragraph (2)(A)(ii) shall be $10,000.''.

(b) AMENDMENTS RELATED TO SECTION 302 OF 1997 ACT.—

(1) Section 408A(c)(3)(A) of the 1986 Code is amended by striking ''shall be reduced'' and inserting ''shall not exceed an amount equal to the amount determined under paragraph (2)(A) for such taxable year, reduced''.

(2) Section 408A(c)(3) of the 1986 Code (relating to limits based on modified adjusted gross income) is amended—

(A) by inserting ''or a married individual filing a separate return'' after ''joint return'' in subparagraph (A)(ii), and

(B) by striking ''and the deduction under section 219 shall be taken into account'' in subparagraph (C)(i).

(3) Section 408A(d)(2) of the 1986 Code (defining qualified distribution) is amended by striking subparagraph (B) and inserting the following:

''(B) DISTRIBUTIONS WITHIN NONEXCLUSION PERIOD.—A payment or distribution from a Roth IRA shall not be treated as a qualified distribution under subparagraph (A) if such payment or distribution is made before the exclusion date for the Roth IRA.

''(C) EXCLUSION DATE.—For purposes of this section, the exclusion date for any Roth IRA is the first day of the taxable year immediately following the 5-taxable year period beginning with—

''(i) the first taxable year for which a contribution to any Roth IRA maintained for the benefit of the individual was made, or

''(ii) in the case of a Roth IRA to which 1 or more qualified rollover contributions were made—

''(I) from an individual retirement plan other than a Roth IRA, or

''(II) from another Roth IRA to the extent such contributions are properly allocable to contributions described in subclause (I),

the most recent taxable year for which any such qualified rollover contribution was made.''.

(4) Section 408A(d)(3) of the 1986 Code (relating to rollovers from IRAs other than Roth IRAs) is amended by adding at the end the following:

''(F) SPECIAL RULE FOR APPLYING SECTION 72.—

''(i) IN GENERAL.—If—

''(I) any distribution from a Roth IRA is made before the exclusion date, and

''(II) any portion of such distribution is properly allocable to a qualified rollover contribution described in paragraph (2)(C)(ii),

then section 72(t) shall be applied as if such portion were includible in gross income.

''(ii) LIMITATION.—Clause (i) shall apply only to the extent of the amount includible in gross income under subparagraph (A)(i) by reason of the qualified rollover contribution.

''(G) SPECIAL RULES FOR CONTRIBUTIONS TO WHICH 4-YEAR AVERAGING APPLIES.—In the case of a qualified rollover contribution to a

Roth IRA of a distribution to which subparagraph (A)(iii) applied, the following rules shall apply:

''(i) DEATH OF DISTRIBUTEE.—

''(I) IN GENERAL.—If the individual required to include amounts in gross income under such subparagraph dies before all of such amounts are included, all remaining amounts shall be included in gross income for the taxable year which includes the date of death.

''(II) SPECIAL RULE FOR SURVIVING SPOUSE.—If the spouse of the individual described in subclause (I) acquires the Roth IRA to which such qualified rollover contribution is properly allocable, the spouse may elect to include the remaining amounts described in subclause (I) in the spouse's gross income in the taxable years of the spouse ending with or within the taxable years of such individual in which such amounts would otherwise have been includible.

''(ii) ADDITIONAL TAX FOR EARLY DISTRIBUTION.—

''(I) IN GENERAL.—If any distribution from a Roth IRA is made before the exclusion date, and any portion of such distribution is properly allocable to such qualified rollover contribution, the distributee's tax under this chapter for the taxable year in which the amount is received shall be increased by 10 percent of the amount of such portion not in excess of the amount includible in gross income under subparagraph (A)(i) by reason of such qualified rollover contribution.

''(II) TREATMENT OF TAX.—For purposes of this title, any tax imposed by subclause (I) shall be treated as a tax imposed by section 72(t) and shall be in addition to any other tax imposed by such section.''.

(5)(A) Section 408A(d)(4) of the 1986 Code is amended to read as follows:

''(4) AGGREGATION AND ORDERING RULES.—

''(A) AGGREGATION RULES.—Section 408(d)(2) shall be applied separately with respect to—

''(i) Roth IRAs and other individual retirement plans,

''(ii) Roth IRAs described in paragraph (2)(C)(ii) and Roth IRAs not so described, and

''(iii) Roth IRAs described in paragraph (2)(C)(ii) with different exclusion dates.

''(B) ORDERING RULES.—For purposes of applying section 72 to any distribution from a Roth IRA which is not a qualified distribution, such distribution shall be treated as made—

''(i) from contributions to the extent that the amount of such distribution, when added to all previous distributions from the Roth IRA, does not exceed the aggregate contributions to the Roth IRA, and

''(ii) from such contributions in the following order:

''(I) Qualified rollover contributions to the extent includible in gross income in the manner described in paragraph (3)(A)(iii).

''(II) Qualified rollover contributions not described in subclause (I) to the extent includible in gross income under paragraph (3)(A).

''(III) Contributions not described in subclause (I) or (II).

Such rules shall also apply in determining the character of qualified rollover contributions from one Roth IRA to another Roth IRA.''.

(B) Section 408A(d)(1) of the 1986 Code is amended to read as follows:

''(1) EXCLUSION.—Any qualified distribution from a Roth IRA shall not be includible in gross income.''.

(6)(A) Section 408A(d) of the 1986 Code (relating to distribution rules) is amended by adding at the end the following:

''(6) TAXPAYER MAY MAKE ADJUSTMENTS BEFORE DUE DATE.—

''(A) IN GENERAL.—Except as provided by the Secretary, if, on or before the due date for any taxable year, a taxpayer transfers in a trustee-to-trustee transfer any contribution to an individual retirement plan made during such taxable year from such plan to any other individual retirement plan, then, for purposes of this chapter, such contribution shall be treated as having been made to the transferee plan (and not the transferor plan).

''(B) SPECIAL RULES.—

''(i) TRANSFER OF EARNINGS.—Subparagraph (A) shall not apply to the transfer of any contribution unless such transfer is accompanied by any net income allocable to such contribution.

''(ii) NO DEDUCTION.—Subparagraph (A) shall apply to the transfer of any contribution only to the extent no deduction was allowed with respect to the contribution to the transferor plan.

''(C) DUE DATE.—For purposes of this paragraph, the due date for any taxable year is the last date for filing the return of tax for such taxable year (including extensions).''.

(B) Section 408A(d)(3) of the 1986 Code, as amended by this subsection, is amended by striking subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(7) Section 302(b) of the 1997 Act is amended by striking ''Section 4973(b)'' and inserting ''Section 4973''.

(8) Section 408A of the 1986 Code is amended by adding at the end the following new subsection:

''(f) INDIVIDUAL RETIREMENT PLAN.—For purposes of this section, except as provided by the Secretary, the term 'individual retirement plan' shall not include a simplified employee pension or a simple retirement account.''.

(c) AMENDMENTS RELATED TO SECTION 303 OF 1997 ACT.—

(1) Section 72(t)(8)(E) of the 1986 Code is amended—

(A) by striking ''120 days'' and inserting ''120th day'', and

(B) by striking ''60 days'' and inserting ''60th day''.

(2)(A) Section 402(c) of the 1986 Code is amended by adding at the end the following:

''(11) DENIAL OF ROLLOVER TREATMENT FOR TRANSFERS OF HARDSHIP DISTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.—This subsection shall not apply to the transfer of any hardship distribution described in section 401(k)(2)(B)(i)(IV) from a qualified cash or deferred arrangement to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B).''.

(B) The amendment made by this paragraph shall apply to distributions made after December 31, 1997.

(d) AMENDMENTS RELATED TO SECTION 311 OF 1997 ACT.—

(1) Subsection (h) of section 1 of the 1986 Code (relating to maximum capital gains rate) is amended to read as follows:

''(h) MAXIMUM CAPITAL GAINS RATE.—

''(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

''(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

''(i) taxable income reduced by the net capital gain, or

''(ii) the lesser of—

''(I) the amount of taxable income taxed at a rate below 28 percent, or

''(II) taxable income reduced by the adjusted net capital gain,

''(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—

''(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 28 percent, over

''(ii) the taxable income reduced by the adjusted net capital gain,

''(C) 20 percent of the adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (B),

''(D) 25 percent of the excess (if any) of—

''(i) the unrecaptured section 1250 gain (or, if less, the net capital gain), over

''(ii) the excess (if any) of—

''(I) the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain, over

''(II) taxable income, and

''(E) 28 percent of the amount of taxable income in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

''(2) REDUCED CAPITAL GAIN RATES FOR QUALIFIED 5-YEAR GAIN.—

''(A) REDUCTION IN 10-PERCENT RATE.—In the case of any taxable year beginning after December 31, 2000, the rate under paragraph (1)(B) shall be 8 percent with respect to so much of the amount to which the 10-percent rate would otherwise apply as does not exceed qualified 5-year gain, and 10 percent with respect to the remainder of such amount.

''(B) REDUCTION IN 20-PERCENT RATE.—The rate under paragraph (1)(C) shall be 18 percent with respect to so much of the amount to which the 20-percent rate would otherwise apply as does not exceed the lesser of—

''(i) the excess of qualified 5-year gain over the amount of such gain taken into account under subparagraph (A) of this paragraph, or

''(ii) the amount of qualified 5-year gain (determined by taking into account only property the holding period for which begins after December 31, 2000),

and 20 percent with respect to the remainder of such amount. For purposes of determining under the preceding sentence whether the holding period of property begins after December 31, 2000, the holding period of property acquired pursuant to the exercise of an option (or other right or obligation to acquire property) shall include the period such option (or other right or obligation) was held.

''(3) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

''(4) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection, the term 'adjusted net capital gain' means net capital gain reduced (but not below zero) by the sum of—

''(A) unrecaptured section 1250 gain, and

''(B) 28 percent rate gain.

''(5) 28 PERCENT RATE GAIN.—For purposes of this subsection—

''(A) IN GENERAL.—The term '28 percent rate gain' means the excess (if any) of—

''(i) the sum of—

''(I) the aggregate long-term capital gain from property held for more than 1 year but not more than 18 months,

''(II) collectibles gain, and

''(III) section 1202 gain, over

''(ii) the sum of—

''(I) the aggregate long-term capital loss (not described in subclause (IV)) from property referred to in clause (i)(I),

''(II) collectibles loss,

''(III) the net short-term capital loss, and

''(IV) the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year.

''(B) SPECIAL RULES.—

''(i) SHORT SALES AND OPTIONS.—Rules similar to the rules of subsections (b) and (d) of section 1233 shall apply to substantially identical property, and section 1092(f) with respect to stock, held for more than 1 year but not more than 18 months.

''(ii) SECTION 1256 CONTRACTS.—Amounts treated as long-term capital gain or loss under section 1256(a)(3) shall be treated as attributable to property held for more than 18 months.

''(6) COLLECTIBLES GAIN AND LOSS.—For purposes of this subsection—

''(A) IN GENERAL.—The terms 'collectibles gain' and 'collectibles loss' mean gain or loss (respectively) from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 18 months but only to the extent such gain is taken into account in computing gross income and such loss is taken into account in computing taxable income.

''(B) PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

''(7) UNRECAPTURED SECTION 1250 GAIN.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'unrecaptured section 1250 gain' means the excess (if any) of—

''(i) the amount of long-term capital gain (not otherwise treated as ordinary income) which would be treated as ordinary income if—

''(I) section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, and

''(II) only gain from property held for more than 18 months were taken into account, over

''(ii) the excess (if any) of—

''(I) the amount described in paragraph (5)(A)(ii), over

''(II) the amount described in paragraph (5)(A)(i).

''(B) LIMITATION WITH RESPECT TO SECTION 1231 PROPERTY.—The amount described in subparagraph (A)(i) from sales, exchanges, and conversions described in section 1231(a)(3)(A) for any taxable year shall not exceed the net section 1231 gain (as defined in section 1231(c)(3)) for such year.

''(8) SECTION 1202 GAIN.—For purposes of this subsection, the term 'section 1202 gain' means an amount equal to the gain excluded from gross income under section 1202(a).

''(9) QUALIFIED 5-YEAR GAIN.—For purposes of this subsection, the term 'qualified 5-year gain' means the amount of long-term capital gain which would be computed for the taxable year if only gains from the sale or exchange of property held by the taxpayer for more than 5 years were taken into account. The determination under the preceding sentence shall be made without regard to collectibles gain, gain described in paragraph (7)(A)(i), and section 1202 gain.

''(10) COORDINATION WITH RECAPTURE OF NET ORDINARY LOSSES UNDER SECTION 1231.—If any amount is treated as ordinary income under section 1231(c), such amount shall be allocated among the separate categories of net section 1231 gain (as defined in section 1231(c)(3)) in such manner as the Secretary may by forms or regulations prescribe.

''(11) REGULATIONS.—The Secretary may prescribe such regulations as are appropriate (including regulations requiring reporting) to apply this subsection in the case of sales and exchanges by pass-thru entities and of interests in such entities.

''(12) PASS-THRU ENTITY DEFINED.—For purposes of this subsection, the term 'pass-thru entity' means—

''(A) a regulated investment company,

''(B) a real estate investment trust,

''(C) an S corporation,

''(D) a partnership,

''(E) an estate or trust,

''(F) a common trust fund,

''(G) a foreign investment company which is described in section 1246(b)(1) and for which an election is in effect under section 1247, and

''(H) a qualified electing fund (as defined in section 1295).

''(13) SPECIAL RULES FOR PERIODS DURING 1997.—

''(A) DETERMINATION OF 28 PERCENT RATE GAIN.—In applying paragraph (5)—

''(i) the amount determined under subclause (I) of paragraph (5)(A)(i) shall include long-term capital gain (not otherwise described in paragraph (5)(A)(i)) which is properly taken into account for the portion of the taxable year before May 7, 1997,

''(ii) the amounts determined under subclause (I) of paragraph (5)(A)(ii) shall include long-term capital loss (not otherwise described in paragraph (5)(A)(ii)) which is properly taken into account for the portion of the taxable year before May 7, 1997, and

''(iii) clauses (i)(I) and (ii)(I) of paragraph (5)(A) shall be applied by not taking into account any gain and loss on property held for more than 1 year but not more than 18 months which is properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

''(B) OTHER SPECIAL RULES.—

''(i) DETERMINATION OF UNRECAPTURED SECTION 1250 GAIN NOT TO INCLUDE PRE-MAY 7, 1997 GAIN.—The amount determined under paragraph (7)(A)(i) shall not include gain properly taken into account for the portion of the taxable year before May 7, 1997.

''(ii) OTHER TRANSITIONAL RULES FOR 18-MONTH HOLDING PERIOD.—Paragraphs (6)(A) and (7)(A)(i)(II) shall be applied by substituting '1 year' for '18 months' with respect to gain properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

''(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—In applying this paragraph with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.''.

(2) IN GENERAL.—Paragraph (3) of section 55(b) of the 1986 Code is amended to read as follows:

''(3) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN OF NONCORPORATE TAXPAYERS.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

''(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the lesser of—

''(i) the net capital gain, or

''(ii) the sum of—

''(I) the adjusted net capital gain, plus

''(II) the unrecaptured section 1250 gain, plus

''(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), plus

''(C) 20 percent of the adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (B), plus

''(D) 25 percent of the amount of taxable excess in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

In the case of taxable years beginning after December 31, 2000, rules similar to the rules of section 1(h)(2) shall apply for purposes of subparagraphs (B) and (C). Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h) but computed with the adjustments under this part.''.

(3) Section 57(a)(7) of the 1986 Code is amended by adding at the end the following new sentence: ''In the case of stock the holding period of which begins after December 31, 2000 (determined with the application of the last sentence of section 1(h)(2)(B)), the preceding sentence shall be applied by substituting '28 percent' for '42 percent'.''.

(4) Paragraphs (11) and (12) of section 1223, and section 1235(a), of the 1986 Code are each amended by striking ''1 year'' each place it appears and inserting ''18 months''.

(e) AMENDMENTS RELATED TO SECTION 312 OF 1997 ACT.—

(1) Section 121(c)(1) of the 1986 Code is amended to read as follows:

''(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a), and subsection (b)(3), shall not apply; but the dollar limitation under paragraph (1) or (2) of subsection (b), whichever is applicable, shall be equal to—

''(A) the amount which bears the same ratio to such limitation (determined without regard to this paragraph) as

''(B)(i) the shorter of—

''(I) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence, or

''(II) the period after the date of the most recent prior sale or exchange by the taxpayer to which subsection (a) applied and before the date of such sale or exchange, bears to

''(ii) 2 years.''.

(2) Section 312(d)(2) of the 1997 Act (relating to sales before date of enactment) is amended by inserting ''on or'' before ''before'' each place it appears in the text and heading.

(f) AMENDMENT RELATED TO SECTION 313 OF 1997 ACT.—Section 1045 of the 1986 Code is amended by adding at the end the following new subsection:

''(c) LIMITATION ON APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—Subsection (a) shall apply to a partnership or S corporation for a taxable year only if at all times during such taxable year all of the partners in the partnership, or all of the shareholders of the S corporation, are natural persons or estates.''.

SEC. 606. AMENDMENTS RELATED TO TITLE V OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 501 OF 1997 ACT.—

(1) Subsection (c) of section 2631 of the 1986 Code is amended by striking ''an individual who dies'' and inserting ''a generation-skipping transfer''.

(2) Subsection (f) of section 501 of the 1997 Act is amended by inserting ''(other than the amendment made by subsection (d))'' after ''this section''.

(b) AMENDMENTS RELATED TO SECTION 502 OF 1997 ACT.—

(1) Subsection (a) of section 2033A of the 1986 Code is amended to read as follows:

''(a) EXCLUSION.—

''(1) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

''(A) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

''(B) the exclusion limitation with respect to such estate.

''(2) EXCLUSION LIMITATION.—

''(A) IN GENERAL.—The exclusion limitation with respect to any estate is the amount of reduction in the tentative tax base with respect to such estate which would be required in order to reduce the tax imposed by section 2001(b) (determined without regard to this section) by an amount equal to the maximum credit equivalent benefit.

''(B) MAXIMUM CREDIT EQUIVALENT BENEFIT.—For purposes of subparagraph (A), the term 'maximum credit equivalent benefit' means the excess of—

''(i) the amount by which the tentative tax imposed by section 2001(b) (determined without regard to this section) would be reduced if the tentative tax base were reduced by $675,000, over

''(ii) the amount by which the applicable credit amount under section 2010(c) with respect to such estate exceeds such applicable credit amount in effect for 1998.

''(C) TENTATIVE TAX BASE.—For purposes of this paragraph, the term 'tentative tax base' means the amount with respect to which the tax imposed by section 2001(b) would be computed without regard to this section.''.

(2) Section 2033A(b)(3) of the 1986 Code is amended to read as follows:

''(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the sum of—

''(A) the amount of such gifts from the decedent to members of the decedent's family taken into account under section 2001(b)(1)(B), plus

''(B) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death.''.

(c) AMENDMENTS RELATED TO SECTION 503 OF THE 1997 ACT.—

(1) Clause (iii) of section 6166(b)(7)(A) of the 1986 Code is amended to read as follows:

''(iii) for purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.''.

(2) Clause (iii) of section 6166(b)(8)(A) of the 1986 Code is amended to read as follows:

''(iii) 2-PERCENT INTEREST RATE NOT TO APPLY.—For purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.''.

(d) AMENDMENT RELATED TO SECTION 505 OF THE 1997 ACT.—Paragraphs (1) and (2) of section 7479(a) of the 1986 Code are each amended by striking ''an estate,'' and inserting ''an estate (or with respect to any property included therein),''.

(e) AMENDMENTS RELATED TO SECTION 506 OF THE 1997 ACT.—

(1) Subsection (c) of section 2504 of the 1986 Code is amended by striking ''was assessed or paid'' and inserting ''was finally determined for purposes of this chapter''.

(2) Paragraph (1) of section 506(e) of the 1997 Act is amended by striking ''and (c)'' and inserting '', (c), and (d)''.

SEC. 607. AMENDMENTS RELATED TO TITLE VII OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1400 OF 1986 CODE.—Section 1400(b)(2)(B) of the 1986 Code is amended by inserting ''as determined on the basis of the 1990 census'' after ''percent''.

(b) AMENDMENTS RELATED TO SECTION 1400B OF 1986 CODE.—

(1) Section 1400B(d)(2) of the 1986 Code is amended by inserting ''as determined on the basis of the 1990 census'' after ''percent''.

(2) Section 1400B(b) of the 1986 Code is amended by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(c) AMENDMENTS RELATED TO SECTION 1400C OF 1986 CODE.—

(1) Paragraph (1) of section 1400C(c) of the 1986 Code is amended to read as follows:

''(1) IN GENERAL.—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 in the District of Columbia during the 1-year period ending on the date of the purchase of the principal residence to which this section applies.''.

(2) Subparagraph (B) of section 1400C(e)(2) of the 1986 Code is amended by inserting before the period ''on the date the taxpayer first occupies such residence''.

(3) Paragraph (3) of section 1400C(e) of the 1986 Code is amended by striking all that follows ''principal residence'' and inserting ''on the date such residence is purchased.''.

(4) Subsection (i) of section 1400C of the 1986 Code is amended to read as follows:

''(i) APPLICATION OF SECTION.—This section shall apply to property purchased after August 4, 1997, and before January 1, 2001.''.

(5) Subsection (c) of section 23 of the 1986 Code is amended by inserting ''and section 1400C'' after ''other than this section''.

(6) Subparagraph (C) of section 25(e)(1) of the 1986 Code is amended by striking ''section 23'' and inserting ''sections 23 and 1400C''.

SEC. 608. AMENDMENTS RELATED TO TITLE IX OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 901 OF 1997 ACT.—Section 9503(c)(7) of the 1986 Code is amended—

(1) by striking ''resulting from the amendments made by'' and inserting ''(and transfers to the Mass Transit Account) resulting from the amendments made by subsections (a) and (b) of section 901 of'', and

(2) by inserting before the period ''and deposits in the Highway Trust Fund (and transfers to the Mass Transit Account) shall be treated as made when they would have been required to be made without regard to section 901(e) of the Taxpayer Relief Act of 1997''.

(b) AMENDMENT RELATED TO SECTION 907 OF 1997 ACT.—Paragraph (2) of section 9503(e) of the 1986 Code is amended by striking the last sentence and inserting the following new sentence: ''For purposes of the preceding sentence, the term 'mass transit portion' means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and otherwise deposited into the Highway Trust Fund, the amount determined at the rate of—

''(A) except as otherwise provided in this sentence, 2.86 cents per gallon,

''(B) 1.77 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,

''(C) 1.86 cents per gallon in the case of liquefied natural gas,

''(D) 2.13 cents per gallon in the case of liquefied petroleum gas, and

''(E) 9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas.''.

(c) AMENDMENT RELATED TO SECTION 976 OF 1997 ACT.—Section 6103(d)(5) of the 1986 Code is amended by striking ''section 967 of the Taxpayer Relief Act of 1997.'' and inserting ''section 976 of the Taxpayer Relief Act of 1997. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.''.

SEC. 609. AMENDMENTS RELATED TO TITLE X OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 1001 OF 1997 ACT.—

(1) Paragraph (2) of section 1259(b) of the 1986 Code is amended—

(A) by striking ''debt'' each place it appears in clauses (i) and (ii) of subparagraph (A) and inserting ''position'',

(B) by striking ''and'' at the end of subparagraph (A), and

(C) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) any hedge with respect to a position described in subparagraph (A), and''.

(2) Section 1259(d)(1) of the 1986 Code is amended by inserting ''(including cash)'' after ''property''.

(3) Subparagraph (D) of section 475(f)(1) of the 1986 Code is amended by adding at the end the following new sentence: ''Subsection (d)(3) shall not apply under the preceding sentence for purposes of applying sections 1402 and 7704.''.

(4) Subparagraph (C) of section 1001(d)(3) of the 1997 Act is amended by striking ''within the 30-day period beginning on'' and inserting ''before the close of the 30th day after''.

(b) AMENDMENTS RELATED TO SECTION 1012 OF 1997 ACT.—

(1) Paragraph (1) of section 1012(d) of the 1997 Act is amended by striking ''1997, pursuant'' and inserting ''1997; except that the amendment made by subsection (a) shall apply to such distributions only if pursuant''.

(2) Subparagraph (A) of section 355(e)(3) of the 1986 Code is amended—

(A) by striking ''shall not be treated as described in'' and inserting ''shall not be taken into account in applying'', and

(B) by striking clause (iv) and inserting the following new clause:

''(iv) The acquisition of stock in the distributing corporation or any controlled corporation to the extent that the percentage of stock owned directly or indirectly in such corporation by each person owning stock in such corporation immediately before the acquisition does not decrease.''.

(c) AMENDMENTS RELATED TO SECTION 1014 OF 1997 ACT.—

(1) Paragraph (1) of section 351(g) of the 1986 Code is amended by adding ''and'' at the end of subparagraph (A) and by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

''(B) if (and only if) the transferor receives stock other than nonqualified preferred stock—

''(i) subsection (b) shall apply to such transferor, and

''(ii) such nonqualified preferred stock shall be treated as other property for purposes of applying subsection (b).''.

(2) Clause (ii) of section 354(a)(2)(C) of 1986 Code is amended by adding at the end the following new subclause:

''(III) EXTENSION OF STATUTE OF LIMITATIONS.—The statutory period for the assessment of any deficiency attributable to a corporation failing to be a family-owned corporation shall not expire before the expiration of 3 years after the date the Secretary is notified by the corporation (in such manner as the Secretary may prescribe) of such failure, and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.''.

(d) AMENDMENT RELATED TO SECTION 1024 OF 1997 ACT.—Section 6331(h)(1) of the 1986 Code is amended by striking ''The effect of a

levy'' and inserting ''If the Secretary approves a levy under this subsection, the effect of such levy''.

(e) AMENDMENTS RELATED TO SECTION 1031 OF 1997 ACT.—

(1) Subsection (l) of section 4041 of the 1986 Code is amended by striking ''subsection (e) or (f)'' and inserting ''subsection (f) or (g)''.

(2) Subsection (b) of section 9502 of the 1986 Code is amended by moving the sentence added at the end of paragraph (1) to the end of such subsection.

(3) Subsection (c) of section 6421 of the 1986 Code is amended—

(A) by striking ''(2)(A)'' and inserting ''(2)'', and

(B) by adding at the end the following sentence: ''Subsection (a) shall not apply to gasoline to which this subsection applies.''.

(f) AMENDMENTS RELATED TO SECTION 1032 OF 1997 ACT.—

(1) Section 1032(a) of the 1997 Act is amended by striking ''Subsection (a) of section 4083'' and inserting ''Paragraph (1) of section 4083(a)''.

(2) Section 1032(e)(12)(A) of the 1997 Act shall be applied as if ''gasoline, diesel fuel,'' were the material proposed to be stricken.

(3) Paragraph (1) of section 4101(e) of the 1986 Code is amended by striking ''dyed diesel fuel and kerosene'' and inserting ''such fuel in a dyed form''.

(g) AMENDMENT RELATED TO SECTION 1055 OF 1997 ACT.—Section 6611(g)(1) of the 1986 Code is amended by striking ''(e), and (h)'' and inserting ''and (e)''.

(h) AMENDMENT RELATED TO SECTION 1083 OF 1997 ACT.—Section 1083(a)(2) of the 1997 Act is amended—

(1) by striking ''21'' and inserting ''20'', and

(2) by striking ''22'' and inserting ''21''.

(i) AMENDMENT RELATED TO SECTION 1084 OF 1997 ACT.—

(1) Paragraph (3) of section 264(a) of the 1986 Code is amended by striking ''subsection (c)'' and inserting ''subsection (d)''.

(2) Paragraph (4) of section 264(a) of the 1986 Code is amended by striking ''subsection (d)'' and inserting ''subsection (e)''.

(3) Paragraph (4) of section 264(f) of the 1986 Code is amended by adding at the end the following new subparagraph:

''(E) MASTER CONTRACTS.—If coverage for each insured under a master contract is treated as a separate contract for purposes of sections 817(h), 7702, and 7702A, coverage for each such insured shall be treated as a separate contract for purposes of subparagraph (A). For purposes of the preceding sentence, the term 'master contract' shall not include any group life insurance contract (as defined in section 848(e)(2)).''.

(4)(A) Clause (iv) of section 264(f)(5)(A) of the 1986 Code is amended by striking the second sentence.

(B) Subparagraph (B) of section 6724(d)(1) of the 1986 Code is amended by striking ''or'' at the end of clause (xv), by striking the period at the end of clause (xvi) and inserting '', or'', and by adding at the end the following new clause:

''(xvii) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).''.

(C) Paragraph (2) of section 6724(d) of the 1986 Code is amended by striking ''or'' at the end of subparagraph (Y), by striking the period at the end of subparagraph (Z) and inserting ''or'', and by adding at the end the following new subparagraph:

''(AA) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).''.

(j) AMENDMENT RELATED TO SECTION 1085 OF 1997 ACT.—Paragraph (5) of section 32(c) of the 1986 Code is amended—

(1) by inserting before the period at the end of subparagraph (A) ''and increased by the amounts described in subparagraph (C)'',

(2) by adding ''or'' at the end of clause (iii) of subparagraph (B), and

(3) by striking all that follows subclause (II) of subparagraph (B)(iv) and inserting the following:

''(III) other trades or businesses.

For purposes of clause (iv), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.

''(C) CERTAIN AMOUNTS INCLUDED.—An amount is described in this subparagraph if it is—

''(i) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, or

''(ii) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income.

Clause (ii) shall not include any amount which is not includible in gross income by reason of section 402(c), 403(a)(4), 403(b), 408(d) (3), (4), or (5), or 457(e)(10).''.

(k) AMENDMENT RELATED TO SECTION 1088 OF 1997 ACT.—Section 1088(b)(2)(C) of the 1997 Act is amended by inserting ''more than 1 year'' before ''after''.

(l) AMENDMENT RELATED TO SECTION 1089 OF 1997 ACT.—Paragraphs (1)(C) and (2)(C) of section 664(d) of the 1986 Code are each amended by adding '', and'' at the end.

SEC. 610. AMENDMENTS RELATED TO TITLE XI OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1103 OF 1997 ACT.—The paragraph (3) of section 59(a) added by section 1103 of the 1997 Act is redesignated as paragraph (4).

(b) AMENDMENT RELATED TO SECTION 1121 OF 1997 ACT.—Section 1298(a)(2)(B) of the 1986 Code is amended by adding at the end the following new sentence: ''Section 1297(e) shall not apply in determining whether a corporation is a passive foreign investment company for purposes of this subparagraph.''.

(c) AMENDMENT RELATED TO SECTION 1122 OF 1997 ACT.—Section 672(f)(3)(B) of the 1986 Code is amended by striking ''section 1296'' and inserting ''section 1297''.

(d) AMENDMENT RELATED TO SECTION 1123 OF 1997 ACT.—The subsection (e) of section 1297 of the 1986 Code added by section 1123 of the 1997 Act is redesignated as subsection (f).

(e) AMENDMENT RELATED TO SECTION 1144 OF 1997 ACT.—Paragraphs (1) and (2) of section 1144(c) of the 1997 Act are each amended by striking ''6038B(b)'' and inserting ''6038B(c) (as redesignated by subsection (b))''.

SEC. 611. AMENDMENTS RELATED TO TITLE XII OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1204 OF 1997 ACT.—The last sentence of section 162(a) of the 1986 Code is amended by striking ''investigate'' and all that follows and inserting ''investigate or prosecute, or provide support services for the investigation or prosecution of, a Federal crime.''.

(b) AMENDMENTS RELATED TO SECTION 1205 OF 1997 ACT.—

(1) Section 6311(e)(1) of the 1986 Code is amended by striking ''section 6103(k)(8)'' and inserting ''section 6103(k)(9)''.

(2) Paragraph (8) of section 6103(k) of the 1986 Code (as added by section 1205(c)(1) of the 1997 Act) is redesignated as paragraph (9).

(3) The heading for section 7431(g) of the 1986 Code is amended by striking ''(8)'' and inserting ''(9)''.

(4) Section 1205(c)(3) of the 1997 Act shall be applied as if it read as follows:

''(3) Section 6103(p)(3)(A), as amended by section 1026(b)(1)(A), is amended by striking ''or (8)'' and inserting ''(8), or (9)''.

(5) Section 1213(b) of the 1997 Act is amended by striking ''section 6724(d)(1)(A)'' and inserting ''section 6724(d)(1)''.

(c) AMENDMENT RELATED TO SECTION 1226 OF 1997 ACT.—Section 1226 of the 1997 Act is amended by striking ''ending on or'' and inserting ''beginning''.

(d) AMENDMENT RELATED TO SECTION 1285 OF 1997 ACT.—Section 7430(b) of the 1986 Code is amended by redesignating paragraph (5) as paragraph (4).

SEC. 612. AMENDMENTS RELATED TO TITLE XIII OF 1997 ACT.

(a) Section 646 of the 1986 Code is redesignated as section 645.

(b) The item relating to section 646 in the table of sections for subpart A of part I of subchapter J of chapter 1 of the 1986 Code is amended by striking ''Sec. 646'' and inserting ''Sec. 645''.

(c) Paragraph (1) of section 2652(b) of the 1986 Code is amended by striking ''section 646'' and inserting ''section 645''.

(d) Paragraph (3) of section 1(g) of the 1986 Code is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(e) Section 641 of the 1986 Code is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(f) Paragraph (4) of section 1361(e) of the 1986 Code is amended by striking ''section 641(d)'' and inserting ''section 641(c)''.

(g) Subparagraph (A) of section 6103(e)(1) of the 1986 Code is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

SEC. 613. AMENDMENTS RELATED TO TITLE XIV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1434 OF 1997 ACT.—Paragraph (2) of section 4052(f) of the 1986 Code is amended by striking ''this section'' and inserting ''such section''.

(b) AMENDMENT RELATED TO SECTION 1436 OF 1997 ACT.—Paragraph (2) of section 4091(a) of the 1986 Code is amended by inserting ''or on which tax has been credited or refunded'' after ''such paragraph''.

SEC. 614. AMENDMENTS RELATED TO TITLE XV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1501 OF 1997 ACT.—The paragraph (8) of section 408(p) of the 1986 Code added by section 1501(b) of the 1997 Act is redesignated as paragraph (9).

(b) AMENDMENT RELATED TO SECTION 1505 OF 1997 ACT.—Section 1505(d)(2) of the 1997 Act is amended by striking ''(b)(12)'' and inserting ''(b)(12)(A)(i)''.

(c) AMENDMENT RELATED TO SECTION 1531 OF 1997 ACT.—Subsection (f) of section 9811 of the 1986 Code (as added by section 1531 of the 1997 Act) is redesignated as subsection (e).

SEC. 615. AMENDMENTS RELATED TO TITLE XVI.

(a) AMENDMENTS RELATED TO SECTION 1601(d) OF 1997 ACT.—

(1) AMENDMENTS RELATED TO SECTION 1601(d)(1)—

(A) Section 408(p)(2)(D)(i) of the 1986 Code is amended by striking ''or (B)'' in the last sentence.

(B) Section 408(p) of the 1986 Code is amended by adding at the end the following:

''(10) SPECIAL RULES FOR ACQUISITIONS, DISPOSITIONS, AND SIMILAR TRANSACTIONS.—

''(A) IN GENERAL.—An employer which fails to meet any applicable requirement by reason of an acquisition, disposition, or similar transaction shall not be treated as failing to meet such requirement during the transition period if—

''(i) the employer satisfies requirements similar to the requirements of section 410(b)(6)(C)(i)(II), and

''(ii) the qualified salary reduction arrangement maintained by the employer would satisfy the requirements of this subsection after the transaction if the employer

which maintained the arrangement before the transaction had remained a separate employer.

''(B) APPLICABLE REQUIREMENT.—For purposes of this paragraph, the term 'applicable requirement' means—

''(i) the requirement under paragraph (2)(A)(i) that an employer be an eligible employer,

''(ii) the requirement under paragraph (2)(D) that an arrangement be the only plan of an employer, and

''(iii) the participation requirements under paragraph (4).

''(C) TRANSITION PERIOD.—For purposes of this paragraph, the term 'transition period' means the period beginning on the date of any transaction described in subparagraph (A) and ending on the last day of the second calendar year following the calendar year in which such transaction occurs.''.

(C) Section 408(p)(2) of the 1986 Code is amended—

(i) by striking ''the preceding sentence shall apply only in accordance with rules similar to the rules of section 410(b)(6)(C)(i)'' in the last sentence of subparagraph (C)(i)(II) and inserting ''the preceding sentence shall not apply'', and

(ii) by striking clause (iii) of subparagraph (D).

(2) AMENDMENT TO SECTION 1601(d)(4).—Section 1601(d)(4)(A) of the 1997 Act is amended—

(A) by striking ''Section 403(b)(11)'' and inserting ''Paragraphs (7)(A)(ii) and (11) of section 403(b)'', and

(B) by striking ''403(b)(1)'' in clause (ii) and inserting ''403(b)(10)''.

(b) AMENDMENT RELATED TO SECTION 1601(f)(4) OF 1997 ACT.—Subsection (d) of section 6427 of the 1986 Code is amended—

(1) by striking ''HELICOPTERS'' in the heading and inserting ''OTHER AIRCRAFT USES'', and

(2) by inserting ''or a fixed-wing aircraft'' after ''helicopter''.

SEC. 616. AMENDMENT RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1993.

(a) IN GENERAL.—Section 196(c) of the 1986 Code is amended by striking ''and'' at the end of paragraph (6), by striking the period at the end of paragraph (7), and insert '', and'', and by adding at the end the following new paragraph:

''(8) the employer social security credit determined under section 45B(a).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 13443 of the Revenue Reconciliation Act of 1993.

SEC. 617. AMENDMENT RELATED TO TAX REFORM ACT OF 1984.

(a) IN GENERAL.—Paragraph (3) of section 136(c) of the Tax Reform Act of 1984 is amended by adding at the end the following flush sentence:

''The treatment under the preceding sentence shall apply to each period after June 30, 1983, during which such members are stapled entities, whether or not such members are stapled entities for all periods after June 30, 1983.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Tax Reform Act of 1984 as of the date of the enactment of such Act.

SEC. 618. AMENDMENT RELATED TO TAX REFORM ACT OF 1986.

(a) IN GENERAL.—Section 6401(b)(1) of the 1986 Code is amended by striking ''and D'' and inserting ''D, and G''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 701(b) of the Tax Reform Act of 1986.

SEC. 619. MISCELLANEOUS CLERICAL AND DEADWOOD CHANGES.

(a)(1) Section 6421 of the 1986 Code is amended by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(2) Subsection (b) of section 34 of the 1986 Code is amended by striking ''section 6421(j)'' and inserting ''section 6421(i)''.

(3) Subsections (a) and (b) of section 6421 of the 1986 Code are each amended by striking ''subsection (j)'' and inserting ''subsection (i)''.

(b) Sections 4092(b) and 6427(q)(2) of the 1986 Code are each amended by striking ''section 4041(c)(4)'' and inserting ''section 4041(c)(2)''.

(c) Sections 4221(c) and 4222(d) of the 1986 Code are each amended by striking ''4053(a)(6)'' and inserting ''4053(6)''.

(d) Paragraph (5) of section 6416(b) of the 1986 Code is amended by striking ''section 4216(e)(1)'' each place it appears and inserting ''section 4216(d)(1)''.

(e) Paragraph (3) of section 6427(f) of the 1986 Code is amended by striking '', (e),''.

(f)(1) Section 6427 of the 1986 Code, as amended by paragraph (2), is amended by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(2) Paragraphs (1) and (2)(A) of section 6427(i) of the 1986 Code are each amended by striking ''(q)'' and inserting ''(o)''.

(g) Subsection (e) of section 9502 of the 1986 Code is amended to read as follows:

''(e) CERTAIN TAXES ON ALCOHOL MIXTURES TO REMAIN IN GENERAL FUND.—For purposes of this section, the amounts which would (but for this subsection) be required to be appropriated under subparagraphs (A), (C), and (D) of subsection (b)(1) shall be reduced by—

''(1) 0.6 cent per gallon in the case of taxes imposed on any mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) if any portion of such alcohol is ethanol, and

''(2) 0.67 cent per gallon in the case of fuel used in producing a mixture described in paragraph (1).''.

(h)(1) Clause (i) of section 9503(c)(2)(A) of the 1986 Code is amended by adding ''and'' at the end of subclause (II), by striking subclause (III), and by redesignating subclause (IV) as subclause (III).

(2) Clause (ii) of such section is amended by striking ''gasoline, special fuels, and lubricating oil'' each place it appears and inserting ''fuel''.

(i) The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 620. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

KEMPTHORNE AMENDMENT NO. 2030

(Ordered to lie on the table.)

Mr. KEMPTHORNE submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

At the end, add the following:

TITLE ____—STUDENT IMPROVEMENT INCENTIVE GRANT PROGRAM

SEC. ____01. STUDENT IMPROVEMENT INCENTIVE GRANT PROGRAM.

Title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) is amended by adding at the end the following:

''PART N—STUDENT IMPROVEMENT INCENTIVE GRANT PROGRAM

''SEC. 10997. STUDENT IMPROVEMENT INCENTIVE GRANT PROGRAM.

''(a) SHORT TITLE.—This part may be cited as the 'Student Improvement Incentive Grants Act'.

''(b) GRANTS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary may award a grant to a State educational agency that carries out a statewide assessment described in subsection (c) to enable the agency to make awards to outstanding public secondary schools in the State under subsection (d).

''(2) AMOUNT.—The Secretary shall award a grant to a State educational agency under this section for a fiscal year in the amount of $50,000.

''(c) STATEWIDE ASSESSMENT.—In order to be eligible to receive a grant under this section, a State educational agency shall conduct a statewide assessment that—

''(1) determines the educational progress of students attending public secondary schools within the State;

''(2) allows for an objective analysis of the assessment on a school-by-school basis; and

''(3) may involve exit exams.

''(d) PUBLIC SECONDARY SCHOOL AWARDS.—

''(1) IN GENERAL.—Each State educational agency receiving a grant under this section for a fiscal year shall use the proceeds of the grant to make awards to public secondary schools in the State as follows:

''(A) $25,000 shall be awarded to the public secondary school in the State in which the educational progress of the students attending the school is determined, pursuant to the statewide assessment described in subsection (c), to be the best in the State.

''(B) $15,000 shall be awarded to the public secondary school in the State in which the educational progress of the students attending the school is determined, pursuant to the statewide assessment described in subsection (c), to be the second best in the State.

''(C) $10,000 shall be awarded to the public secondary school in the State in which the enrolled students have the greatest increase in educational progress from one academic year to the subsequent academic year as determined pursuant to the statewide assessment described in subsection (c), except that in the case of a State that did not conduct such an assessment in the fiscal year preceding the fiscal year for which the determination is made, the $10,000 shall be awarded to the public secondary school in the State in which the educational progress of students attending the school is determined, pursuant to the statewide assessment described in subsection (c), to be the third best in the State.

''(2) STATE AUTHORITY TO LIMIT AWARDS.—Each State educational agency receiving a grant under this section may limit the number of awards made to a public secondary school in the State or the number of years for which such awards are made.

''(e) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a State from using State funds to increase the amount of awards made under subsection (d) or to make awards to public secondary schools that are not described in subsection (d).

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,600,000 for each of the fiscal years 1999 through 2003. Any funds appropriated under the authority of the preceding sentence for a fiscal year that remain available for obligation at the end of the fiscal year shall be returned to the Treasury.''.

WELLSTONE AMENDMENTS NOS. 2031–2032

(Ordered to lie on the table.)

Mr. WELLSTONE submitted two amendments intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

AMENDMENT NO. 2031

At the end, insert the following:

TITLE ____—STUDY

SEC. ___01. STUDY.

(a) PREVIOUS FINDINGS.—Congress finds that, with respect to the connection between parental income and the educational attainment of children, various organizations have made the following findings:

(1) More observed differences across potential access and choice barriers occur by socioeconomic status, and the differences occur from the outset. Of the 1988 eighth graders studied, a smaller percentage of students in the lowest socioeconomic quartile completed applications for postsecondary education. And, from the outset, educational expectations, in terms of the percentages of those who indicated achievement of at least a bachelor's degree, vary directly by socioeconomic ranking.

(2) Enrollment rates in 4-year colleges and universities were directly related to students' family income and the level of their parents' education. The proportion of students enrolled in 4-year institutions increased at every income level, with ⅓ of low-income students (33 percent), almost half of middle-income students (47 percent), and about ¾ of high-income students (77 percent) attending such institutions.

(3)(A) Between 1972 and 1995, the proportion of high school graduates going directly to college increased from 49 to 62 percent.

(B) Between 1972 and 1995, high school graduates from high-income families were more likely than high school graduates from low-income families to go directly to college.

(C) Between 1990 and 1995, the higher the education level of a student's parents, the more likely the student was to enroll in college the year after high school.

(D) In 1995, black high school graduates were less likely than their white counterparts to go directly to college (51 percent compared to 64 percent, respectively).

(4) Between 1974 and 1994, postsecondary enrollment rates of low socioeconomic status students increased at 2-year institutions only, while postsecondary enrollment rates of high socioeconomic status students increased at 4-year institutions.

(5) Children who grow up in a poor or low-income family tend to have lower educational and labor market attainments than children from more affluent families.

(6) The financial pressures resulting from rising public tuition, the failure of student aid programs to keep pace with inflation in college costs, and the increase in Federal loans relative to grants have had their strongest impact on lower income students.

(7) Students from less affluent families are facing a college affordability crisis. While college enrollments have continued to grow, the growth is not among students from less affluent families. Access for students with below-median incomes to 4-year colleges and universities apparently has diminished since 1981. The gap in enrollment rates for students from families in the lowest income quartile and students from more affluent families grew by 12 percentage points between 1980 and 1993.

(b) STUDY.—The Secretary of Education shall conduct a study of the connection between parental income and the educational attainment of children. The study shall—

(1) examine, replicate, or dispute the findings described in subsection (a); and

(2) examine factors that influence postsecondary education decisions by sex, race or ethnicity, socioeconomic status, and demonstrated academic achievement.

(c) TIMELINE.—The Secretary shall conduct the study described in subsection (b), and report to Congress regarding the results of the study, not later than 6 months after the date of enactment of this Act.

AMENDMENT NO. 2032

Strike section 101 and insert the following:

SEC. 101. HOPE AND LIFETIME LEARNING CREDITS MADE REFUNDABLE FOR CERTAIN TAXPAYERS.

(a) IN GENERAL.—Section 25A (relating to HOPE and lifetime learning credits) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following:

''(i) CREDIT MADE REFUNDABLE FOR LOW INCOME TAXPAYERS.—

''(1) IN GENERAL.—In the case of an eligible taxpayer with respect to any taxable year, the aggregate credits allowed under subpart C shall be increased by the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a). The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 26(a).

''(2) ELIGIBLE TAXPAYER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible taxpayer' means a taxpayer whose adjusted gross income for the taxable year does not exceed the applicable adjusted gross income limit for such year.

''(B) APPLICABLE AMOUNT.—

''(i) IN GENERAL.—Subject to clause (ii), the applicable adjusted gross income limit for any taxable year is the amount of adjusted gross income the Secretary determines will result in an amount equal to the aggregate net reduction in revenues to the Treasury that would have occurred during such taxable year if the amendments made by section 101 of S. 1133, 105th Congress, as reported by the Committee on Finance of the Senate, had been enacted.

''(ii) SUBSEQUENT ADJUSTMENTS.—Proper adjustments shall be made in any determination made under clause (i) with respect to any taxable year to the extent a determination for the preceding taxable year resulted in an amount in excess of or less than the amount of such reduction for such preceding taxable year.''

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

WELLSTONE (AND FORD) AMENDMENT NO. 2033

(Ordered to lie on the table.)

Mr. WELLSTONE (for himself and Mr. FORD) submitted an amendment intended to be proposed by them to the bill, H.R. 2646, supra; as follows:

After title II add the following:

TITLE ____—MISCELLANEOUS

SEC ___01. EXPANSION OF EDUCATIONAL OPPORTUNITIES FOR WELFARE RECIPIENTS.

(a) 24 MONTHS OF POSTSECONDARY EDUCATION AND VOCATIONAL EDUCATIONAL TRAINING MADE PERMISSIBLE WORK ACTIVITIES.—Section 407(d)(8) of the Social Security Act (42 U.S.C. 607(d)(8)) is amended to read as follows:

''(8) postsecondary education and vocational educational training (not to exceed 24 months with respect to any individual);''.

(b) MODIFICATIONS TO THE EDUCATIONAL CAP.—

(1) REMOVAL OF TEEN PARENTS FROM 30 PERCENT LIMITATION.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended by striking '', or (if the month is in fiscal year 2000 or thereafter) deemed to be engaged in work for the month by reason of subparagraph (C) of this paragraph''.

(2) EXTENSION OF CAP TO POSTSECONDARY EDUCATION.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended by striking ''vocational educational training'' and inserting ''training described in subsection (d)(8)''.

(c) CLARIFICATION THAT PARTICIPATION IN A FEDERAL WORK-STUDY PROGRAM IS A PERMISSIBLE WORK ACTIVITY UNDER THE TANF PROGRAM.—Paragraphs (2) and (3) of section 407(d) of the Social Security Act (42 U.S.C. 607(d)) are each amended by inserting ''(including participation in an activity under a program established under part C of title IV of the Higher Education Act of 1965)'' before the semicolon.

DURBIN AMENDMENT NO. 2034

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike section 101 and insert:

SEC. 101. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) INCREASE IN DEDUCTION.—

(1) IN GENERAL.—Subparagraph (B) of section 162(l)(1) is amended to read as follows:

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	**The applicable percentage is—**
1998	___
1999	___
2000	___
2001	___
2002	___
2003	___
2004	___
2005	___
2006 and thereafter	___.''

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1997.

(b) RULES RELATING TO FOREIGN OIL AND GAS INCOME.—

(1) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—

(A) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) foreign oil and gas income, and''.

(B) DEFINITION.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) FOREIGN OIL AND GAS INCOME.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).''

(C) CONFORMING AMENDMENTS.—

(i) Section 904(d)(3)(F)(i) is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(ii) Section 907(a) is hereby repealed.

(iii) Section 907(c)(4) is hereby repealed.

(iv) Section 907(f) is hereby repealed.

(D) EFFECTIVE DATES.—

(i) IN GENERAL.—The amendments made by this paragraph shall apply to taxable years

beginning after the date of the enactment of this Act.

(ii) TRANSITIONAL RULES.—

(I) SEPARATE BASKET TREATMENT.—Any taxes paid or accrued in a taxable year beginning on or before the date of the enactment of this Act, with respect to income which was described in subparagraph (I) of section 904(d)(1) of such Code (as in effect on the day before the date of the enactment of this Act), shall be treated as taxes paid or accrued with respect to foreign oil and gas income to the extent the taxpayer establishes to the satisfaction of the Secretary of the Treasury that such taxes were paid or accrued with respect to foreign oil and gas income.

(II) CARRYOVERS.—Any unused oil and gas extraction taxes which under section 907(f) of such Code (as so in effect) would have been allowable as a carryover to the taxpayer's first taxable year beginning after the date of the enactment of this Act (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(III) LOSSES.—The amendment made by subparagraph (C)(iii) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

(2) ELIMINATION OF DEFERRAL FOR FOREIGN OIL AND GAS EXTRACTION INCOME.—

(A) GENERAL RULE.—Paragraph (1) of section 954(g) (defining foreign base company oil related income) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'foreign oil and gas income' means any income of a kind which would be taken into account in determining the amount of—

''(A) foreign oil and gas extraction income (as defined in section 907(c)), or

''(B) foreign oil related income (as defined in section 907(c)).''

(B) CONFORMING AMENDMENTS.—

(i) Subsections (a)(5), (b)(5), and (b)(8) of section 954 are each amended by striking ''base company oil related income'' each place it appears (including in the heading of subsection (b)(8)) and inserting ''oil and gas income''.

(ii) Subsection (b)(4) of section 954 is amended by striking ''base company oil-related income'' and inserting ''oil and gas income''.

(iii) The subsection heading for subsection (g) of section 954 is amended by striking ''FOREIGN BASE COMPANY OIL RELATED INCOME'' and inserting ''FOREIGN OIL AND GAS INCOME''.

(iv) Subparagraph (A) of section 954(g)(2) is amended by striking ''foreign base company oil related income'' and inserting ''foreign oil and gas income''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders ending with or within such taxable years of foreign corporations.

(c) VALUATION RULES FOR TRANSFERS INVOLVING NONBUSINESS ASSETS.—

(1) IN GENERAL.—Section 2031 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.—For purposes of this chapter and chapter 12—

''(1) IN GENERAL.—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

''(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation discount shall be allowed with respect to such nonbusiness assets), and

''(B) the nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

''(2) NONBUSINESS ASSETS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'nonbusiness asset' means any asset which is not used in the active conduct of 1 or more trades or businesses.

''(B) EXCEPTION FOR CERTAIN PASSIVE ASSETS.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subparagraph (A) as used in the active conduct of a trade or business unless—

''(i) the asset is property described in paragraph (1) or (4) of section 1221 or is a hedge with respect to such property, or

''(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

''(C) EXCEPTION FOR WORKING CAPITAL.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

''(3) PASSIVE ASSET.—For purposes of this subsection, the term 'passive asset' means any—

''(A) cash or cash equivalents,

''(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in any entity,

''(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

''(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

''(E) annuity,

''(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

''(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

''(H) commodity,

''(I) collectible (within the meaning of section 401(m)), or

''(J) any other asset specified in regulations prescribed by the Secretary.

''(4) LOOK-THRU RULES.—

''(A) IN GENERAL.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

''(B) 10-PERCENT INTEREST.—The term '10-percent interest' means—

''(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

''(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

''(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

''(5) COORDINATION WITH SUBSECTION (b).—Subsection (b) shall apply after the application of this subsection.''

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

NICKLES AMENDMENTS NOS. 2035–2037

(Ordered to lie on the table.)

Mr. NICKLES submitted three amendments intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

AMENDMENT NO. 2035

Strike section 106.

AMENDMENT NO. 2036

Strike section 106 and insert:

SEC. 106. INCREASE IN DEDUCTION FOR HEALTH INSURANCE FOR SELF-EMPLOYEDS.

(a) IN GENERAL.—The table contained in section 162(l)(1)(B) is amended—

(1) by striking the item relating to years 1998 and 1999, and

(2) by striking ''2000 and 2001'' and inserting ''1998 through 2001''.

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

AMENDMENT NO. 2037

At the end of title I, insert:

SEC. ___. INCOME TAXED AT LOWEST RATE INCREASED TO $35,000 FOR UNMARRIED INDIVIDUALS, $70,000 FOR JOINT RETURNS AND SURVIVING SPOUSES, AND $52,600 FOR HEADS OF HOUSEHOLDS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

''(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

''(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

''(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

''If taxable income is:	The tax is:
Not over $70,000	15% of taxable income.
Over $70,000 but not over $102,300.	$10,500, plus 28% of the excess over $70,000.
Over $102,300 but not over $155,950.	$19,544, plus 31% of the excess over $102,300.
Over $155,950 but not over $278,450.	$36,175, plus 36% of the excess over $155,950.
Over $278,450	$80,275, plus 39.6% of the excess over $278,450.

''(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

''If taxable income is:	The tax is:
Not over $52,600	15% of taxable income.
Over $52,600 but not over $87,700.	$7,890, plus 28% of the excess over $52,600.
Over $87,700 but not over $142,000.	$17,718, plus 31% of the excess over $87,700.
Over $142,000 but not over $278,450.	$34,551, plus 36% of the excess over $142,000.
Over $278,450	$83,673 plus 39.6% of the excess over $278,450.

''(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a

surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $35,000	15% of taxable income.
Over $35,000 but not over $61,400.	$5,250, plus 28% of the excess over $35,000.
Over $61,400 but not over $128,100.	$12,642, plus 31% of the excess over $61,400.
Over $128,100 but not over $278,450.	$33,319, plus 36% of the excess over $128,100.
Over $278,450	$87,445, plus 39.6% of the excess over $278,450.

''(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $35,000	15% of taxable income.
Over $35,000 but not over $51,150.	$5,250, plus 28% of the excess over $35,000.
Over $51,150 but not over $77,975.	$9,772, plus 31% of the excess over $51,150.
Over $77,975 but not over $139,225.	$18,088, plus 36% of the excess over $77,975.
Over $139,225	$40,138, plus 39.6% of the excess over $139,225.

''(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

''(1) every estate, and

''(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,700	15% of taxable income.
Over $1,700 but not over $4,000.	$255, plus 28% of the excess over $1,700.
Over $4,000 but not over $6,100.	$899, plus 31% of the excess over $4,000.
Over $6,100 but not over $8,350.	$1,550, plus 36% of the excess over $6,100.
Over $8,350	$2,360, plus 39.6% of the excess over $8,350.''.

(b) INFLATION ADJUSTMENT TO APPLY IN DETERMINING RATES FOR 1999.—Subsection (f) of section 1 is amended—

(1) by striking ''1993'' in paragraph (1) and inserting ''1998'',

(2) by striking ''1992'' in paragraph (3)(B) and inserting ''1997'', and

(3) by striking paragraph (7).

(c) CONFORMING AMENDMENTS.—

(1) The following provisions are each amended by striking ''1992'' and inserting ''1997'' each place it appears:

(A) Section 25A(h).

(B) Section 32(j)(1)(B).

(C) Section 41(e)(5)(C).

(D) Section 42(h)(6)(G)(i)(II).

(E) Section 68(b)(2)(B).

(F) Section 135(b)(2)(B)(ii).

(G) Section 151(d)(4).

(H) Section 221(g)(1)(B).

(I) Section 512(d)(2)(B).

(J) Section 513(h)(2)(C)(ii).

(K) Section 877(a)(2).

(L) Section 911(b)(2)(D)(ii)(II).

(M) Section 4001(e)(1)(B).

(N) Section 4261(e)(4)(A)(ii).

(O) Section 6039F(d).

(P) Section 6334(g)(1)(B).

(Q) Section 7430(c)(1).

(2) Subparagraph (B) of section 59(j)(2) is amended by striking '', determined by substituting '1997' for '1992' in subparagraph (B) thereof''.

(3) Subparagraph (B) of section 63(c)(4) is amended by striking ''by substituting for'' and all that follows and inserting ''by substituting for 'calendar year 1997' in subparagraph (B) thereof 'calendar year 1987' in the case of the dollar amounts contained in paragraph (2) or (5)(A) or subsection (f).''

(4) Subparagraph (B) of section 132(f)(6) is amended by inserting before the period '', determined by substituting 'calendar year 1992' for 'calendar year 1997' in subparagraph (B) thereof''.

(5) Paragraph (2) of section 220(g) is amended by striking '' by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof''.

(6) Subparagraph (B) of section 685(c)(3) is amended by striking '', by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof''.

(7) Subparagraph (B) of section 2032A(a)(3) is amended by striking ''by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof''.

(8) Subparagraph (B) of section 2503(b)(2) is amended by striking ''by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof''.

(9) Paragraph (2) of section 2631(c) is amended by striking ''by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof''.

(10) Subparagraph (B) of 6601(j)(3) is amended by striking ''by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof''.

(d) MODIFICATION OF WITHHOLDING TABLES FOR TAXABLE YEAR 1998.—Notwithstanding the provisions of section 3402(a) of the Internal Revenue Code of 1986, the Secretary of the Treasury shall modify the tables and procedures under section 3402(a)(1) of such Code to reflect the amendment made by subsection (a). Such modification shall—

(1) take effect on July 1, 1998, and

(2) reflect the entire reduction in taxes for calendar year 1998 made by such amendment during the 6-month period beginning July 1, 1998.

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

DODD AMENDMENT NO. 2038

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike section 101 and insert:

SEC. 101. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following:

"SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

''(a) ALLOWANCE OF CREDIT.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 25 percent of the qualified child care expenditures of the taxpayer for such taxable year.

''(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $150,000.

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

''(1) QUALIFIED CHILD CARE EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified child care expenditure' means any amount paid or incurred—

''(i) to acquire, construct, rehabilitate, or expand property—

''(I) which is to be used as part of a qualified child care facility of the taxpayer,

''(II) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

''(III) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

''(ii) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees of the child care facility, to scholarship programs, to the providing of differential compensation to employees based on level of child care training, and to expenses associated with achieving accreditation,

''(iii) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

''(iv) under a contract to provide child care resource and referral services to employees of the taxpayer.

''(B) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term 'qualified child care expenditure' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

''(C) LIMITATION ON ALLOWABLE OPERATING COSTS.—The term 'qualified child care expenditure' shall not include any amount described in subparagraph (A)(ii) if such amount is paid or incurred after the third taxable year in which a credit under this section is taken by the taxpayer, unless the qualified child care facility of the taxpayer has received accreditation from a nationally recognized accrediting body before the end of such third taxable year.

''(2) QUALIFIED CHILD CARE FACILITY.—

''(A) IN GENERAL.—The term 'qualified child care facility' means a facility—

''(i) the principal use of which is to provide child care assistance, and

''(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

''(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

''(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

''(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

''(iii) the costs to employees of child care services at such facility are determined on a sliding fee scale.

''(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

''(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

''(A) the applicable recapture percentage, and

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

''(2) APPLICABLE RECAPTURE PERCENTAGE.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Year 4	85
Year 5	70

Year 6	55
Year 7	40
Year 8	25
Years 9 and 10	10
Years 11 and thereafter	0.

''(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

''(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

''(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

''(B) CHANGE IN OWNERSHIP.—

''(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

''(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

''(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

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

''(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

''(f) NO DOUBLE BENEFIT.—

''(1) REDUCTION IN BASIS.—For purposes of this subtitle—

''(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

''(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking out ''plus'' at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and ''plus'', and

(C) by adding at the end the following new paragraph:

''(13) the employer-provided child care credit determined under section 45D.''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45D. Employer-provided child care credit.''.

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

KOHL (AND JOHNSON) AMENDMENT NO. 2039

(Ordered to lie on the table.)

Mr. KOHL (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by them to the bill, H.R. 2646, supra; as follows:

At the appropriate place, insert:

SEC. ___. GAIN OR LOSS FROM SALE OF LIVESTOCK DISREGARDED FOR PURPOSES OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32(i)(2)(D) (relating to disqualified income) is amended by inserting ''determined without regard to gain or loss from the sale of livestock described in section 1231(b)(3),'' after ''taxable year,''.

(b) DISALLOWANCE OF INTEREST DEDUCTION ON RESIDENCES OUTSIDE THE UNITED STATES.—Section 163(h)(4)(A)(i) (defining qualified residence) is amended by adding at the end the following new flush sentence:

''Such term shall not include a residence located outside the United States.''

(c) EFFECTIVE DATES.—

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

BINGAMAN AMENDMENTS NOS. 2040–2041

(Ordered to lie on the table.)

Mr. BINGAMAN submitted two amendments intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

AMENDMENT NO. 2040

Strike section 101, and insert the following:

SEC. 101. DROPOUT PREVENTION AND STATE RESPONSIBILITIES.

(a) SHORT TITLE.—This section may be cited as the ''National Dropout Prevention Act of 1998''.

(b) DROPOUT PREVENTION.—Part C of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7261 et seq.) is amended to read as follows:

''PART C—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

''Subpart 1—Coordinated National Strategy

''SEC. 5311. NATIONAL ACTIVITIES.

''(a) NATIONAL PRIORITY.—It shall be a national priority, for the 5-year period beginning on the date of enactment of the National Dropout Prevention Act of 1998, to lower the school dropout rate, and increase school completion, for middle school and secondary school students in accordance with Federal law. As part of this priority, all Federal agencies that carry out activities that serve students at risk of dropping out of school or that are intended to help address the school dropout problem shall make school dropout prevention a top priority in the agencies' funding priorities during the 5-year period.

''(b) ENHANCED DATA COLLECTION.—The Secretary shall collect systematic data on the participation of different racial and ethnic groups (including migrant and limited English proficient students) in all Federal programs.

''SEC. 5312. NATIONAL SCHOOL DROPOUT PREVENTION STRATEGY.

''(a) PLAN.—The Director shall develop, implement, and monitor an interagency plan (in this section referred to as the ''plan'') to assess the coordination, use of resources, and availability of funding under Federal law that can be used to address school dropout prevention, or middle school or secondary school reentry. The plan shall be completed and transmitted to the Secretary and Congress not later than 180 days after the first Director is appointed.

''(b) COORDINATION.—The plan shall address inter- and intra-agency program coordination issues at the Federal level with respect to school dropout prevention and middle school and secondary school reentry, assess the targeting of existing Federal services to students who are most at risk of dropping out of school, and the cost-effectiveness of various programs and approaches used to address school dropout prevention.

''(c) AVAILABLE RESOURCES.—The plan shall also describe the ways in which State and local agencies can implement effective school dropout prevention programs using funds from a variety of Federal programs, including the programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

''(d) SCOPE.—The plan will address all Federal programs with school dropout prevention or school reentry elements or objectives, programs under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq.), title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.), and part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.), and other programs.

''SEC. 5313. NATIONAL CLEARINGHOUSE.

''Not later than 6 months after the date of enactment of the National Dropout Prevention Act of 1998, the Director shall establish a national clearinghouse on effective school dropout prevention, intervention and reentry programs. The clearinghouse shall be established through a competitive grant or contract awarded to an organization with a demonstrated capacity to provide technical assistance and disseminate information in the area of school dropout prevention, intervention, and reentry programs. The clearinghouse shall—

''(1) collect and disseminate to educators, parents, and policymakers information on research, effective programs, best practices, and available Federal resources with respect to school dropout prevention, intervention, and reentry programs, including dissemination by an electronically accessible database, a worldwide Web site, and a national journal; and

''(2) provide technical assistance regarding securing resources with respect to, and designing and implementing, effective and comprehensive school dropout prevention, intervention, and reentry programs.

''SEC. 5314. NATIONAL RECOGNITION PROGRAM.

''(a) IN GENERAL.—The Director shall carry out a national recognition program that recognizes schools that have made extraordinary progress in lowering school dropout rates under which a public middle school or secondary school from each State will be recognized. The Director shall use uniform national guidelines that are developed by the Director for the recognition program and shall recognize schools from nominations submitted by State educational agencies.

''(b) ELIGIBLE SCHOOLS.—The Director may recognize any public middle school or secondary school (including a charter school) that has implemented comprehensive reforms regarding the lowering of school dropout rates for all students at that school.

''(c) SUPPORT.—The Director may make monetary awards to schools recognized under this section, in amounts determined by the Director. Amounts received under this section shall be used for dissemination activities within the school district or nationally.

''Subpart 2—National School Dropout Prevention Initiative

''SEC. 5321. FINDINGS.

''Congress finds that, in order to lower dropout rates and raise academic achievement levels, improved and redesigned schools must—

''(1) challenge all children to attain their highest academic potential; and

''(2) ensure that all students have substantial and ongoing opportunities to—

''(A) achieve high levels of academic and technical skills;

''(B) prepare for college and careers;

''(C) learn by doing;

''(D) work with teachers in small schools within schools;

''(E) receive ongoing support from adult mentors;

''(F) access a wide variety of information about careers and postsecondary education and training;

''(G) use technology to enhance and motivate learning; and

''(H) benefit from strong links among middle schools, secondary schools, and postsecondary institutions.

''SEC. 5322. PROGRAM AUTHORIZED.

''(a) ALLOTMENTS TO STATES.—

''(1) IN GENERAL.—From the sum made available under section 5332(b) for a fiscal year the Secretary shall make an allotment to each State in an amount that bears the same relation to the sum as the amount the State received under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) for the preceding fiscal year bears to the amount received by all States under such title for the preceding fiscal year.

''(2) DEFINITION OF STATE.—In this subpart, the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(b) GRANTS.—From amounts made available to a State under subsection (a), the State educational agency may award grants to public middle schools or secondary schools, that have school dropout rates which are in the highest ⅓ of all school dropout rates in the State, to enable the schools to pay only the startup and implementation costs of effective, sustainable, coordinated, and whole school dropout prevention programs that involve activities such as—

''(1) professional development;

''(2) obtaining curricular materials;

''(3) release time for professional staff; and

''(4) planning and research.

''(b) INTENT OF CONGRESS.—It is the intent of Congress that the activities started or implemented under subsection (a) shall be continued with funding provided under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

''(c) NUMBER.—The State educational agency shall award not more than 1,000 grants under this subpart during the first year that the State receives an allotment under this subpart, not more than 1,500 grants during the second such year, and not more than 2,000 grants during the third such year.

''(d) AMOUNT.—

''(1) IN GENERAL.—Subject to subsection (e) and except as provided in paragraph (2), a grant under this subpart shall be awarded—

''(A) in the first year that a school receives a grant payment under this subpart, in an amount that is not less than $50,000 and not more than $100,000, based on factors such as—

''(i) school size;

''(ii) costs of the model being implemented; and

''(iii) local cost factors such as poverty rates;

''(B) in the second such year, in an amount that is not less than 75 percent of the amount the school received under this subpart in the first such year;

''(C) in the third year, in an amount that is not less than 50 percent of the amount the school received under this subpart in the first such year; and

''(D) in each succeeding year in an amount that is not less than 30 percent of the amount the school received under this subpart in the first such year.

''(2) INCREASES.—The Director shall increase the amount awarded to a school under this subpart by 10 percent if the school creates smaller learning communities within the school and the creation is certified by the State educational agency.

''(e) DURATION.—A grant under this subpart shall be awarded for a period of 3 years, and may be continued for a period of 2 additional years if the State educational agency determines, based on the annual reports described in section 5328(a), that significant progress has been made in lowering the school dropout rate for students participating in the program assisted under this subpart compared to students at similar schools who are not participating in the program.

''SEC. 5323. STRATEGIES AND ALLOWABLE MODELS.

''(a) STRATEGIES.—Each school receiving a grant under this subpart shall implement research-based, sustainable, and widely replicated, strategies for school dropout prevention and reentry that address the needs of an entire school population rather than a subset of students. The strategies may include—

''(1) specific strategies for targeted purposes; and

''(2) approaches such as breaking larger schools down into smaller learning communities and other comprehensive reform approaches, developing clear linkages to career skills and employment, and addressing specific gatekeeper hurdles that often limit student retention and academic success.

''(b) ALLOWABLE MODELS.—The Director shall annually establish and publish in the Federal Register the principles, criteria, models, and other parameters regarding the types of effective, proven program models that are allowed to be used under this subpart, based on existing research.

''(c) CAPACITY BUILDING.—

''(1) IN GENERAL.—The Director, through a contract with a non-Federal entity, shall conduct a capacity building and design initiative in order to increase the types of proven strategies for dropout prevention on a schoolwide level.

''(2) NUMBER AND DURATION.—

''(A) NUMBER.—The Director shall award not more than 5 contracts under this subsection.

''(B) DURATION.—The Director shall award a contract under this section for a period of not more than 5 years.

''(d) SUPPORT FOR EXISTING REFORM NETWORKS.—

''(1) IN GENERAL.—The Director shall provide appropriate support to eligible entities to enable the eligible entities to provide training, materials, development, and staff assistance to schools assisted under this subpart.

''(2) DEFINITION OF ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that, prior to the date of enactment of the National Dropout Prevention Act of 1998—

''(A) provided training, technical assistance, and materials to 100 or more elementary schools or secondary schools; and

''(B) developed and published a specific educational program or design for use by the schools.

''SEC. 5324. SELECTION OF SCHOOLS.

''(a) SCHOOL APPLICATION.—

''(1) IN GENERAL.—Each school desiring a grant under this subpart shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may require.

''(2) CONTENTS.—Each application submitted under paragraph (1) shall—

''(A) contain a certification from the local educational agency serving the school that—

''(i) the school has the highest number or rates of school dropouts in the age group served by the local educational agency;

''(ii) the local educational agency is committed to providing ongoing operational support, for the school's comprehensive reform plan to address the problem of school dropouts, for a period of 5 years; and

''(iii) the local educational agency will support the plan, including—

''(I) release time for teacher training;

''(II) efforts to coordinate activities for feeder schools; and

''(III) encouraging other schools served by the local educational agency to participate in the plan;

''(B) demonstrate that the faculty and administration of the school have agreed to apply for assistance under this subpart, and provide evidence of the school's willingness and ability to use the funds under this subpart, including providing an assurance of the support of 80 percent or more of the professional staff at the school;

''(C) describe the instructional strategies to be implemented, how the strategies will serve all students, and the effectiveness of the strategies;

''(D) describe a budget and timeline for implementing the strategies;

''(E) contain evidence of interaction with an eligible entity described in section 5323(d)(2);

''(F) contain evidence of coordination with existing resources;

''(G) provide an assurance that funds provided under this subpart will supplement and not supplant other Federal, State, and local funds;

''(H) describe how the activities to be assisted conform with an allowable model described in section 5323(b); and

''(I) demonstrate that the school and local educational agency have agreed to conduct a schoolwide program under 1114.

''(b) STATE AGENCY REVIEW AND AWARD.—The State educational agency shall review applications and award grants to schools under subsection (a) according to a review by a panel of experts on school dropout prevention.

''(c) CRITERIA.—The Director shall establish clear and specific selection criteria for awarding grants to schools under this subpart. Such criteria shall be based on school dropout rates and other relevant factors for State educational agencies to use in determining the number of grants to award and the type of schools to be awarded grants.

''(d) ELIGIBILITY.—

''(1) IN GENERAL.—A school is eligible to receive a grant under this subpart if the school is—

''(A) a public school—

''(i) that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), including a comprehensive secondary school, a vocational or technical secondary school, and a charter school; and

''(ii)(I) that serves students 50 percent or more of whom are low-income individuals; or

''(II) with respect to which the feeder schools that provide the majority of the incoming students to the school serve students 50 percent or more of whom are low-income individuals; or

''(B) is participating in a schoolwide program under section 1114 during the grant period.

''(2) OTHER SCHOOLS.—A private or parochial school, an alternative school, or a school within a school, is not eligible to receive a grant under this subpart, but an alternative school or school within a school may be served under this subpart as part of a whole school reform effort within an entire school building.

''(e) COMMUNITY-BASED ORGANIZATIONS.—A school that receives a grant under this subpart may use the grant funds to secure necessary services from a community-based organization, including private sector entities, if—

''(1) the school approves the use;

''(2) the funds are used to provide school dropout prevention and reentry activities related to schoolwide efforts; and

''(3) the community-based organization has demonstrated the organization's ability to provide effective services as described in section 107(a) of the Job Training Partnership Act (29 U.S.C. 1517(a)).

''(f) COORDINATION.—Each school that receives a grant under this subpart shall coordinate the activities assisted under this subpart with other Federal programs, such as programs assisted under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq.) and the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

''SEC. 5325. DISSEMINATION ACTIVITIES.

''Each school that receives a grant under this subpart shall provide information and technical assistance to other schools within the school district, including presentations, document-sharing, and joint staff development.

''SEC. 5326. PROGRESS INCENTIVES.

''Notwithstanding any other provision of law, each local educational agency that receives funds under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) shall use such funding to provide assistance to schools served by the agency that have not made progress toward lowering school dropout rates after receiving assistance under this subpart for 2 fiscal years.

''SEC. 5327. SCHOOL DROPOUT RATE CALCULATION.

''For purposes of calculating a school dropout rate under this subpart, a school shall use—

''(1) the annual event school dropout rate for students leaving a school in a single year determined in accordance with the National Center for Education Statistics' Common Core of Data, if available; or

''(2) in other cases, a standard method for calculating the school dropout rate as determined by the State educational agency.

''SEC. 5328. REPORTING AND ACCOUNTABILITY.

''(a) REPORTING.—In order to receive funding under this subpart for a fiscal year after the first fiscal year a school receives funding under this subpart, the school shall provide, on an annual basis, to the Director a report regarding the status of the implementation of activities funded under this subpart, the disaggregated outcome data for students at schools assisted under this subpart such as dropout rates, and certification of progress from the eligible entity whose strategies the school is implementing.

''(b) ACCOUNTABILITY.—On the basis of the reports submitted under subsection (a), the Director shall evaluate the effect of the activities assisted under this subpart on school dropout prevention compared to a control group.

''SEC. 5329. PROHIBITION ON TRACKING.

''(a) IN GENERAL.—A school shall be ineligible to receive funding under this subpart for a fiscal year, if the school—

''(1) has in place a general education track;

''(2) provides courses with significantly different material and requirements to students at the same grade level; or

''(3) fails to encourage all students to take a core curriculum of courses.

''(b) REGULATIONS.—The Secretary shall promulgate regulations implementing subsection (a).

''Subpart 3—Definitions; Authorization of Appropriations

''SEC. 5331. DEFINITIONS.

''In this Act:

''(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Dropout Prevention and Program Completion established under section 219 of the General Education Provisions Act.

''(2) LOW-INCOME.—The term ''low-income'', used with respect to an individual, means an individual determined to be low-income in accordance with measures described in section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5)).

''(3) SCHOOL DROPOUT.—The term ''school dropout'' has the meaning given the term in section 4(17) of the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6103(17)).

''SEC. 5332. AUTHORIZATION OF APPROPRIATIONS.

''(a) SUBPART 1.—There are authorized to be appropriated to carry out subpart 1, $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(b) SUBPART 2.—There are authorized to be appropriated to carry out subpart 2, $145,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years, of which—

''(1) $125,000,000 shall be available to carry out section 5322; and

''(2) $20,000,000 shall be available to carry out section 5323.''.

(c) OFFICE OF DROPOUT PREVENTION AND PROGRAM COMPLETION.—Title II of the Department of Education Organization Act (20 U.S.C. 3411) is amended—

(1) by redesignating section 216 (as added by Public Law 103–227) as section 218; and

(2) by adding after section 218 (as redesignated by paragraph (1)) the following:

''OFFICE OF DROPOUT PREVENTION AND PROGRAM COMPLETION

''SEC. 219. (a) ESTABLISHMENT.—There shall be in the Department of Education an Office of Dropout Prevention and Program Completion (hereafter in this section referred to as the 'Office'), to be administered by the Director of the Office of Dropout Prevention and Program Completion. The Director of the Office shall report directly to the Secretary and shall perform such additional functions as the Secretary may prescribe.

''(b) DUTIES.—The Director of the Office of Dropout Prevention and Program Completion (hereafter in this section referred to as the 'Director'), through the Office, shall—

''(1) help coordinate Federal, State, and local efforts to lower school dropout rates and increase program completion by middle school, secondary school, and college students;

''(2) recommend Federal policies, objectives, and priorities to lower school dropout rates and increase program completion;

''(3) oversee the implementation of subpart 2 of part C of title V of the Elementary and Secondary Education Act of 1965;

''(4) develop and implement the National School Dropout Prevention Strategy under section 5312 of the Elementary and Secondary Education Act of 1965;

''(5) annually prepare and submit to Congress and the Secretary a national report describing efforts and recommended actions regarding school dropout prevention and program completion;

''(6) recommend action to the Secretary and the President, as appropriate, regarding school dropout prevention and program completion; and

''(7) consult with and assist State and local governments regarding school dropout prevention and program completion.

''(c) SCOPE OF DUTIES.—The scope of the Director's duties under subsection (b) shall include examination of all Federal and non-Federal efforts related to—

''(1) promoting program completion for children attending middle school or secondary school;

''(2) programs to obtain a secondary school diploma or its recognized equivalent (including general equivalency diploma (GED) programs), or college degree programs; and

''(3) reentry programs for individuals aged 12 to 24 who are out of school.

''(d) DETAILING.—In carrying out the Director's duties under this section, the Director may request the head of any Federal department or agency to detail personnel who are engaged in school dropout prevention activities to another Federal department or agency in order to implement the National School Dropout Prevention Strategy.''.

(d) STATE RESPONSIBILITIES.—Title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801 et seq.) is amended by adding at the end the following:

''PART I—DROPOUT PREVENTION

''SEC. 14851. DROPOUT PREVENTION.

''In order to receive any assistance under this Act, a State educational agency shall comply with the following provisions regarding school dropouts:

''(1) UNIFORM DATA COLLECTION.—Within 1 year after the date of enactment of the National Dropout Prevention Act of 1998, a State educational agency shall report to the Secretary and statewide, all school district and school data regarding school dropout rates in the State, and demographic breakdowns, according to procedures that conform with the National Center for Education Statistics' Common Core of Data.

''(2) ATTENDANCE-NEUTRAL FUNDING POLICIES.—Within 2 years after the date of enactment of the National Dropout Prevention Act of 1998, a State educational agency shall develop and implement education funding formula policies for public schools that provide appropriate incentives to retain students in school throughout the school year, such as—

''(A) a student count methodology that does not determine annual budgets based on attendance on a single day early in the academic year; and

''(B) specific incentives for retaining enrolled students throughout each year.

''(3) SUSPENSION AND EXPULSION POLICIES.—Within 2 years after the date of enactment of the National Dropout Prevention Act of 1998, a State educational agency shall develop uniform, long-term suspension and expulsion policies for serious infractions resulting in more than 10 days of exclusion from school per academic year so that similar violations result in similar penalties.''.

AMENDMENT NO. 2041

At the end, add the following:

TITLE ____—DROPOUT PREVENTION AND STATE RESPONSIBILITIES

SEC. ___01. SHORT TITLE.

This title may be cited as the ''National Dropout Prevention Act of 1998''.

Subtitle A—Dropout Prevention

SEC. ___11. DROPOUT PREVENTION.

Part C of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7261 et seq.) is amended to read as follows:

''PART C—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

''Subpart 1—Coordinated National Strategy

''SEC. 5311. NATIONAL ACTIVITIES.

''(a) NATIONAL PRIORITY.—It shall be a national priority, for the 5-year period beginning on the date of enactment of the National Dropout Prevention Act of 1998, to lower the school dropout rate, and increase school completion, for middle school and secondary school students in accordance with Federal law. As part of this priority, all Federal agencies that carry out activities that serve students at risk of dropping out of school or that are intended to help address the school dropout problem shall make school dropout prevention a top priority in the agencies' funding priorities during the 5-year period.

''(b) ENHANCED DATA COLLECTION.—The Secretary shall collect systematic data on the participation of different racial and ethnic groups (including migrant and limited English proficient students) in all Federal programs.

''SEC. 5312. NATIONAL SCHOOL DROPOUT PREVENTION STRATEGY.

''(a) PLAN.—The Director shall develop, implement, and monitor an interagency plan (in this section referred to as the ''plan'') to assess the coordination, use of resources, and availability of funding under Federal law that can be used to address school dropout prevention, or middle school or secondary school reentry. The plan shall be completed and transmitted to the Secretary and Congress not later than 180 days after the first Director is appointed.

''(b) COORDINATION.—The plan shall address inter- and intra-agency program coordination issues at the Federal level with respect to school dropout prevention and middle school and secondary school reentry, assess the targeting of existing Federal services to students who are most at risk of dropping out of school, and the cost-effectiveness of various programs and approaches used to address school dropout prevention.

''(c) AVAILABLE RESOURCES.—The plan shall also describe the ways in which State and local agencies can implement effective school dropout prevention programs using funds from a variety of Federal programs, including the programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

''(d) SCOPE.—The plan will address all Federal programs with school dropout prevention or school reentry elements or objectives, programs under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq.), title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.), and part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.), and other programs.

''SEC. 5313. NATIONAL CLEARINGHOUSE.

''Not later than 6 months after the date of enactment of the National Dropout Prevention Act of 1998, the Director shall establish a national clearinghouse on effective school dropout prevention, intervention and reentry programs. The clearinghouse shall be established through a competitive grant or contract awarded to an organization with a demonstrated capacity to provide technical assistance and disseminate information in the area of school dropout prevention, intervention, and reentry programs. The clearinghouse shall—

''(1) collect and disseminate to educators, parents, and policymakers information on research, effective programs, best practices, and available Federal resources with respect to school dropout prevention, intervention, and reentry programs, including dissemination by an electronically accessible database, a worldwide Web site, and a national journal; and

''(2) provide technical assistance regarding securing resources with respect to, and designing and implementing, effective and comprehensive school dropout prevention, intervention, and reentry programs.

''SEC. 5314. NATIONAL RECOGNITION PROGRAM.

''(a) IN GENERAL.—The Director shall carry out a national recognition program that recognizes schools that have made extraordinary progress in lowering school dropout rates under which a public middle school or secondary school from each State will be recognized. The Director shall use uniform national guidelines that are developed by the Director for the recognition program and shall recognize schools from nominations submitted by State educational agencies.

''(b) ELIGIBLE SCHOOLS.—The Director may recognize any public middle school or secondary school (including a charter school) that has implemented comprehensive reforms regarding the lowering of school dropout rates for all students at that school.

''(c) SUPPORT.—The Director may make monetary awards to schools recognized under this section, in amounts determined by the Director. Amounts received under this section shall be used for dissemination activities within the school district or nationally.

''Subpart 2—National School Dropout Prevention Initiative

''SEC. 5321. FINDINGS.

''Congress finds that, in order to lower dropout rates and raise academic achievement levels, improved and redesigned schools must—

''(1) challenge all children to attain their highest academic potential; and

''(2) ensure that all students have substantial and ongoing opportunities to—

''(A) achieve high levels of academic and technical skills;

''(B) prepare for college and careers;

''(C) learn by doing;

''(D) work with teachers in small schools within schools;

''(E) receive ongoing support from adult mentors;

''(F) access a wide variety of information about careers and postsecondary education and training;

''(G) use technology to enhance and motivate learning; and

''(H) benefit from strong links among middle schools, secondary schools, and postsecondary institutions.

''SEC. 5322. PROGRAM AUTHORIZED.

''(a) ALLOTMENTS TO STATES.—

''(1) IN GENERAL.—From the sum made available under section 5332(b) for a fiscal year the Secretary shall make an allotment to each State in an amount that bears the same relation to the sum as the amount the State received under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) for the preceding fiscal year bears to the amount received by all States under such title for the preceding fiscal year.

''(2) DEFINITION OF STATE.—In this subpart, the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(b) GRANTS.—From amounts made available to a State under subsection (a), the State educational agency may award grants to public middle schools or secondary schools, that have school dropout rates which are in the highest ⅓ of all school dropout rates in the State, to enable the schools to pay only the startup and implementation costs of effective, sustainable, coordinated, and whole school dropout prevention programs that involve activities such as—

''(1) professional development;

''(2) obtaining curricular materials;

''(3) release time for professional staff; and

''(4) planning and research.

''(b) INTENT OF CONGRESS.—It is the intent of Congress that the activities started or implemented under subsection (a) shall be continued with funding provided under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

''(c) NUMBER.—The State educational agency shall award not more than 1,000 grants under this subpart during the first year that the State receives an allotment under this subpart, not more than 1,500 grants during the second such year, and not more than 2,000 grants during the third such year.

''(d) AMOUNT.—

''(1) IN GENERAL.—Subject to subsection (e) and except as provided in paragraph (2), a grant under this subpart shall be awarded—

''(A) in the first year that a school receives a grant payment under this subpart, in an amount that is not less than $50,000 and not more than $100,000, based on factors such as—

''(i) school size;

''(ii) costs of the model being implemented; and

''(iii) local cost factors such as poverty rates;

''(B) in the second such year, in an amount that is not less than 75 percent of the amount the school received under this subpart in the first such year;

''(C) in the third year, in an amount that is not less than 50 percent of the amount the school received under this subpart in the first such year; and

''(D) in each succeeding year in an amount that is not less than 30 percent of the

amount the school received under this subpart in the first such year.

''(2) INCREASES.—The Director shall increase the amount awarded to a school under this subpart by 10 percent if the school creates smaller learning communities within the school and the creation is certified by the State educational agency.

''(e) DURATION.—A grant under this subpart shall be awarded for a period of 3 years, and may be continued for a period of 2 additional years if the State educational agency determines, based on the annual reports described in section 5328(a), that significant progress has been made in lowering the school dropout rate for students participating in the program assisted under this subpart compared to students at similar schools who are not participating in the program.

''SEC. 5323. STRATEGIES AND ALLOWABLE MODELS.

''(a) STRATEGIES.—Each school receiving a grant under this subpart shall implement research-based, sustainable, and widely replicated, strategies for school dropout prevention and reentry that address the needs of an entire school population rather than a subset of students. The strategies may include—

''(1) specific strategies for targeted purposes; and

''(2) approaches such as breaking larger schools down into smaller learning communities and other comprehensive reform approaches, developing clear linkages to career skills and employment, and addressing specific gatekeeper hurdles that often limit student retention and academic success.

''(b) ALLOWABLE MODELS.—The Director shall annually establish and publish in the Federal Register the principles, criteria, models, and other parameters regarding the types of effective, proven program models that are allowed to be used under this subpart, based on existing research.

''(c) CAPACITY BUILDING.—

''(1) IN GENERAL.—The Director, through a contract with a non-Federal entity, shall conduct a capacity building and design initiative in order to increase the types of proven strategies for dropout prevention on a schoolwide level.

''(2) NUMBER AND DURATION.—

''(A) NUMBER.—The Director shall award not more than 5 contracts under this subsection.

''(B) DURATION.—The Director shall award a contract under this section for a period of not more than 5 years.

''(d) SUPPORT FOR EXISTING REFORM NETWORKS.—

''(1) IN GENERAL.—The Director shall provide appropriate support to eligible entities to enable the eligible entities to provide training, materials, development, and staff assistance to schools assisted under this subpart.

''(2) DEFINITION OF ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that, prior to the date of enactment of the National Dropout Prevention Act of 1998—

''(A) provided training, technical assistance, and materials to 100 or more elementary schools or secondary schools; and

''(B) developed and published a specific educational program or design for use by the schools.

''SEC. 5324. SELECTION OF SCHOOLS.

''(a) SCHOOL APPLICATION.—

''(1) IN GENERAL.—Each school desiring a grant under this subpart shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may require.

''(2) CONTENTS.—Each application submitted under paragraph (1) shall—

''(A) contain a certification from the local educational agency serving the school that—

''(i) the school has the highest number or rates of school dropouts in the age group served by the local educational agency;

''(ii) the local educational agency is committed to providing ongoing operational support, for the school's comprehensive reform plan to address the problem of school dropouts, for a period of 5 years; and

''(iii) the local educational agency will support the plan, including—

''(I) release time for teacher training;

''(II) efforts to coordinate activities for feeder schools; and

''(III) encouraging other schools served by the local educational agency to participate in the plan;

''(B) demonstrate that the faculty and administration of the school have agreed to apply for assistance under this subpart, and provide evidence of the school's willingness and ability to use the funds under this subpart, including providing an assurance of the support of 80 percent or more of the professional staff at the school;

''(C) describe the instructional strategies to be implemented, how the strategies will serve all students, and the effectiveness of the strategies;

''(D) describe a budget and timeline for implementing the strategies;

''(E) contain evidence of interaction with an eligible entity described in section 5323(d)(2);

''(F) contain evidence of coordination with existing resources;

''(G) provide an assurance that funds provided under this subpart will supplement and not supplant other Federal, State, and local funds;

''(H) describe how the activities to be assisted conform with an allowable model described in section 5323(b); and

''(I) demonstrate that the school and local educational agency have agreed to conduct a schoolwide program under 1114.

''(b) STATE AGENCY REVIEW AND AWARD.—The State educational agency shall review applications and award grants to schools under subsection (a) according to a review by a panel of experts on school dropout prevention.

''(c) CRITERIA.—The Director shall establish clear and specific selection criteria for awarding grants to schools under this subpart. Such criteria shall be based on school dropout rates and other relevant factors for State educational agencies to use in determining the number of grants to award and the type of schools to be awarded grants.

''(d) ELIGIBILITY.—

''(1) IN GENERAL.—A school is eligible to receive a grant under this subpart if the school is—

''(A) a public school—

''(i) that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), including a comprehensive secondary school, a vocational or technical secondary school, and a charter school; and

''(ii)(I) that serves students 50 percent or more of whom are low-income individuals; or

''(II) with respect to which the feeder schools that provide the majority of the incoming students to the school serve students 50 percent or more of whom are low-income individuals; or

''(B) is participating in a schoolwide program under section 1114 during the grant period.

''(2) OTHER SCHOOLS.—A private or parochial school, an alternative school, or a school within a school, is not eligible to receive a grant under this subpart, but an alternative school or school within a school may be served under this subpart as part of a whole school reform effort within an entire school building.

''(e) COMMUNITY-BASED ORGANIZATIONS.—A school that receives a grant under this subpart may use the grant funds to secure necessary services from a community-based organization, including private sector entities, if—

''(1) the school approves the use;

''(2) the funds are used to provide school dropout prevention and reentry activities related to schoolwide efforts; and

''(3) the community-based organization has demonstrated the organization's ability to provide effective services as described in section 107(a) of the Job Training Partnership Act (29 U.S.C. 1517(a)).

''(f) COORDINATION.—Each school that receives a grant under this subpart shall coordinate the activities assisted under this subpart with other Federal programs, such as programs assisted under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq.) and the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

''SEC. 5325. DISSEMINATION ACTIVITIES.

''Each school that receives a grant under this subpart shall provide information and technical assistance to other schools within the school district, including presentations, document-sharing, and joint staff development.

''SEC. 5326. PROGRESS INCENTIVES.

''Notwithstanding any other provision of law, each local educational agency that receives funds under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) shall use such funding to provide assistance to schools served by the agency that have not made progress toward lowering school dropout rates after receiving assistance under this subpart for 2 fiscal years.

''SEC. 5327. SCHOOL DROPOUT RATE CALCULATION.

''For purposes of calculating a school dropout rate under this subpart, a school shall use—

''(1) the annual event school dropout rate for students leaving a school in a single year determined in accordance with the National Center for Education Statistics' Common Core of Data, if available; or

''(2) in other cases, a standard method for calculating the school dropout rate as determined by the State educational agency.

''SEC. 5328. REPORTING AND ACCOUNTABILITY.

''(a) REPORTING.—In order to receive funding under this subpart for a fiscal year after the first fiscal year a school receives funding under this subpart, the school shall provide, on an annual basis, to the Director a report regarding the status of the implementation of activities funded under this subpart, the disaggregated outcome data for students at schools assisted under this subpart such as dropout rates, and certification of progress from the eligible entity whose strategies the school is implementing.

''(b) ACCOUNTABILITY.—On the basis of the reports submitted under subsection (a), the Director shall evaluate the effect of the activities assisted under this subpart on school dropout prevention compared to a control group.

''SEC. 5329. PROHIBITION ON TRACKING.

''(a) IN GENERAL.—A school shall be ineligible to receive funding under this subpart for a fiscal year, if the school—

''(1) has in place a general education track;

''(2) provides courses with significantly different material and requirements to students at the same grade level; or

''(3) fails to encourage all students to take a core curriculum of courses.

''(b) REGULATIONS.—The Secretary shall promulgate regulations implementing subsection (a).

"Subpart 3—Definitions; Authorization of Appropriations

"SEC. 5331. DEFINITIONS.

''In this Act:

''(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Dropout Prevention and Program Completion established under section 219 of the General Education Provisions Act.

''(2) LOW-INCOME.—The term ''low-income'', used with respect to an individual, means an individual determined to be low-income in accordance with measures described in section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5)).

''(3) SCHOOL DROPOUT.—The term ''school dropout'' has the meaning given the term in section 4(17) of the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6103(17)).

"SEC. 5332. AUTHORIZATION OF APPROPRIATIONS.

''(a) SUBPART 1.—There are authorized to be appropriated to carry out subpart 1, $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(b) SUBPART 2.—There are authorized to be appropriated to carry out subpart 2, $145,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years, of which—

''(1) $125,000,000 shall be available to carry out section 5322; and

''(2) $20,000,000 shall be available to carry out section 5323.''.

SEC. ___12. OFFICE OF DROPOUT PREVENTION AND PROGRAM COMPLETION.

Title II of the Department of Education Organization Act (20 U.S.C. 3411) is amended—

(1) by redesignating section 216 (as added by Public Law 103–227) as section 218; and

(2) by adding after section 218 (as redesignated by paragraph (1)) the following:

''OFFICE OF DROPOUT PREVENTION AND PROGRAM COMPLETION

''SEC. 219. (a) ESTABLISHMENT.—There shall be in the Department of Education an Office of Dropout Prevention and Program Completion (hereafter in this section referred to as the 'Office'), to be administered by the Director of the Office of Dropout Prevention and Program Completion. The Director of the Office shall report directly to the Secretary and shall perform such additional functions as the Secretary may prescribe.

''(b) DUTIES.—The Director of the Office of Dropout Prevention and Program Completion (hereafter in this section referred to as the 'Director'), through the Office, shall—

''(1) help coordinate Federal, State, and local efforts to lower school dropout rates and increase program completion by middle school, secondary school, and college students;

''(2) recommend Federal policies, objectives, and priorities to lower school dropout rates and increase program completion;

''(3) oversee the implementation of subpart 2 of part C of title V of the Elementary and Secondary Education Act of 1965;

''(4) develop and implement the National School Dropout Prevention Strategy under section 5312 of the Elementary and Secondary Education Act of 1965;

''(5) annually prepare and submit to Congress and the Secretary a national report describing efforts and recommended actions regarding school dropout prevention and program completion;

''(6) recommend action to the Secretary and the President, as appropriate, regarding school dropout prevention and program completion; and

''(7) consult with and assist State and local governments regarding school dropout prevention and program completion.

''(c) SCOPE OF DUTIES.—The scope of the Director's duties under subsection (b) shall include examination of all Federal and non-Federal efforts related to—

''(1) promoting program completion for children attending middle school or secondary school;

''(2) programs to obtain a secondary school diploma or its recognized equivalent (including general equivalency diploma (GED) programs), or college degree programs; and

''(3) reentry programs for individuals aged 12 to 24 who are out of school.

''(d) DETAILING.—In carrying out the Director's duties under this section, the Director may request the head of any Federal department or agency to detail personnel who are engaged in school dropout prevention activities to another Federal department or agency in order to implement the National School Dropout Prevention Strategy.''.

Subtitle B—State Responsibilities

SEC. ___21. STATE RESPONSIBILITIES.

Title XIV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801 et seq.) is amended by adding at the end the following:

"PART I—DROPOUT PREVENTION

"SEC. 14851. DROPOUT PREVENTION.

''In order to receive any assistance under this Act, a State educational agency shall comply with the following provisions regarding school dropouts:

''(1) UNIFORM DATA COLLECTION.—Within 1 year after the date of enactment of the National Dropout Prevention Act of 1998, a State educational agency shall report to the Secretary and statewide, all school district and school data regarding school dropout rates in the State, and demographic breakdowns, according to procedures that conform with the National Center for Education Statistics' Common Core of Data.

''(2) ATTENDANCE-NEUTRAL FUNDING POLICIES.—Within 2 years after the date of enactment of the National Dropout Prevention Act of 1998, a State educational agency shall develop and implement education funding formula policies for public schools that provide appropriate incentives to retain students in school throughout the school year, such as—

''(A) a student count methodology that does not determine annual budgets based on attendance on a single day early in the academic year; and

''(B) specific incentives for retaining enrolled students throughout each year.

''(3) SUSPENSION AND EXPULSION POLICIES.—Within 2 years after the date of enactment of the National Dropout Prevention Act of 1998, a State educational agency shall develop uniform, long-term suspension and expulsion policies for serious infractions resulting in more than 10 days of exclusion from school per academic year so that similar violations result in similar penalties.''.

KENNEDY AMENDMENTS NOS. 2042–2047

(Ordered to lie on the table.)

Mr. KENNEDY submitted six amendments intended to be proposed by him to the bill, H.R. 2646, supr; as follows:

AMENDMENT NO. 2042

On page 3, beginning with line 22, strike all through page 5, line 6, and insert:

''(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means—

''(i) expenses for tuition, fees, academic tutoring, special needs services, books, supplies, computer equipment (including related software and services), and other equipment which are incurred in connection with the enrollment or attendance of the designated beneficiary of the trust as an elementary or secondary school student at a public school, or

''(ii) expenses for room and board, uniforms, transportation, and supplementary items and services (including extended day programs) which are required or provided by a public school in connection with such enrollment or attendance.

''(B) SCHOOL.—The term 'school' means any public school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.''

AMENDMENT NO. 2043

On page 3, beginning with line 22, strike all through page 5, line 6, and insert:

''(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means—

''(i) expenses for tuition, fees, academic tutoring, special needs services, books, supplies, computer equipment (including related software and services), and other equipment which are incurred in connection with the enrollment or attendance of the designated beneficiary of the trust as an elementary or secondary school student at a public school, or

''(ii) expenses for room and board, uniforms, transportation, and supplementary items and services (including extended day programs) which are required or provided by a public school in connection with such enrollment or attendance.

''(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A)(i) in connection with education provided by homeschooling if the requirements of any applicable State or local law are met with respect to such education.

''(C) SCHOOL.—The term 'school' means any public school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.''

AMENDMENT NO. 2044

Strike section 101 and insert the following:

SEC. 101. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) MAXIMUM ANNUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) (defining education individual retirement account) is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(2) CONTRIBUTION LIMIT.—Section 530(b) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(4) CONTRIBUTION LIMIT.—The term 'contribution limit' means $500 ($1,500 in the case of any taxable year beginning after December 31, 1998, and ending before January 1, 2003).''

(3) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4)(C) is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(B) Section 4973(e)(1)(A) is amended by striking ''$500'' and inserting ''the contribution limit (as defined in section 530(b)(5)) for such taxable year''.

(b) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Section 530(b)(1) (defining education individual retirement account) is amended by adding at the end the following flush sentence:

''The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).''

(c) CORPORATIONS PERMITTED TO CONTRIBUTE TO ACCOUNTS.—Section 530(c)(1) (relating to reduction in permitted contributions based on adjusted gross income) is amended by striking ''The maximum amount which a contributor'' and inserting ''In the case of a contributor who is an individual, the maximum amount the contributor''.

(d) NO DOUBLE BENEFIT.—Section 530(d)(2) (relating to distributions for qualified education expenses) is amended by adding at the end the following new subparagraph:

''(D) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph.''

(e) TECHNICAL CORRECTIONS.—

(1)(A) Section 530(b)(1)(E) (defining education individual retirement account) is amended to read as follows:

''(E) Any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death to the estate of such beneficiary.''

(B) Section 530(d) (relating to tax treatment of distributions) is amended by adding at the end the following new paragraph:

''(8) DEEMED DISTRIBUTION ON REQUIRED DISTRIBUTION DATE.—In any case in which a distribution is required under subsection (b)(1)(E), any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period.''

(2)(A) Section 530(d)(1) is amended by striking ''section 72(b)'' and inserting ''section 72''.

(B) Section 72(e) (relating to amounts not received as annuities) is amended by inserting after paragraph (8) the following new paragraph:

''(9) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED STATE TUITION PROGRAMS AND EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (2)(B) shall apply to amounts received under a qualified State tuition program (as defined in section 529(b)) or under an education individual retirement account (as defined in section 530(b)). The rule of paragraph (8)(B) shall apply for purposes of this paragraph.''

(3) Section 530(d)(4)(B) (relating to exceptions) 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 the following new clause:

''(iv) an amount which is includible in gross income solely because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2) for the taxable year.''

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) TECHNICAL CORRECTIONS.—The amendments made by subsection (e) shall take effect as if included in the amendments made by section 213 of the Taxpayer Relief Act of 1997.

AMENDMENT NO. 2045

Strike section 101 and insert the following:

SEC. 101. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) MAXIMUM ANNUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) (defining education individual retirement account) is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(2) CONTRIBUTION LIMIT.—Section 530(b) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(4) CONTRIBUTION LIMIT.—The term 'contribution limit' means $500 ($1,000 in the case of any taxable year beginning after December 31, 1998, and ending before January 1, 2003).''

(3) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4)(C) is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(B) Section 4973(e)(1)(A) is amended by striking ''$500'' and inserting ''the contribution limit (as defined in section 530(b)(5)) for such taxable year''.

(b) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Section 530(b)(1) (defining education individual retirement account) is amended by adding at the end the following flush sentence:

''The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).''

(c) CORPORATIONS PERMITTED TO CONTRIBUTE TO ACCOUNTS.—Section 530(c)(1) (relating to reduction in permitted contributions based on adjusted gross income) is amended by striking ''The maximum amount which a contributor'' and inserting ''In the case of a contributor who is an individual, the maximum amount the contributor''.

(d) NO DOUBLE BENEFIT.—Section 530(d)(2) (relating to distributions for qualified education expenses) is amended by adding at the end the following new subparagraph:

''(D) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph.''

(e) TECHNICAL CORRECTIONS.—

(1)(A) Section 530(b)(1)(E) (defining education individual retirement account) is amended to read as follows:

''(E) Any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death to the estate of such beneficiary.''

(B) Section 530(d) (relating to tax treatment of distributions) is amended by adding at the end the following new paragraph:

''(8) DEEMED DISTRIBUTION ON REQUIRED DISTRIBUTION DATE.—In any case in which a distribution is required under subsection (b)(1)(E), any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period.''

(2)(A) Section 530(d)(1) is amended by striking ''section 72(b)'' and inserting ''section 72''.

(B) Section 72(e) (relating to amounts not received as annuities) is amended by inserting after paragraph (8) the following new paragraph:

''(9) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED STATE TUITION PROGRAMS AND EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (2)(B) shall apply to amounts received under a qualified State tuition program (as defined in section 529(b)) or under an education individual retirement account (as defined in section 530(b)). The rule of paragraph (8)(B) shall apply for purposes of this paragraph.''

(3) Section 530(d)(4)(B) (relating to exceptions) 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 the following new clause:

''(iv) an amount which is includible in gross income solely because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2) for the taxable year.''

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) TECHNICAL CORRECTIONS.—The amendments made by subsection (e) shall take effect as if included in the amendments made by section 213 of the Taxpayer Relief Act of 1997.

AMENDMENT NO. 2046

On page 10, line 17, strike ''1998'' and insert ''1998, except that such amendments shall only take effect to the extent that—

''(A) contributions to education individual retirement accounts or qualified elementary and secondary education expenses are—

''(i) limited to accounts that, at the time the account is created or organized, are designated solely for the payment of such expenses, and

''(ii) not allowed for contributors who have modified adjusted gross income in excess of $60,000 and are ratably reduced to zero for contributors who have modified adjusted gross income between $50,000 and $60,000,

''(B) contributions to education individual retirement accounts in excess of $500 for any taxable years may be made only to accounts described in subparagraph (A)(i),

''(C) no contributions may be made to accounts described in subparagraph (A)(i) for taxable years ending after December 31, 2002,

''(D) the modified adjusted gross income limitation shall apply to all contributors but contributions made by a person other than the taxpayer with respect to whom a deduction is allowed under section 151(c)(1) for a designated beneficiary shall be treated as having been made by such taxpayer, and

''(E) expenses for computer and other equipment, transportation, and supplementary items are allowed tax-free only if required or provided by the school.''

AMENDMENT NO. 2047

Strike sections 101, 102, and 103, and insert:

SEC. 102. EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED STATE TUITION PROGRAMS.

(a) IN GENERAL.—Section 529(c)(3)(B) (relating to distributions) is amended to read as follows:

''(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—

''(i) IN GENERAL.—No amount shall be includible in gross income under subparagraph (A) if the qualified higher education expenses of the designated beneficiary during the taxable year are not less than the aggregate distributions during the taxable year.

''(ii) DISTRIBUTIONS IN EXCESS OF EXPENSES.—If such aggregate distributions exceed such expenses during the taxable year,

the amount otherwise includible in gross income under subparagraph (A) shall be reduced by the amount which bears the same ratio to the amount so includible (without regard to this subparagraph) as such expenses bear to such aggregate distributions.

''(iii) ELECTION TO WAIVE EXCLUSION.—A taxpayer may elect to waive the application of this subparagraph for any taxable year.

''(iv) IN-KIND DISTRIBUTIONS.—Any benefit furnished to a designated beneficiary under a qualified State tuition program shall be treated as a distribution to the beneficiary for purposes of this paragraph.

''(v) DISALLOWABLE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified higher education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph.''

(b) DEFINITION OF QUALIFIED HIGHER EDUCATION EXPENSES.—Section 529(e)(3)(A) (defining qualified higher education expenses) is amended to read as follows:

''(A) IN GENERAL.—The term 'qualified higher education expenses' means expenses for tuition, fees, academic tutoring, special needs services, books, supplies, computer equipment (including related software and services), and other equipment which are incurred in connection with the enrollment or attendance of the designated beneficiary at an eligible educational institution.''

(c) COORDINATION WITH EDUCATION CREDITS.—Section 25A(e)(2) (relating to coordination with exclusions) is amended—

(1) by inserting ''a qualified State tuition program or'' before ''an education individual retirement account'', and

(2) by striking ''section 530(d)(2)'' and inserting ''section 529(c)(3)(B) or 530(d)(2)''.

(d) TECHNICAL CORRECTION.—Section 529(c)(3)(A) is amended by striking ''section 72(b)'' and inserting ''section 72''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) TECHNICAL CORRECTION.—The amendment made by subsection (d) shall take effect as if included in the amendments made by section 211 of the Taxpayer Relief Act of 1997.

SEC. 103. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

''(a) IN GENERAL.—Section 127(d) (relating to termination of exclusion for educational assistance programs) is amended by striking ''May 31, 2000'' and inserting ''December 31, 2002''.

''(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—The last sentence of section 127(c)(1) (defining educational assistance) is amended by striking '', and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree''.

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendment made by subsection (a) shall apply to expenses paid with respect to courses beginning after May 31, 2000.

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

D'AMATO (AND OTHERS) AMENDMENT NO. 2048

(Ordered to lie on the table.)

Mr. D'AMATO (for himself, Mr. DASCHLE, Ms. SNOWE, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by them to the bill, H.R. 2646, supra; as follows:

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

TITLE ____—WOMEN'S HEALTH AND CANCER

SEC. ___01. SHORT TITLE.

This Act may be cited as the ''Women's Health and Cancer Rights Act of 1998''.

SEC. ___02. FINDINGS.

Congress finds that—

(1) breast cancer has become an epidemic in this nation affecting alarming numbers of women;

(2) the offering and operation of health plans affect commerce among the States;

(3) health care providers located in a State serve patients who reside in the State and patients who reside in other States; and

(4) in order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in 1 State as well as health plans operating among the several States.

SEC. ___03. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by section 603(a) of the Newborns' and Mothers' Health Protection Act of 1996 and amended by section 702(a) of the Mental Health Parity Act of 1996) is amended by adding at the end the following new section:

''SEC. 713. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

''(A) a mastectomy;

''(B) a lumpectomy; or

''(C) a lymph node dissection for the treatment of breast cancer.

''(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

''(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

''(1) all stages of reconstruction of the breast on which the mastectomy has been performed;

''(2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

''(3) the costs of prostheses and complications of mastectomy including lymphodemas;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

''(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

''(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 1998; whichever is earlier.

''(d) NO AUTHORIZATION REQUIRED.—

''(1) IN GENERAL.—A provider shall not be required to obtain authorization from the plan or issuer for prescribing any length of stay in connection with a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

''(2) PRENOTIFICATION.—Nothing in this section shall be construed as preventing a group health plan from requiring prenotification of an inpatient stay referred to in this section if such requirement is consistent with terms and conditions applicable to other inpatient benefits under the plan, except that the provision of such inpatient stay benefits shall not be contingent upon such notification.

''(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

''(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

''(2) provide monetary payments or rebates to individuals to encourage such individuals to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

''(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section;

''(5) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved; and

''(6) subject to subsection (f)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

''(f) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

''(A) to undergo a mastectomy or lymph node dissection in a hospital; or

''(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

''(2) LIMITATION.—This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which

does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

''(3) COST SHARING.—Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

''(4) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(g) SAFE HARBORS.—The provisions of this section shall not be applicable to any group health plan for any plan year for which such plan has voluntarily sought and received certification from the National Cancer Institute, or any similar entity authorized by the Secretary, that such plan provides appropriate coverage, consistent with the objectives of this section, for mastectomies, lumpectomies and lymph node dissection for the treatment of breast cancer.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974, as amended by section 603 of the Newborns' and Mothers' Health Protection Act of 1996 and section 702 of the Mental Health Parity Act of 1996, is amended by inserting after the item relating to section 712 the following new item:

''Sec. 713. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1999.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. ___04. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (as added by section 604(a) of the Newborns' and Mothers' Health Protection Act of 1996 and amended by section 703(a) of the Mental Health Parity Act of 1996) is amended by adding at the end the following new section:

''SEC. 2706. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

''(A) a mastectomy;

''(B) a lumpectomy; or

''(C) a lymph node dissection for the treatment of breast cancer.

''(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

''(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

''(1) all stages of reconstruction of the breast on which the mastectomy has been performed;

''(2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

''(3) the costs of prostheses and complications of mastectomy including lymphodemas;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

''(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

''(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 1998;

whichever is earlier.

''(d) NO AUTHORIZATION REQUIRED.—

''(1) IN GENERAL.—A provider shall not be required to obtain authorization from the plan or issuer for prescribing any length of stay in connection with a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

''(2) PRENOTIFICATION.—Nothing in this section shall be construed as preventing a plan or issuer from requiring prenotification of an inpatient stay referred to in this section if such requirement is consistent with terms and conditions applicable to other inpatient benefits under the plan, except that the provision of such inpatient stay benefits shall not be contingent upon such notification.

''(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

''(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

''(2) provide monetary payments or rebates to individuals to encourage such individuals to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

''(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section;

''(5) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved; and

''(6) subject to subsection (f)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

''(f) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

''(A) to undergo a mastectomy or lymph node dissection in a hospital; or

''(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

''(2) LIMITATION.—This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

''(3) COST SHARING.—Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

''(4) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(g) SAFE HARBORS.—The provisions of this section shall not be applicable to any group health plan or health insurance issuer in connection with a group health plan for any plan year for which such plan has voluntarily sought and received certification from the National Cancer Institute, or any similar

entity authorized by the Secretary, that such plan provides appropriate coverage, consistent with the objectives of this section, for mastectomies, lumpectomies and lymph node dissection for the treatment of breast cancer.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to group health plans for plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1999.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. ___05. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) IN GENERAL.—Subpart 3 of part B of title XXVII of the Public Health Service Act (as added by section 605(a) of the Newborn's and Mother's Health Protection Act of 1996) is amended by adding at the end the following new section:

''SEC. 2752. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND SECONDARY CONSULTATIONS.

''The provisions of section 2706 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the date of enactment of this Act.

SEC. ___06. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) IN GENERAL.—Chapter 100 of the Internal Revenue Code of 1986 (relating to group health plan portability, access, and renewability requirements) is amended by redesignating sections 9804, 9805, and 9806 as sections 9805, 9806, and 9807, respectively, and by inserting after section 9803 the following new section:

''SEC. 9804. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER, COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES, AND COVERAGE FOR SECONDARY CONSULTATIONS.

''(a) INPATIENT CARE.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically appropriate following—

''(A) a mastectomy;

''(B) a lumpectomy; or

''(C) a lymph node dissection for the treatment of breast cancer.

''(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

''(b) RECONSTRUCTIVE SURGERY.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall ensure that, in a case in which a mastectomy patient elects breast reconstruction, coverage is provided for—

''(1) all stages of reconstruction of the breast on which the mastectomy has been performed;

''(2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

''(3) the costs of prostheses and complications of mastectomy including lymphodemas;

in the manner determined by the attending physician and the patient to be appropriate, and consistent with any fee schedule contained in the plan.

''(c) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

''(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

''(2) as part of any yearly informational packet sent to the participant or beneficiary; or

''(3) not later than January 1, 1998;

whichever is earlier.

''(d) NO AUTHORIZATION REQUIRED.—

''(1) IN GENERAL.—A provider shall not be required to obtain authorization from the plan or issuer for prescribing any length of stay in connection with a mastectomy, a lumpectomy, or a lymph node dissection for the treatment of breast cancer.

''(2) PRENOTIFICATION.—Nothing in this section shall be construed as preventing a plan or issuer from requiring prenotification of an inpatient stay referred to in this section if such requirement is consistent with terms and conditions applicable to other inpatient benefits under the plan, except that the provision of such inpatient stay benefits shall not be contingent upon such notification.

''(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

''(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

''(2) provide monetary payments or rebates to individuals to encourage such individuals to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

''(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section;

''(5) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan or coverage involved; and

''(6) subject to subsection (f)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

''(f) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

''(A) to undergo a mastectomy or lymph node dissection in a hospital; or

''(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

''(2) LIMITATION.—This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

''(3) COST SHARING.—Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

''(4) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(g) SAFE HARBORS.—The provisions of this section shall not be applicable to any group health plan or health insurance issuer in connection with a group health plan for any plan year for which such plan has voluntarily sought and received certification from the National Cancer Institute, or any similar entity authorized by the Secretary, that such plan provides appropriate coverage, consistent with the objectives of this section, for mastectomies, lumpectomies and lymph node dissection for the treatment of breast cancer.''.

(b) CONFORMING AMENDMENTS.—

(1) Sections 9801(c)(1), 9805(b) (as redesignated by subsection (a)), 9805(c) (as so redesignated), 4980D(c)(3)(B)(i)(I), 4980D(d)(3), and 4980D(f)(1) of such Code are each amended by striking ''9805'' each place it appears and inserting ''9806''.

(2) The heading for subtitle K of such Code is amended to read as follows:

''Subtitle K—Group Health Plan Portability, Access, Renewability, and Other Requirements''.

(3) The heading for chapter 100 of such Code is amended to read as follows:

''CHAPTER 100—GROUP HEALTH PLAN PORTABILITY, ACCESS, RENEWABILITY, AND OTHER REQUIREMENTS''.

(4) Section 4980D(a) of such Code is amended by striking ''and renewability'' and inserting ''renewability, and other''.

(c) CLERICAL AMENDMENTS.—

(1) The table of contents for chapter 100 of such Code is amended by redesignating the items relating to sections 9804, 9805, and 9806 as items relating to sections 9805, 9806, and 9807, and by inserting after the item relating to section 9803 the following new item:

''Sec. 9804. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.''.

(2) The item relating to subtitle K in the table of subtitles for such Code is amended by striking ''and renewability'' and inserting ''renewability, and other''.

(3) The item relating to chapter 100 in the table of chapters for subtitle K of such Code is amended by striking ''and renewability'' and inserting ''renewability, and other''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 1999.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

DURBIN AMENDMENT NO. 2049

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike section 101 and insert:

SEC. 101. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) INCREASE IN DEDUCTION.—

(1) IN GENERAL.—Subparagraph (B) of section 162(l)(1) is amended to read as follows:

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

''For taxable years beginning in calendar year—	**The applicable percentage is—**
1998	45
1999	60
2000	100
2001	100
2002	100
2003	100
2004	100
2005	100
2006 and thereafter	100.''

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1997.

(b) RULES RELATING TO FOREIGN OIL AND GAS INCOME.—

(1) SEPARATE BASKET FOR FOREIGN TAX CREDIT.—

(A) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) foreign oil and gas income, and''.

(B) DEFINITION.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) FOREIGN OIL AND GAS INCOME.—The term 'foreign oil and gas income' has the meaning given such term by section 954(g).''

(C) CONFORMING AMENDMENTS.—

(i) Section 904(d)(3)(F)(i) is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(ii) Section 907(a) is hereby repealed.

(iii) Section 907(c)(4) is hereby repealed.

(iv) Section 907(f) is hereby repealed.

(D) EFFECTIVE DATES.—

(i) IN GENERAL.—The amendments made by this paragraph shall apply to taxable years beginning after the date of the enactment of this Act.

(ii) TRANSITIONAL RULES.—

(I) SEPARATE BASKET TREATMENT.—Any taxes paid or accrued in a taxable year beginning on or before the date of the enactment of this Act, with respect to income which was described in subparagraph (I) of section 904(d)(1) of such Code (as in effect on the day before the date of the enactment of this Act), shall be treated as taxes paid or accrued with respect to foreign oil and gas income to the extent the taxpayer establishes to the satisfaction of the Secretary of the Treasury that such taxes were paid or accrued with respect to foreign oil and gas income.

(II) CARRYOVERS.—Any unused oil and gas extraction taxes which under section 907(f) of such Code (as so in effect) would have been allowable as a carryover to the taxpayer's first taxable year beginning after the date of the enactment of this Act (without regard to the limitation of paragraph (2) of such section 907(f) for first taxable year) shall be allowed as carryovers under section 904(c) of such Code in the same manner as if such taxes were unused taxes under such section 904(c) with respect to foreign oil and gas extraction income.

(III) LOSSES.—The amendment made by subparagraph (C)(iii) shall not apply to foreign oil and gas extraction losses arising in taxable years beginning on or before the date of the enactment of this Act.

(2) ELIMINATION OF DEFERRAL FOR FOREIGN OIL AND GAS EXTRACTION INCOME.—

(A) GENERAL RULE.—Paragraph (1) of section 954(g) (defining foreign base company oil related income) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'foreign oil and gas income' means any income of a kind which would be taken into account in determining the amount of—

''(A) foreign oil and gas extraction income (as defined in section 907(c)), or

''(B) foreign oil related income (as defined in section 907(c)).''

(B) CONFORMING AMENDMENTS.—

(i) Subsections (a)(5), (b)(5), and (b)(8) of section 954 are each amended by striking ''base company oil related income'' each place it appears (including in the heading of subsection (b)(8)) and inserting ''oil and gas income''.

(ii) Subsection (b)(4) of section 954 is amended by striking ''base company oil-related income'' and inserting ''oil and gas income''.

(iii) The subsection heading for subsection (g) of section 954 is amended by striking ''FOREIGN BASE COMPANY OIL RELATED INCOME'' and inserting ''FOREIGN OIL AND GAS INCOME''.

(iv) Subparagraph (A) of section 954(g)(2) is amended by striking ''foreign base company oil related income'' and inserting ''foreign oil and gas income''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders ending with or within such taxable years of foreign corporations.

(c) VALUATION RULES FOR TRANSFERS INVOLVING NONBUSINESS ASSETS.—

(1) IN GENERAL.—Section 2031 (relating to definition of gross estate) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS.—For purposes of this chapter and chapter 12—

''(1) IN GENERAL.—In the case of the transfer of any interest in an entity other than an interest which is actively traded (within the meaning of section 1092)—

''(A) the value of any nonbusiness assets held by the entity shall be determined as if the transferor had transferred such assets directly to the transferee (and no valuation discount shall be allowed with respect to such nonbusiness assets), and

''(B) the nonbusiness assets shall not be taken into account in determining the value of the interest in the entity.

''(2) NONBUSINESS ASSETS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'nonbusiness asset' means any asset which is not used in the active conduct of 1 or more trades or businesses.

''(B) EXCEPTION FOR CERTAIN PASSIVE ASSETS.—Except as provided in subparagraph (C), a passive asset shall not be treated for purposes of subparagraph (A) as used in the active conduct of a trade or business unless—

''(i) the asset is property described in paragraph (1) or (4) of section 1221 or is a hedge with respect to such property, or

''(ii) the asset is real property used in the active conduct of 1 or more real property trades or businesses (within the meaning of section 469(c)(7)(C)) in which the transferor materially participates and with respect to which the transferor meets the requirements of section 469(c)(7)(B)(ii).

For purposes of clause (ii), material participation shall be determined under the rules of section 469(h), except that section 469(h)(3) shall be applied without regard to the limitation to farming activity.

''(C) EXCEPTION FOR WORKING CAPITAL.—Any asset (including a passive asset) which is held as a part of the reasonably required working capital needs of a trade or business shall be treated as used in the active conduct of a trade or business.

''(3) PASSIVE ASSET.—For purposes of this subsection, the term 'passive asset' means any—

''(A) cash or cash equivalents,

''(B) except to the extent provided by the Secretary, stock in a corporation or any other equity, profits, or capital interest in any entity,

''(C) evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative,

''(D) asset described in clause (iii), (iv), or (v) of section 351(e)(1)(B),

''(E) annuity,

''(F) real property used in 1 or more real property trades or businesses (as defined in section 469(c)(7)(C)),

''(G) asset (other than a patent, trademark, or copyright) which produces royalty income,

''(H) commodity,

''(I) collectible (within the meaning of section 401(m)), or

''(J) any other asset specified in regulations prescribed by the Secretary.

''(4) LOOK-THRU RULES.—

''(A) IN GENERAL.—If a nonbusiness asset of an entity consists of a 10-percent interest in any other entity, this subsection shall be applied by disregarding the 10-percent interest and by treating the entity as holding directly its ratable share of the assets of the other entity. This subparagraph shall be applied successively to any 10-percent interest of such other entity in any other entity.

''(B) 10-PERCENT INTEREST.—The term '10-percent interest' means—

''(i) in the case of an interest in a corporation, ownership of at least 10 percent (by vote or value) of the stock in such corporation,

''(ii) in the case of an interest in a partnership, ownership of at least 10 percent of the capital or profits interest in the partnership, and

''(iii) in any other case, ownership of at least 10 percent of the beneficial interests in the entity.

''(5) COORDINATION WITH SUBSECTION (b).—Subsection (b) shall apply after the application of this subsection.''

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

PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON ACCESSION OF POLAND, HUNGARY, AND CZECH REPUBLIC

HARKIN AMENDMENTS NOS. 2050–2052

(Ordered to lie on the table).

Mr. HARKIN submitted three amendments intended to be proposed by him to the resolution of ratification for the treaty (Treaty Doc. 105–36) protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic. These protocols were opened for sigature at Brussels on December 16, 1997, and signed on behalf of the United States of America and other parties to the North Atlantic Treaty; as follows:

AMENDMENT NO. 2050

At the end of section 3(2)(A) of the resolution, insert the following:

As used in this subparagraph, the term ''NATO common-funded budget'' shall be deemed to include—

(A) Foreign Military Financing under the Arms Export Control Act;

(B) transfers of excess defense articles under section 516 of the Foreign Assistance Act of 1961;

(C) Emergency Drawdowns;

(D) no-cost leases of United States equipment;

(E) the subsidy cost of loan guarantees and other contingent liabilities under subchapter VI of chapter 148 of title 10, United States Code; and

(F) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961.

AMENDMENT NO. 2051

In section 3(2)(A), strike ''and'' at the end of clause (ii).

In section 3(2)(A), strike ''(iii)'' and insert ''(iv)''.

In section 3(2)(A), insert after clause (ii) the following:

(iii) any future United States subsidy of the national expenses of Poland, Hungary, or the Czech Republic to meet its NATO commitments, including the assistance described in subparagraph (C), may not exceed 25 percent of all assistance provided to that country by all NATO members.

At the end of section 3(2), insert the following new subparagraph:

(C) ADDITIONAL UNITED STATES ASSISTANCE DESCRIBED.—The assistance referred to in subparagraph (A)(iii) includes—

(i) Foreign Military Financing under the Arms Export Control Act;

(ii) transfers of excess defense articles under section 516 of the Foreign Assistance Act of 1961;

(iii) Emergency Drawdowns;

(iv) no-cost leases of United States equipment;

(v) the subsidy cost of loan guarantees and other contingent liabilities under subchapter VI of chapter 148 of title 10, United States Code; and

(vi) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961.

AMENDMENT NO. 2052

At the end of section 3(2), add the following new subparagraph:

(C) ANALYSIS OF COSTS OF CONTINUED NATO ENLARGEMENT.—The Congressional Budget Office shall submit to the Senate a report containing an analysis of common-funded and national costs for the enlargement of NATO to include Estonia, Latvia, Lithuania, Slovakia, Slovenia, Romania, Bulgaria, Macedonia, and Albania. Such analysis shall include an estimate of costs for—

(i) the costs to new members to continue to restructure their militaries;

(ii) the costs of force improvements already being pursued by existing NATO members; and

(iii) the costs directly related to NATO enlargement, including ensuring interoperability between the forces of current and new members.

THE EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

JEFFORDS AMENDMENT NO. 2053

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike section 101 and insert:

SEC. 101. TRUST FUND FOR DC SCHOOLS.

(a) IN GENERAL.—Subchapter W of chapter 1 (relating to District of Columbia Enterprise Zone) is amended by adding at the end the following:

''SEC. 1400D. TRUST FUND FOR DC SCHOOLS.

''(a) CREATION OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for DC Schools', consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

''(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

''(1) IN GENERAL.—There are hereby appropriated to the Trust Fund for DC Schools amounts equivalent to 50 percent of the revenues received in the Treasury resulting from the amendment made by section 201 of the Parent and Student Savings Account PLUS Act.

''(2) TRANSFER OF AMOUNTS.—The amounts appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund for DC Schools on the basis of estimates made by the Secretary of the amounts referred to in such paragraph. 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) EXPENDITURES FROM FUND.—

''(1) IN GENERAL.—Amounts in the Trust Fund for DC Schools shall be available, without fiscal year limitation, in an amount not to exceed $2,000,000,000 for the period beginning after December 31, 1998, and ending before January 1, 2009, for qualified service expenses with respect to State or local bonds issued by the District of Columbia to finance the construction, rehabilitation, and repair of schools under the jurisdiction of the government of the District of Columbia.

''(2) QUALIFIED SERVICE EXPENSES.—The term 'qualified service expenses' means expenses incurred after December 31, 1998, and certified by the District of Columbia Control Board as meeting the requirements of paragraph (1) after giving notice of any proposed certification to the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate.

''(d) REPORT.—It shall be the duty of the Secretary to hold the Trust Fund for DC Schools and to report to the Congress each year on the financial condition and the results of the operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

''(e) INVESTMENT.—

''(1) IN GENERAL.—It shall be the duty of the Secretary to invest such portion of the Trust Fund for DC Schools as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

''(A) on original issue at the issue price, or

''(B) by purchase of outstanding obligations at the market price.

''(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund for DC Schools may be sold by the Secretary at the market price.

''(3) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund for DC Schools shall be credited to and form a part of the Trust Fund for DC Schools.''

(b) CONFORMING AMENDMENT.—The table of sections for subchapter W of chapter 1 is amended by adding after the item relating to section 1400C the following:

''Sec. 1400D. Trust Fund for DC Schools.''

In section 103(a), strike ''December 31, 2002'' and insert ''June 30, 2002''.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on

Rules and Administration will meet in SR–301, Russell Senate Office Building, on Wednesday, March 25, 1998 at 9:30 a.m. to receive testimony on the Federal Election Commission's budget authorization request for FY99.

For further information concerning this hearing, please contact Bruce Kasold of the Rules Committee staff at 224–3448.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, March 19, 1998, at 10 a.m., in open session, to receive testimony on NATO enlargement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 19, 1998, at 9:30 a.m. on tobacco legislation (Governors/retailers).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, March 19, for purposes of conducting a full committee hearing on which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 1488 and accompanying Senate amendment No. 1618, legislation to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes; and S. 1670, a bill to amend the Alaska Native Claims Settlement Act to provide for selection of lands by certain veterans of the Vietnam era.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold an executive business meeting during the session of the Senate on Thursday, March 19, 1998, at 5:15 p.m., in the Vice President's office of the United States Capitol Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Health Insurance Portability and Accountability Act of 1996: First Year Implementation Concerns during the session of the Senate on Thursday, March 19, 1998, at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, March 19, 1998 beginning at 8:30 a.m. until business is completed, to conduct an oversight hearing on the FY99 budget and operations of the Smithsonian Institution, the Kennedy Center, and the Woodrow Wilson International Center for Scholars.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ALLARD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 19, 1998 at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS, AND COMPETITION

Mr. ALLARD. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Tuesday, March 19, 1998 at 2:00 p.m. to hold a hearing in Room 226, Senate Dirksen Building, on: ''International Aviation Alliances.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. ALLARD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet on Thursday, March 19, 1998, at 2:30 p.m. in open/closed session, to receive testimony on the Department of Energy's Science-Based Stockpile Stewardship and Management Program in Review of the Defense Authorization Request for Fiscal Year 1999 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

POW/MIA COOPERATION FROM FORMER EASTERN BLOC NATIONS

● Mr. SMITH of New Hampshire. Mr. President, as you know, earlier this week the full Senate began to deliberate expanding the NATO treaty to include the Czech Republic, Poland, and Hungary. While I have already presented some opening remarks on the floor about my concerns with moving forward now on this matter, I want to update my colleagues on a closely related issue which I personally think has some degree of relevance to what we are considering.

In July, 1997, I was pleased to be a leader of a delegation to Prague and Warsaw whose primary mission was to seek information about missing American servicemen from the Cold War period. I was joined on this trip by my House colleague, Congressman SAM JOHNSON of Texas—himself a former POW from Vietnam—and also by one of our former Ambassadors to the Soviet Union, Malcolm Toon. Together, we are all members of a Joint Commission with Russia on the POW and MIA issue which was established by President Bush and President Yeltsin in 1992. One of our goals last summer was to broaden our search to the former communist Eastern Bloc nations who were allied with North Vietnam, North Korea, and the Soviet Union during the Cold War period.

During our trip, we were received by the President of the Czech Republic, Vaclav Havel, and the President of the Republic of Poland, Aleksander Kwasniewski. We also met with various ministers in each of these two countries. I want my colleagues to know that we were very impressed with the pledges of cooperation we received at all levels during all of our meetings. It appeared to us at the time that Poland and the Czech Republic clearly understood the importance that Americans attach to resolving lingering questions about the fate of our unaccounted for POWs and MIAs. These nations had suffered their own tragedies under communist domination, and we believed there would be a sincere, thorough effort to assist us with our humanitarian mission.

I might also add that although we did not personally visit Hungary during that trip, we did send staff representatives to Budapest, and we later received similar pledges of cooperation from the Hungarian Embassy in Washington.

Unfortunately, Mr. President, I must report that the follow-up actions that we had hoped would take place have not been satisfactorily fulfilled by these three nations. This is especially disturbing and troublesome to me as the full Senate now considers whether to guarantee putting more American military lives on the line for these republics in the former Eastern Bloc.

It has been said by some NATO expansion advocates that we have an opportunity to ensure the Cold War never resurfaces in this part of the world. Yet, we still cannot seem to get the cooperation we need from this region to address vital questions about our missing and captured Americans from this same Cold War period. We still are not able to resolve this Cold War problem.

If their pledges were indeed genuine, as I believed they were, then I, frankly, question Mr. President why the leaders of these countries cannot convince their respective bureaucracies to open

their Cold War communist files and make relevant personnel available to us for interview. To me, this apparent inability to follow through on commitments has serious implications which we should be considering in the context of the NATO expansion debate.

Since last summer, there have been follow-up communications by our Commission support staff at the Department of Defense and also by my own office with each of these nations urging them to follow through on their commitments. Most important is the fact that, based on current leads available to us, our Commission believes there is relevant information which likely exists in Eastern Europe, especially in the military, intelligence, security, and communist party archives of these three nations which we are considering bringing into NATO.

We should remember that the Eastern Bloc was an active ally and supporter of the communist North Vietnamese and North Korean regimes during those respective U.S. wars. They had a significant presence in Asia and were probably privy to information about communist policy toward the disposition of American POWs, to include whether any were transferred to the territory of the former Soviet Union as we now suspect.

Mr. President, today I appeal once again to the leaders of the Czech Republic, Poland, and Hungary to follow through fully with the commitments they have made to help us search for our missing American servicemen from the Cold War. And I urge my colleagues, on behalf of our veterans and POW/MIA family members, to join with me in continuing to push for more progress on this humanitarian issue.

We simply cannot afford to lose sight of this issue of highest national priority in the context of the current NATO expansion debate. It has important ramifications which we should carefully consider.●

NATIONAL AGRICULTURE DAY

● Mr. DURBIN. Mr. President, I want to take a few minutes to pay tribute to one of our Nation's most important industries—agriculture. Today, we celebrate National Agriculture Day. It is a time to reflect on the value of production agriculture and to say thank you to all those who are involved, both directly and indirectly, in producing the most abundant and safest food and fiber supply in the world.

Illinois is one of our country's most important agricultural contributors. Illinois farm land, which accounts for about 27 million acres, is considered some of the most productive in the world. More than 76,000 farm families in the State produce corn, soybeans, wheat, beef, pork, dairy products, and specialty crops. Illinois exports more than $3.4 billion worth of agricultural products. The State's agribusiness activity is vibrant. From the Chicagoland area to Decatur and throughout Illinois, agricultural processing employs thousands of people. And, our researchers continue to help provide answers to some of the most common as well as the most complex agricultural questions we face.

Since last year's National Agriculture Day, we've made some real progress for rural America. The Taxpayer Relief Act raised the inheritance tax exemption for small businesses to $1.3 million, lowered the capital gains tax rate, and began a gradual increase in the deductibility of health insurance premiums.

This year, we face a number of equally important issues, specifically, reauthorization of agricultural research, expedited health insurance premium deductibility for the self-employed, extension of the ethanol tax incentive, and food safety.

The safety and availability of our Nation's food supply depends directly on agricultural research. This year, Congress must reauthorize the research title of the farm bill. Reauthorization will establish a national policy for important agricultural research into the 21st century. In these times of constrained federal budgets, it is vitally important to maintain an effective system for agricultural research.

Agriculture-related research in this country is currently conducted at over 100 ARS labs, including Peoria, and at over 70 land grant institutions, including the University of Illinois. The University of Illinois is involved in biotechnology, aflatoxin, genome, and food safety research on their campuses. Southern Illinois University is working on groundwater contamination and an important National Corn to Ethanol Research Pilot Plant near its Edwardsville campus. These projects are simply too important to delay. However, the future of agricultural research depends on Congress reauthorizing these vital programs sooner rather than later.

With regard to health care costs, I believe that a 100-percent tax deduction for health insurance premiums is one of the most basic issues of fairness to farm families across this country. Because of the high cost of health insurance, especially insurance purchased in the individual market, lack of affordability is a growing problem to farmers. Health insurance is particularly important to those involved in production agriculture because farming is one of the more dangerous occupations. It is essential that farmers have access to quality health care and affordable health insurance.

In last year's Taxpayer Relief Act, Congress made the commitment to increase deductibility very gradually from 40 percent in 1997 to 100 percent in 2007. Although I believe this legislation was a good first step, we need to provide this relief faster. I have introduced legislation that will expedite the full deductibility of health insurance premiums. I also intend to offer an amendment to increase deductibility to 60 percent in 1999 and 100 percent thereafter. Relief for farm families in this area is needed now. Farmers should not have to wait until 2007 for equity with their corporate competitors.

Mr. President, finding new and expanded uses for agricultural products is an important endeavor. Soybean growers and the oilseeds industry are proposing a strategy for biodiesel, a diesel fuel derived from soybeans. Including biodiesel in existing and future Department of Energy programs will help the nation reduce dependence on imported oil, while improving the environment, reducing global warming, and creating new domestic agricultural product markets. And, of course, ethanol, a corn-based renewable fuel, is one of the best alternative use opportunities that exists today.

On a day like today, it is important to point out the benefits of ethanol. The industry is responsible for more than 40,000 American jobs. Ethanol contributes more than $5.6 billion annually to our economy. Five percent of our nation's corn crop goes to ethanol production. Corn growers have seen their incomes increased by more than $1.2 billion because of ethanol. This year alone, over 1.4 billion gallons of ethanol will be produced . Thanks to the reformulated gasoline program, toxic air pollutants like benzene and carbon monoxide have fallen substantially. And, ethanol contributes over $2 billion annually to the U.S. trade balance.

Last week, the Senate overwhelmingly defeated a proposal that would have removed the ethanol excise tax exemption from the Intermodal Surface Transportation Efficiency Act (ISTEA). That vote was the strongest in Senate history in support of ethanol. It is my hope that an extension of the ethanol tax incentive will be included in the final conference report on ISTEA. Time is running out. Farmers, the ethanol industry, and rural America deserve to have this important program extended.

An issue that also needs immediate attention is food safety. Make no mistake, our country has been blessed with the safest food supply in the world. However, we can do better. The General Accounting Office estimates that as many as 33 million people will suffer food poisoning this year and more than 9,000 will die. The Department of Health and Human Services predicts that foodborne illnesses and deaths are likely to increase 10 to 15 percent over the next decade.

I have introduced the Safe Food Act, S. 1465, which would empower a single, independent agency to enforce food safety regulations from farm to table. It would provide an easier framework for implementing U.S. standards in an international context. Research could be better coordinated within a single agency rather than among multiple programs. And, new technologies to improve food safety could be approved

more rapidly with one food safety agency.

At a time of government downsizing and reorganization, the U.S. simply can't afford to continue operating multiple systems. In order to achieve a successful, effective food safety and inspection system, a single agency with uniform standards is needed.

Mr. President, National Agriculture Day affords us all the opportunity to say thank you to those who farm, process agricultural products, conduct the research and plan for the future, and keep American agriculture the best in the world.●

MIKE JACOBS AND THE STAFF OF THE GRAND FORKS HERALD

● Mr. DORGAN. Mr. President, in the months since the devastating blizzards and floods struck North Dakota last year, I have been pleased to draw the Senate's attention to some truly remarkable people who stepped up when their communities most needed them.

Today, I am pleased to report that one such individual was here in Washington recently to receive an honor he richly deserves. Mike Jacobs, the editor of the Grand Forks Herald, was named ''Editor of the Year'' by the National Press Foundation for his and the Herald's truly remarkable achievements during last year's flood and fires in Grand Forks. I want to add my voice to the chorus of thanks to Mike and to the entire staff of the Herald for their outstanding work under extraordinarily difficult circumstances.

I saw firsthand how much it meant to the people of Grand Forks that their hometown newspaper never missed a day of printing throughout the city's crisis.

When the Herald arrived at shelters and emergency centers, it flew off the racks. Clusters of people would gather around and jointly read it. They were starved for news of what was happening in their city during their trying time and they devoured the paper.

Yet even more than a conduit of information, the Grand Forks Herald stood as a powerful symbol of people determined to survive and endure, and as a daily reminder that even in the face of this calamity, Grand Forks would continue to remain a community, something the flood waters would never be able to wash away.

That the Herald was there at all was wondrous. Its building was completely flooded and then soon burned to the ground. The homes of nearly every employee of the Herald were inundated by flood waters.

Yet the Herald, led by Editor Mike Jacobs, never faltered, never missed an edition. It found a temporary office in the grade school of a nearby small town. It located alternative presses, and devised creative methods of distributing the paper to its readers. In the most harrowing of times, it flourished. In doing so, it gave hope, inspiration and purpose to its community.

Mike and the Grand Forks Herald staff are part of the story of last year's flood that doesn't get told nearly enough. As this city overcame the worst disaster in North Dakota history, its citizens have marched back with resilience, fortitude and inspirational spirit. Mike Jacobs, the entire Grand Forks Herald staff and the people of Grand Forks have triumphed, and I am proud to salute them.

I can't express my admiration enough.●

RETIREMENT OF JERROLD L. JACOBS

● Mr. LAUTENBERG. Mr. President, I rise to recognize an old friend and successful businessman on the occasion of his retirement as Chair and CEO of Atlantic Energy, Inc.

Jerry and I both have strong roots in Paterson, New Jersey. We grew up there, and our fathers worked together in the silk mills. Being from Paterson, of course, we were both destined for success!

Jerry began working at Atlantic Electric in 1961, first in various managerial positions and then working his way up to Chairman and CEO. Eventually, Jerry rose to the position of Chairman and CEO at Atlantic Energy, the holding company formed in 1987 which incorporated Atlantic Electric.

Besides Jerry's achievements at work, he has several professional and civic affiliations. He holds everything from memberships to chairmanships in organizations such as the New Jersey Utilities Association, the New Jersey Chapter of the Nature Conservancy, the New Jersey State Chamber of Commerce and the Noyes Museum Board of Directors.

Again, I congratulate Jerry for his devotion to Atlantic Energy for over 35 years, and I extend my warm wishes to his wife Carol and his three children, Michael Jacob, Melissa Kuperminc and Marlene Sandstrom.●

INTERNATIONAL MONETARY FUND

● Mr. BIDEN. Mr. President, I want to take a few minutes this afternoon to address the urgent need for IMF funds, to restore confidence to a fragile international financial system and to maintain a leadership role in the world economy.

I am pleased to see that the Appropriations Committee has moved quickly this week to provide funding for continued U.S. participation in the IMF—both for the new arrangements to borrow that represent the emergency reserves of the fund, and for the quota increase to restore the IMF's ability to meet potential new demands on its resources.

The current news from Asia—declining U.S. exports, the threat of increased imports, a more fragile international banking system—has brought home to us the importance of international cooperation to prevent the outbreak and spread of financial crises. It also reinforces the need to move quickly to restore the IMF's ability to contain the current crisis and to maintain the IMF's ability to respond to future problems.

That is why I am concerned about some of the conditions put on the IMF funds in the Appropriations Committee on Tuesday. Treasury Secretary Rubin, who, along with Federal Reserve Chairman Greenspan has repeatedly reminded Senators of the need for quick action on these funds, has called those conditions—and I quote: ''Impractical to the point of being unworkable.''

This is no way to treat funds that are needed to restore the equilibrium of the international financial system, and to no way maintain the leadership of the United States in the world economy.

The International Monetary Fund was created by us at the end of World War II to maintain the stability of the international financial system. Today, its task as the lender of last resort in the kinds of meltdowns we have seen in Asia is by no means simple.

With the rise of market economies among the developing nations of the world, and with the expansion of the international financial system—both developments that promote the long-term interests of the United States—the task of the IMF has become increasingly difficult.

I am not here today, Mr. President, to argue that the IMF is a perfect institution; in fact, our own Treasury, under the leadership of Secretary Rubin, has used its substantial influence to push for important reforms, to open the IMF to greater public understanding and trust. Secretary Rubin is also working with his counterparts around the world to reform the workings of the international banking system to reduce the risk of crises such as one we watch today in Asia with great concern.

As the leader in the world's economy—indeed as the model economy which the rest of the world aspires to emulate—we in the United States have a special role to play in helping to sustain the health of the international economy. By maintaining our position in the IMF—by paying our dues and maintaining our dominant position there—we will remove lingering doubts in financial markets that make recovery and reform in Asia harder to achieve.

And, as the most open economy in the world, we have the greatest stake in maintaining the stability of international trade and finance. The longer we leave the issue of our IMF commitment in doubt, the more our own farmers, workers, and manufacturers will lose overseas sales.

I want to remind my colleagues that our contributions to the IMF don't cost American taxpayers a dime. Like deposits in a credit union of our own making, our contributions are matched by interest-bearing assets, and we can

call for the return of those contributions if we choose. For those reasons, those contributions have no impact on our Federal deficit—or the surplus we now enjoy.

With the outcome of the Asian crisis still to be determined, with the world looking to us for the leadership that will restore confidence to private sector investors, we must act quickly and decisively to maintain the strength of the IMF—and to maintain our own dominant voice within the IMF. We should not make demands of the IMF that could delay indefinitely the day when private financial markets regain the confidence that will mark the turning point in the current financial crisis.

That is why I am pleased that my friend and colleague on the Foreign Relations Committee—chairman of the International Economic Policy Subcommittee—Senator HAGEL, has taken the lead in introducing legislation authorizing funds for the IMF with workable, sensible reforms. Together with Senator GRAMS on our committee, and Senators ROBERTS, CHAFEE, and DOMENICI, Senator HAGEL has provided us with an important point of reference when we consider IMF funding here on the Senate floor.

And I hope that will happen soon. Right now, there is no guarantee that we will take up the urgent issue of IMF funding at any time this year. Failure to act, and to act soon, would be irresponsible. It would expose the United States as vacillating, indecisive, and unable to lead in a time when what is needed most is leadership and commitment to restore confidence and stability to a shaken financial system.

Similarly, it would be irresponsible to add unrelated, highly charged issues to the consideration of what are clearly urgently needed funds for the IMF.

Mr. President, I am confident that in the end, the United States Senate will respond to the current challenge with both the decisiveness and good judgment that must characterize the actions of a great Nation in time of crisis.

I look forward to working with all of my colleagues to make that faith a reality.●

BODE MILLER: MEMBER OF THE U.S.A. OLYMPIC SKI TEAM

● Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Bode Miller, a distinguished athlete from Franconia, New Hampshire, for participating in the 1998 Olympics in Nagano, Japan. Bode had the opportunity to compete in the Olympics because of his dedication to precision, relentless drive for excellence and unswerving passion for skiing.

It was a special honor to have Bode represent our country and the State of New Hampshire while competing in Nagano, Japan. He started skiing at the young age of three at his favorite and most frequented mountain, Cannon. As a young boy, his ability to ski caught the attention of many. He soon acquired the nickname, ''Kid Cannon,'' and dazzled his peers with his talent. Bode was then invited to a training camp at Sugarloaf Mountain and was soon targeted as a gifted athlete. As a result, he was offered a scholarship to the Carrabassett Valley Ski Academy where he was able to improve his abilities and work with experienced coaches to tune his skills.

Bode burst into the international scene with an 11th-place finish, the best by an American, at the World Cup giant slalom at Park City in November. Before this outstanding finish, Bode was ranked internationally at 69th place. Bode's career then took off and he became a member on the Olympic Ski Team. Often times, the television announcers for the races raved about his athleticism and admired his aggressive style. At the age of 20, in a sport where racers are generally older, the media characterized him as a young rebel.

According to Bode's coach, Bode is very good at figuring out what it takes to be successful and is exceptionally confident. He is aware of his own physical talents and incorporates this attitude in his style. I'm sure, because of his young age, he will continue to excel and impress the nation. Nonetheless, he still has achieved what most only dream about and has proven once again that Americans continue to achieve great feats. At a fresh age, Bode proudly represented our country and delivered a superb performance in the world arena of Olympiads. Mr. President, I want to congratulate Bode Miller for his youthful vigor and aggressive competition in the 1998 Olympics and I am proud to represent him in the U.S. Senate.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 538, 539, and 540, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL TRANSPORTATION SAFETY BOARD

James E. Hall, of Tennessee, to be Chairman of the National Transportation Safety Board for a term of two years.

FEDERAL TRADE COMMISSION

Orson Swindle, of Hawaii, to be a Federal Trade Commissioner for the term of seven years from September 26, 1997.

Mozelle Willmont Thompson, of New York, to be a Federal Trade Commissioner for the term of seven years from September 26, 1996.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR FRIDAY MARCH 20, 1998

Mr. COCHRAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Friday, March 20, and immediately following the prayer, the routine requests through the morning hour be granted, and the Senate then proceed to executive session to resume consideration of Treaty Document No. 105–36, dealing with NATO expansion.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COCHRAN. Mr. President, I make the following announcements at the request of the majority leader.

Tomorrow, the Senate will resume consideration of the NATO expansion treaty, with amendments to the resolution of ratification being offered throughout the day. It is expected that Senator HUTCHISON of Texas will offer an amendment tomorrow, and any other Senators with amendments are encouraged to contact the managers with their amendments. As earlier stated, it is hoped that the Senate will be able to make considerable progress on the treaty.

In addition, the Senate may consider any other legislative or executive business cleared for Senate action, although, as previously announced by the majority leader, no rollcall votes will occur during Friday's session.

The next vote will occur at 5:30 p.m. on Monday, hopefully in relation to an amendment to the NATO treaty. Also, the second cloture vote scheduled for this evening was postponed to occur on Tuesday, March 24, in an effort to work on an agreement for an orderly handling of the bill. Therefore, a second cloture vote will occur on the Coverdell A+ bill on Tuesday if an agreement cannot be reached in the meantime.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. COCHRAN. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:41 p.m., adjourned until Friday, March 20, 1998, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 19, 1998:

NATIONAL TRANSPORTATION SAFETY BOARD

JAMES E. HALL, OF TENNESSEE, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF TWO YEARS.

FEDERAL TRADE COMMISSION

ORSON SWINDLE, OF HAWAII, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 1997.

MOZELLE WILLMONT THOMPSON, OF NEW YORK, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 1996.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.