HOUSE OF REPRESENTATIVES—*Thursday, March 19, 1998*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. FOSSELLA).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 19, 1998.

I hereby designate the Honorable VITO FOSSELLA to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

Teach us to see Your strong hand, O God, that supports us all the day long. In all our circumstances, whether of joy or sadness, we are grateful that we can bring our concerns before You. If there is illness, grant us health; if there be estrangement, grant reconciliation; where there is hatred or envy, grant peace; where there is despair, give us the gift of hope. Remind us each day that we never walk the road of life alone or face the challenges without Your abiding grace. So stay with us and be our God until the day breaks and the shadows flee away. Amen.

THE JOURNAL

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

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

Mr. ROGAN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROGAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from California (Mrs. TAUSCHER) come forward and lead the House in the Pledge of Allegiance.

Mrs. TAUSCHER led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 206. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

H. Con. Res. 238. Concurrent resolution authorizing the use of the Capitol Grounds for a breast cancer survivors event sponsored by the National Race for the Cure.

The message also announced that the Senate passed a concurrent resolution of the following title, in which concurrence of the House is requested:

S. Con. Res. 85. Concurrent resolution calling for an end to the violent repression of the people of Kosovo.

The message also announced that pursuant to Public Law 102–246, the Chair, on behalf of the Majority Leader, in consultation with the Democratic Leader, appoints John W. Kluge, of New York, as a member of the Library of Congress Trust Fund Board, for a term of five years.

The message also announced that pursuant to Public Law 105–119, the Chair, on behalf of the Majority Leader, appoints A. Mark Neuman, of Illinois, to serve as a member of the Census Monitoring Board, vice Max W. Williams, of Mississippi.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 10 one-minute speeches on each side.

AMERICA IN DANGER OF LOSING ITS SOUL

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

Mr. TIAHRT. Mr. Speaker, there is good economic news in America. Yesterday, the stock market hit another record high; unemployment is at a 20-year low; farm income is up. In fact, the average American income is up. America's pocketbook is full. But our hearts are empty, and there is a crisis of the soul.

We have all known about the downward spiral of our society. Child abuse has increased, spouse abuse is up, abortion is ubiquitous for reasons that simply do not make sense. We are now seeing the first signs of turning on our elderly because they have become an inconvenience. Tensions in our community indicate there is a need for racial reconciliation.

God's Word says that what good is it if a man gains the whole world and yet loses his own soul? Mr. Speaker, America is in danger of losing its own soul, losing those values that built a great Nation: faith in God, hard work, integrity, a common sense of decency, and respect for men and women regardless of race or religion.

Mr. Speaker, I challenge those of us here in Washington to return to the values that built a great Nation, lest we fall from our greatness.

PUBLIC SKEPTICAL ABOUT FUTURE OF SOCIAL SECURITY

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute.)

Ms. SANCHEZ. Mr. Speaker, I rise today to share with my colleagues the success of a forum that I hosted in my district on the future of Social Security. Social Security is a focus of intense public interest; and there is talk about long-range funding problems, means testing, and privatization.

The public is skeptical about the future of Social Security. Opinion poll after opinion poll shows that fewer than 50 percent of Americans feel confident that Social Security will be able to meet its long-range commitments. We need to assure America's seniors and future generations of Americans that the retirement benefits they are entitled to will be there when they need them. Let us restore public faith in Social Security. Through listening to our constituents, we can learn what kind of changes are best to preserve Social Security and its worth for years to come.

The President has pledged to hold public forums across the Nation on Social Security reform throughout this

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

year. I encourage my colleagues to host similar forums in their districts. The time has come to give our constituents the information they need to make informed decisions about Social Security reform.

H.R. 2736, TAXPAYER REFORM AND PROTECTION ACT

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

Mr. GIBBONS. Mr. Speaker, the voices of millions of American taxpayers have finally penetrated the White House walls. In yet another reversal of national policy, the White House has pulled up its pants, put on its thinking cap, and announced its IRS reform package.

Wow. From the President's opposition just 2 weeks ago to yesterday's flip-flop on IRS reform, this has left us all with a distinct impression that our President is finally thinking with the head on top of his shoulders.

Included in his reform proposals is the idea that, once and for all, we should bring to an end the illegal use of quotas. Mr. Speaker, I hope this means that the White House fully supports H.R. 2736, legislation I introduced 5 months ago to put an end to the improper and illegal use of such quotas by the IRS. We all know the IRS has become an out-of-control Federal agency.

H.R. 2736, the Taxpayer Reform and Protection Act, will end illegal quotas and make the IRS more accountable, more customer friendly for the millions of American taxpayers.

REACH PROJECT

(Mrs. TAUSCHER asked and was given permission to address the House for 1 minute.)

Mrs. TAUSCHER. Mr. Speaker, I rise today to recognize the outstanding achievements of the REACH project, a nationally acclaimed drug abuse prevention and treatment program headquartered in the City of Antioch in the 10th Congressional District of California.

Founded in 1970, REACH stands for Rehabilitation Education Awareness for Community Humanitarianism. The REACH project brings law enforcement, government, business, and schools together to educate the community about the dangers of drug abuse. REACH also offers a wide range of effective youth and family counseling programs.

An example of this is the Youth Intervention Diversion Program, a collaborative counseling program with the Antioch Police Department which keeps first-time juvenile offenders out of the criminal justice system.

REACH Executive Director Shirley Marchetti has been an integral part of the REACH project and the main reason the project has become what it is today. Her outstanding efforts have helped public service providers work together to reduce drug abuse and crime in my community. The staff of the REACH project and Shirley Marchetti are to be commended for their hard work and dedication to strengthening our community.

RELIGIOUS PRISONERS CONGRESSIONAL TASK FORCE

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

Mr. PITTS. Mr. Speaker, I rise to urge Members to join the Religious Prisoners Congressional Task Force. The task force will advocate on behalf of persecuted religious prisoners around the world by appealing directly to independent national leaders. Minority religious believers often suffer beatings, torture, extended incarceration, even death at the hands of their governments unless intervention is made.

Reputable human rights organizations report that advocacy with key government officials changes prisoners' life for the better; it alters prison conditions, stops torture, and secures release.

Amnesty International documents one prisoner's statement. "When the first 200 letters came, the guards gave me back my clothes. Then the next 200 letters came, and the prison director came to see me. When the next pile of letters arrived, the director got in touch with his superior. The letters kept coming and coming, 3,000 of them. The President was informed. The letters still kept arriving, and the President called the prison and told them to let me go."

Mr. Speaker, as citizens of a country founded on the principle of freedom of religion, we must work to ensure that international human rights standards are upheld by all countries of the world and that religious liberty is a fundamental human right. We can only intervene on behalf of religious liberty if Members act.

IRS SENSITIVITY TRAINING

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

Mr. TRAFICANT. Mr. Speaker, IRS reform has taken on a whole new spin. The Vice President now wants the IRS to undergo sensitivity training, and the other body wants the taxpayers to pay for it.

Beam me up, Mr. Speaker. Who is kidding whom? There can be no reform of the IRS without changing the burden of proof and without requiring the IRS to get a warrant before they rip off our homes. Let us tell it like it is. The IRS does not need more fine tuning. The IRS needs an overhaul, big-time, and taxpayers should not pay for it.

As far as the Vice President's sensitivity training program, it sounds just ducky. But quite frankly, Scarlet, I yield back all the hugs and kisses at the IRS.

WHITE HOUSE SPIN FACTORY

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

Mr. LEWIS of Kentucky. Mr. Speaker, I believe it was P.T. Barnum that once said, "There is a sucker born every minute." I hope the President and those at the White House spin factory do not believe that is true.

We, the American people, are fair-minded people; and we like to give others the benefit of the doubt. But we also like to be dealt with in a straightforward, truthful manner; and nothing disturbs us more than having our trust violated. All we asked for and all we have ever asked for is what Sergeant Friday from a former popular TV series used to ask of his suspects, "Just the facts, sir. Just the facts."

Mr. Clinton has 21 accusers saying he has done something wrong, and they are providing facts. But instead of facts coming from the White House, all we are getting is spin after spin after spin.

Mr. Clinton, that may work for a while. But, unlike P.T. Barnum's theory, Abraham Lincoln had a much better one. "You can fool some of the people some of the time, but you can't fool all the people all of the time." And that is a truth that we can count on.

CAMPAIGN FINANCE REFORM

(Mr. PASCRELL asked and was given permission to address the House for 1 minute.)

Mr. PASCRELL. Mr. Speaker, the efforts of the freshman task force have given us a very real chance for meaningful campaign finance reform. I am committed to seeing that this opportunity is not lost. It is incumbent upon this Congress that we honestly address the many flaws in the current system by which we finance our campaigns. I believe the very credibility of not just this Congress but of the entire institution is at stake.

The sad reality is that the American public holds Congress in very low esteem. We cannot reasonably expect to effectively carry out our duties as Congressmen if we lack credibility.

Whether we want to admit it or not, the fact is that our campaign finance system is jeopardizing our own credibility. We should not fool ourselves into believing that the problem is only the illegal activities that occur during

campaigns. Quite to the contrary, the real problems stem from what is legal.

I hope that we will address, Mr. Speaker, the growing problem of the way soft money is influencing this system; and the sooner we do it, the better we will be in terms of getting back our own credibility.

TIME TO MARK END OF AN ERA

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

Mr. GUTKNECHT. Mr. Speaker, unfortunately, it is time to mark the end of an era, and that era lasted only 2 years.

On January 23, 1996, just 2 short years ago, the President declared in his State of the Union address that "the era of big government is over." Now it appears that that era is over.

When we came to Washington just a few years ago, we were looking at a $250 billion deficit as far as the eye could see. We set to work to eliminate programs to reform the entitlements; and, as a result, we are looking at the first balanced budget in a generation.

Last August, we had an agreement with the President. We set very tough spending caps for the next 5 years. That is represented here by this blue line. The red line shows what the President is supporting this year in his budget. He is talking about spending over $100 billion more than we agreed to last August, and he is also talking about raising taxes and fees by over $100 billion.

Unfortunately, it sounds like the era of big government is not over, but the era of talking about the era of big government is really over.

□ 1015

ABSOLUTELY INCREDIBLE KID DAY

(Mr. SANDLIN asked and was given permission to address the House for 1 minute.)

Mr. SANDLIN. Mr. Speaker, the words today for the children of America are praise and encouragement. Today is national Absolutely Incredible Kid Day, a day each of us can reach out to the young people in America in our lives and let them know how much we appreciate them. Sponsored by the Campfire Boys and Girls, Southwest Airlines, Yahoo, PaperMate and caring individuals all across this great Nation, Absolutely Incredible Kids Day is an annual event designed to bring adults and children closer together by encouraging children in a positive and meaningful way and letting them know how important they are in our lives. The goal of Absolutely Incredible Kids Day is for every child in America, every child in America, to receive a letter from an adult in his or her life encouraging him, praising him and letting him know that he is appreciated. It is a simple goal, but a goal that can make a great difference in a child's life.

Last year was the Inaugural of Absolutely Incredible Kids Day. Participation throughout the country was absolutely enormous. Everyone from the President of the United States to employees of corporations, to caring individuals sent a letter to let a child know that he or she is special. I urge all my colleagues to reach out to the children of America. As a father of 4, I agree and encourage Members to do that and tell them that it will make a difference.

THE REAL MEANING OF CONSERVATISM

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

Mr. ROGAN. Mr. Speaker, I hear from my liberal friends that labels do not mean much anymore. If that is true, then why do liberals believe that Americans are undertaxed, and conservatives know that Americans are overtaxed? Why do liberals attack Republican proposals to cut taxes, while Republicans fight so the middle class will not be forced to send so much of their income back to Washington?

Mr. Speaker, when families complain that it is harder to get ahead today than it was in their parents' day, one big reason is because government takes so much more of their family income. Whether one parent works or both parents work, Washington stands as an obstacle to families getting ahead, by taking money out of their pockets and pouring it down the black hole of wasteful and ineffective Washington bureaucracies.

The tax burden keeps going up and up while the government's ability to deliver on its promises keeps going down and down. Washington must offer a better deal to America's families. It is the responsibility of Congress to promote that dream.

RAISE MINIMUM WAGE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, minimum wage workers in America make less today than they did in 1968 when inflation is taken into account. That really is outrageous and it is time to raise the minimum wage. You cannot raise a family on $5.15 an hour these days, even when you are working full-time. A minimum wage family earns $10,700 a year. That is just not enough.

Republican Members, it is worth noting, made more money in the days when they shut down the United States Government 2 years ago than a minimum wage worker made in full that entire year.

Democrats have a proposal to increase the minimum wage from $5.15 per hour to $6.15 per hour by the turn of the century, 50 cents a year. This body needs to recognize the importance of millions of Americans who get up every single morning and who go to work in our factories, in our office buildings and in our restaurants. We need to raise the minimum wage. I urge the Republican leadership to schedule that kind of a vote today and help working middle class families in this country.

SILENCE SPEAKS VOLUMES

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, a White House official was quoted in the New York Times last month referring to "our continuing campaign to destroy Ken Starr." Listen to that again, and I am quoting, "our continuing campaign to destroy Ken Starr." Here is a White House spokesman openly acknowledging their despicable strategy to destroy Judge Starr, the special counsel named by a 3-judge panel to investigate allegations of serious wrongdoings by the President.

Am I to conclude that the Democratic Party thinks it is okay to smear the independent counsel? Am I to conclude that the Democratic Party does not care that the White House was in possession of 900 FBI files of Republicans, in gross violation of law and the civil rights of American citizens? Am I to conclude that the Democratic Party does not care if the integrity of our judicial system is violated, that obstruction of justice and lying under oath is okay if it is done by a Democrat? Am I to conclude that the President is in fact above the law because the Dow Jones is doing great?

Where are your outraged voices, Democrats? Your silence speaks volumes.

DISASTER IN THE DOMESTIC OIL PATCH

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

Mr. WATKINS. Mr. Speaker, I come to the floor today to speak out on a situation that is vital to the security of this Nation of ours. An emergency exists, a disaster exists in our domestic oil patch. Oil prices have dropped below $12 a barrel and soon will be below $10 a barrel. These are the lowest prices, the newspapers say, in over 10 years. When adjusted for inflation, it is down below the 1973 shock. Oil production in Oklahoma is at the lowest level

since 1914. While Saudi Arabia and Venezuela are playing Russian roulette with each other in a price war, they are killing the small oil producer in the United States and killing our independence from foreign-oil.

At present we are importing approximately 60 percent of our oil in this country from Saudi Arabia and Venezuela. The remaining 40 percent is produced mostly by domestically small, marginal wells. These small marginal wells are in jeopardy.

We must enact an emergency package in 1998 and put a long-term energy policy in for this country. Our National security depends on such action.

TAX CODE TERMINATION ACT

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

Mr. LARGENT. Mr. Speaker, it is that time of year. The trees are budding, flowers are blooming, and tax accountants and attorneys are sharpening their pencils. That is right. It is the tax preparation season. April 15 is just around the corner. Taxpayers everywhere are pulling their hair out trying to decipher this year's Tax Code. They are not alone. Even the paid professional tax preparers do not understand the Tax Code, and neither do the 110,000 employees at the Internal Revenue Service who are paid $9.8 billion to implement the Tax Code.

What is Washington's response? At best they talk a good game. They say we should scrap the Code, use it as an applause line at political functions, and get a standing ovation when they say it.

It is springtime. It is time for new beginnings. Let us begin by implementing a new Tax Code. Let us say adios to the Tax Code in 2001 and join 190 Members of Congress who have signed on to pass H.R. 3097, the Tax Code Termination Act.

NATIONAL AGRICULTURE DAY

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

Mr. CHAMBLISS. Mr. Speaker, March 20, 1998 is National Agriculture Day across this country. It is fitting on such a day to thank the farming families who work hard every day to produce the finest food and fiber in the world. Our country's entire farming community deserves a pat on the back for a job well done.

Despite highly unusual weather patterns that adversely impacted farming communities around the country, our farmers remain optimistic, and the American Farm Bureau reports that supermarket prices have fallen for the second consecutive quarter.

Georgia's farmers have stood up to the worst El Nino had to offer. It is now imperative that the Federal Government extend relief to those folks in disaster areas. In addition to this natural disaster, crop insurance has failed to honor the commitment to provide a safety net to our Nation's farmers facing extreme conditions and crop losses.

Georgia's farmers not only help the U.S. produce the highest quality, most affordable food in the world, but their contribution to our local communities is overwhelming. Let us acknowledge the farmer on National Ag Day by recognizing that they deserve as much as they provide.

Finally, as you sit down to supper tonight, take a moment to thank the folks that made it possible, the American farmer. They deserve it.

□ 1030

PROVIDING FOR CONSIDERATION OF H.R. 2870, TROPICAL FOREST CONSERVATION ACT OF 1998

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 388 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 388

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2870) to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on International Relations now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 388 is an open rule providing for the consideration of H.R. 2870, the Tropical Forest Protection Act of 1998. The rule provides 1 hour of general debate, equally divided between the Chairman and ranking minority member of the Committee on International Relations.

The rule makes in order as an original bill for the purpose of amendment the committee amendment in the nature of a substitute now printed in the bill, which shall be considered as read. The rule also allows the Chairman of the Committee of the Whole to accord priority and recognition to Members who have printed their amendments in the CONGRESSIONAL RECORD. Such amendments will be considered as read.

In addition, the rule permits the Chairman of the Committee of the Whole to postpone votes on any amendment and to reduce to 5 minutes the time for voting after the first of the series of votes, provided that the first vote is not less than 15 minutes. Finally, the rule provides for 1 motion to recommit, with or without instructions.

Mr. Speaker, H.R. 2870 would amend the Foreign Assistance Act of 1961 to facilitate the protection of tropical forests by reducing the debts owed to international development banks by certain foreign countries, in exchange for commitments by those countries to preserve, maintain and restore tropical forests within their borders.

Thanks in no small measure to the leadership and vision of the gentleman from Ohio (Mr. PORTMAN), the House will have before it later today an innovative proposal that addresses two very serious problems: the large volume of uncollected debts owed by foreign countries experiencing difficulties repaying those debts in a timely fashion; and the disappearance of some tropical forests throughout the world.

The legislation of the gentleman from Ohio (Mr. PORTMAN) recognizes

that the two problems are in many cases directly related. All too often, Mr. Speaker, developing countries in which many of the tropical forests are located feel they have little choice but to sacrifice their magnificent forests in response to mounting financial pressures at home and abroad.

By authorizing what had become known as "debt-for-nature" swaps, this Congress can ease the financial burdens now hampering economic and social advancement in many of these countries while, at the same time, preserving for current and future generations essential natural resources.

Mr. Speaker, the Committee on International Relations reported H.R. 2870 to the House with broad bipartisan support. The Chairman and the ranking member of that committee are to be commended for requesting an open rule on this bill in order that Members of the House wishing to offer germane amendments may do so.

House Resolution 388 reported by the Committee on Rules is consistent with the request of the gentleman from New York (Mr. GILMAN), chairman of the committee, and accordingly, I urge my colleagues to support both the rule and the bill we will shortly consider, H.R. 2879, the Tropical Forest Conversation Act of 1988.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I want to thank my colleague, the gentleman from Washington (Mr. HASTINGS) for yielding me this time. This is an open rule, and as my colleague from Washington described, this will be equally divided relative to general debate between the ranking and minority member of the Committee on International Relations.

Under this rule, amendments will be allowed under the 5-minute rule, which is the normal amending process in the House. All Members on both sides of the aisle will have an opportunity to offer amendments.

Mr. Speaker, this legislation is creative problem-solving at its best, and it brings credit to the House.

One of the world's long-term environmental challenges is maintaining tropical forests. Tropical forests are the source of many of our foods and life-sustaining drugs. New uses are still being discovered for the plants and animals which can only be found in tropical forests.

Unfortunately, the world's tropical forests are shrinking at the rate of 30 to 50 million acres each year. This represents a huge loss of plant and animal life.

Forests also absorb large quantities of carbon dioxide which helps maintain the stability of the world's environment. Cutting down the forests could contribute to global warming.

Many of these at-risk forests are located in developing nations with large debts to the United States, and international creditors. These debts are hurting those countries' ability to develop and to provide for their people.

This bill addresses both of these problems by forgiving some debt in developing countries in return for those countries protecting their forests. This debt-for-nature swap is a win for the people of the developing nations and a win for the global environment at a relatively low cost.

This is a bipartisan bill with support on both sides of the aisle. The Committee on Rules approved this open rule by voice vote, and I would urge adoption of the rule and of the bill.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I have no requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Without objection, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on approval of the Journal on which proceedings will resume immediately after this 15-minute vote on adoption of the resolution.

There was no objection.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 20, as follows:

[Roll No. 59]

YEAS—411

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sá2nchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Stump

Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—20

Crane
Cunningham
Engel
Frost
Gallegly
Gephardt
Gonzalez
Gutknecht
Hefner
Hyde
Lewis (GA)
Livingston
Martinez
Parker
Poshard
Rangel
Riggs
Schiff
Strickland
Young (AK)

□ 1059

Mr. BRADY changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 5 of rule I, the pending business is the question de novo of the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BLUNT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 359, noes 49, not voting 23, as follows:

[Roll No. 60]

AYES—359

Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Boswell
Boucher
Boyd
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Foley
Forbes
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schumer
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Vento
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Young (FL)

NOES—49

Abercrombie
Becerra
Borski
Brady
Brown (CA)
Carson
Chenoweth
Clay
Clyburn
Costello
DeFazio
DeLay
Dickey
English
Ensign
Fawell
Fazio
Filner
Ford
Fox
Gibbons
Hastings (FL)
Herger
Hilleary
Hilliard
Hinchey
Kucinich
LoBiondo
McDermott
McNulty
Miller (CA)
Moran (KS)
Oberstar
Pickett
Ramstad
Rogan
Sabo
Schaffer, Bob
Sessions
Stark
Stupak
Taylor (MS)
Thompson
Velázquez
Visclosky
Waters
Weller
Wicker
Yates

NOT VOTING—23

Calvert
Crane
Engel
Frost
Gallegly
Gephardt
Gonzalez
Gutknecht
Hefner
Hoyer
Hutchinson
Kasich
Lewis (GA)
Livingston
Manzullo
Martinez
Parker
Poshard
Rangel
Riggs
Schiff
Weldon (PA)
Young (AK)

□ 1109

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

ANNOUNCEMENT ON AMENDMENT PROCESS FOR H.R. 10, FINANCIAL SERVICES ACT OF 1997

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

Mr. SOLOMON. Mr. Speaker, I rise to inform the House of the Committee on Rules' plans in regard to H.R. 10, the Financial Services Act of 1997.

The Committee on Rules is planning to meet the week of March 30, a week from Monday, to grant a rule which may limit the amendment process on this bill.

Any Member who wishes to offer an amendment should submit 55 copies and a brief explanation of the amendment by 2 p.m. on Thursday, March 26 to the Committee on Rules, at Room H–312 in the Capitol.

The amendments should be drafted to the text of the amendment in the nature of the substitute as submitted by the chairmen of the Committee on the Banking and Financial Services and Committee on Commerce, which will be printed in the CONGRESSIONAL RECORD of today, March 19, 1998.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 94

Mr. DELAHUNT. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 94.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

TROPICAL FOREST CONSERVATION ACT OF 1998

The SPEAKER pro tempore (Mr. NETHERCUTT). Pursuant to House Resolution 388 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2870.

□ 1113

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2870) to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Indiana (Mr. HAMILTON) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

□ 1115

Mr. Chairman, I am pleased to bring H.R. 2870, the Tropical Forest Protection Act, to the House for its consideration. This bill was introduced last November by the gentleman from Ohio (Mr. ROB PORTMAN), the gentleman from Ohio (Mr. JOHN KASICH), and the gentleman from Indiana (Mr. LEE HAMILTON). The bill enjoys wide bipartisan support and is now supported by the administration.

Mr. Chairman, tropical forests are home to roughly half of all known species and plants and animals, and, under pressure from man, these forests are disappearing at a rate of almost 1 percent per year, roughly one football field lost every second or an area the size of Pennsylvania each year. Most of the forests are also located in developing nations, and most of those nations are poor, with crushing debt burdens.

With the twin crisis of tropical forest loss and the Third World debt crisis, many of us in the Congress saw an opportunity. And I will note that two of our colleagues, the gentleman from Illinois (Mr. JOHN PORTER) and the gentleman from Nebraska (Mr. DOUG BEREUTER) introduced the first debt-for-nature swap bill in 1988. In 1991, President Bush proposed the Enterprise for the Americas Initiative, known as EAI. One part of that initiative was a program of debt relief in return for investments by the host country in environmental protection.

Under the EAI, the Bush administration forgave half of the $1.6 billion owed by seven Latin American countries in return for $154 million in endowments for conservation projects. Today, the Latin American economy is growing with some of the newest and largest tropical forest parks in the world.

H.R. 2870 writes chapter two of that EAI story. Many developing nations remain under crushing debt burdens, and some of them have the most valuable tropical forests that are still standing. We expand beyond Latin American to other critical habitats in Africa and Asia. I will note that Indonesia has one of the world's largest tropical forests still standing. My colleagues may have read reports that the smoke from the burning of these forests is so thick that it even interferes with commercial aircraft operations in Jakarta.

This bill will allow our President to go beyond the Latin American focus of the EAI to offer protection to tropical forests in Africa, to Asia and the subcontinent. In short, this bill authorizes our President to offer up to $325 million in debt owed to the U.S. Government, a small fraction of the $15 billion they currently owe. The loans were made by the Agency for International Development and the Department of Agriculture.

The bill specifically references the conditions for a government to get debt relief. These conditions include having a democratic government, a favorable climate for private-sector investment, cooperation on narcotics matters, and no state-sponsored terrorism.

The bill also enjoys wide support from the environmental groups, such as the World Wildlife Fund, Conservation International, the Nature Conservancy, the Environmental Defense Fund, and the Sierra Club.

The administration has now endorsed the bill, expressing support for the measure's purpose, and the administration has offered detailed changes to the legislation which the gentleman from Indiana (Mr. HAMILTON) and I made in a joint substitute to the bill when it was considered within our committee. The substitute cuts $75 million in funding from the bill by deleting the authority to forgive Export-Import Bank debt.

We also included authority to do debt buy-backs in the bill. As carried out recently by the U.S. Government with the Government of Peru, debt buybacks are not scored against our budget because the purchaser repays the full market value of the debt that is owed. These transactions offer exciting opportunities for middle-income countries to reduce the face value of their debt and at the same time be able to protect the environment.

We have made other modifications requested by the Congressional Budget Office to tighten the budgetary impact of the bill and require appropriations clearly within the Credit Reform Act.

This bill was favorably reported by a voice vote of the full Committee on International Relations. We will only have two amendments that I know of. My amendment will give an extra level of protection by requiring further congressional notifications to the Congress. I have also reviewed the amendment of the gentleman from Minnesota (Mr. VENTO), which is acceptable to our side.

I think that the gentleman from Ohio (Mr. ROB PORTMAN) and his colleague from Ohio (Mr. JOHN KASICH), as well as the gentleman from Indiana (Mr. LEE HAMILTON) have offered an excellent piece of legislation, and I urge my colleagues to strongly support the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. Chairman, I ask unanimous consent that my time under general debate be controlled by the gentleman from Nebraska (Mr. BEREUTER).

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HAMILTON. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New Jersey (Mr. PAYNE).

Mr. PAYNE. Mr. Chairman, let me first of all compliment the chairman, the gentleman from New York (Mr. GILMAN), and the ranking member, the gentleman from Indiana (Mr. HAMILTON), for the Tropical Forest Protection Act of 1998.

This act has come to us at a very important time. As we know, the President will be leaving on Sunday to visit six African countries to talk about trade and investment, human rights, and the whole question of the environment, the ecology, education, health.

The whole world will be watching. We have over 200 news media people that will be going from the United States, and people from around the world will be focusing. So this bill is extremely important at this time.

As my colleagues know, the bill seeks to promote the efforts of low- and middle-income countries to preserve tropical forests, rain forests; and, secondly, the bill tackles the problem of large debt owed to the United States by some of these developing countries.

Under H.R. 2870, globally important tropical forests would be protected at a very relatively low cost to the United States. First, certain debts of qualifying nations would be substantially reduced. In exchange, the countries would direct interest payments due on new loans into funds dedicated to preserving the tropical rain forests.

Secondly, the bill would allow eligible countries or third-party purchasers to buy back a country's debt. In exchange, the country would agree to implement the tropical forest conservation measures specified in this bill.

There will be four criteria that we will certainly look at. We will look at a country that has a democratic political system as a very important first step. Secondly, a country must have a solid record of performance with respect to human rights and governance, counternarcotics and terrorism. Third, we will be pursuing countries that pursue sound economic policies. And, finally, countries must meet any other requirements related to their environmental policies and practices determined by the President.

We think that this will certainly go to leveraging scarce U.S. foreign assistance dollars by producing immediate environmental benefits in exchange for reducing debt payments due to the United States. Secondly, by reducing debt, it will strengthen developing economies, helping them to diminish the fiscal pressures that put tropical forests at risk. Thirdly, it will help promote new environmental practices in developing countries. And, finally, it will advance U.S. national interests by preserving forests that are essential to the world's climate.

Let me give two prime examples. Liberia, a 7½ year civil war. The rain forest was starting to be devastated. This will be able to bring that country back into the right practices. Secondly, the Democratic Republic of Congo, where a tremendous rain forest, probably one of the largest rain forests in the world. If we can prevent what happened in Brazil and what is happening in Latin America by this bill, by preserving the rain forest in the Congo, in Liberia, in Sierra Leone, it will go far to improving and preventing the degradation that is going on now in the whole biosphere that is going throughout the world.

So we are in a global village. We are interconnected. What happens in one country impacts on the other. This bill is timely. This bill is right. This bill costs the U.S. taxpayers very little, but does a tremendous amount in return, and it is the right time because, hopefully, the President will be able to talk about this on his trip to Ghana. He will go to Uganda and will stop in Rwanda to look and talk about the genocide that happened there; then on to South Africa, up to Botswana, and finally in Senegal.

Mr. Chairman, I urge my colleagues to support this very important bill.

Mr. BEREUTER. Mr. Chairman, I yield 6 minutes to the gentleman from Ohio (Mr. PORTMAN), the sponsor of this legislation, who has done an outstanding job in working with the committee and in crafting this legislation.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman from Nebraska for yielding me this time and for all his work over the years on this legislation and this idea. I also want to thank the gentleman from New York (Mr. GILMAN), the chairman, for moving this bill so expeditiously through his committee, for improving the bill through the process, along with the ranking member, the gentleman from Indiana (Mr. LEE HAMILTON), and for getting it to the floor today.

I also have to commend my fellow sponsors, chairman of the Committee on the Budget, the gentleman from Ohio (Mr. JOHN KASICH), and the gentleman from Indiana (Mr. LEE HAMILTON), both of whom showed a lot of leadership in getting us to this point.

As has been noted by the previous two speakers, this is really the outgrowth of years of work by a lot of people that links two important facts of life: One is that, very important, tropical forests are disappearing at an extremely rapid rate; and, second, they happen to be located in less developed countries that have a hard time repaying their debts to the United States.

The gentleman from New York (Mr. GILMAN), the chairman, and the gentleman from Indiana (Mr. HAMILTON) will go further into the bill and what it does more precisely, but I want to take a minute to focus on why this bill makes so much sense to the American taxpayer.

Tropical forests literally impact the air we breathe, the food we eat, and the medicines that cure disease. Acting as so-called carbon sinks, tropical forests absorb and store vast amounts of carbon dioxide and other emissions caused by the burning of fossil fuels. By encouraging both reforestation and by preventing deforestation, we can substantially offset carbon emissions right here in the United States.

When we look at the alternatives and the cost of developing alternative technologies to reduce emissions, I think this is a relatively efficient way to absorb so-called greenhouse gases. It is hard to imagine that a rain forest in Brazil could help with air pollution in Ohio, but in fact that is what occurs.

A major benefit all of us get from tropical forests also is the use of the vast number of species and plants found there for the development of drugs. For example, plants found in tropical forests help fight child leukemia and the Hodgkin's disease. And natural products found in rain forests were used to develop drugs like Taxol, that treats breast cancer; Calanolide, which is used to treat infectious diseases, and many others. In fact, half of the medicines used in the world today, every day, come from tropical forest plants, as do 25 percent of all prescription drugs.

Agriculture also benefits from tropical forests. Genetic diversity, used in plant breeding, has been critical in producing grains for food and has accounted for about half of all the gains in agricultural yields in the United States between 1930 and 1980.

Finally, of course, tropical forests help regulate rainfall, which has the effect of stabilizing weather patterns around the world. Unfortunately for all of us, we have already lost about half the world's tropical rain forests since 1950. And every year we are losing about 30 to 40 million acres of forests, an area equal to the size of New York or Iowa or Pennsylvania. And, of course, this destruction is fueled by poverty and economic pressures on developing countries where most of these tropical forests are located.

As I mentioned at the outset, many of these countries have a hard time repaying their debt. In fact, a substantial majority of these eligible countries have sought so-called Paris Club or other debt relief arrangements. Instead of just having this debt outstanding that will never become repaid in full, or might be repaid not at all, the U.S. taxpayers should receive some benefit for the investment. By encouraging debt-for-nature swaps, the bill maximizes the chance of some benefit being received.

The bill offers three different options: First, for the poorest countries, whose debt is unlikely to be paid in full, we build on the Enterprise for the Americas Initiative. The gentleman from New York talked about it a moment ago, but it was begun in the Bush administration. There, part of the principal is paid back to the United States, and interest payments on the new debt have to be put into protecting tropical forests.

This is the one aspect of the bill that has some cost to it, because under the 1990 Federal Credit Reform Act, Congress has to appropriate funds equal to the so-called subsidy cost. That would be the difference between the net present value of the old loan arrangement and the new loan arrangement.

Second, the bill permits no-cost debt buy-backs. This is at no cost to the U.S. taxpayer. It is a debt buy-back for countries that can afford it. The country purchases its debt at the full asset value of the loan and then contributes an additional amount equal to 40 percent of that loan into a local fund to protect tropical forests.

Then, finally, the third option is the bill would permit interested parties and nongovernmental organizations, third parties, to purchase debt of eligible countries from the United States Government, at its full asset value, in exchange for the debtor country putting money aside well in excess of that purchase price in a fund for conservation.

□ 1130

Again, this is at no cost to the taxpayer and provides substantial benefits to the United States.

The bill also benefits the U.S. taxpayer because, through these transactions, U.S. dollars are leveraged for substantial amounts of conservation funding. This is because the cost of reducing debt, even as we have to score it here under the Credit Reform Act, is low compared to the amount of funding and local currency that will be set aside for conservation. In some cases, the ratio is as high as five to one or even ten to one.

Because it is leverage that you can get, I think this is a much better way to protect these globally important resources than through any kind of direct aid.

Debt restructuring also makes sense because, by clearing the debt off the books, it actually reduces the economic pressures that lead to a lot of the deforestation, so it actually gets at the underlying or root causes of much of the destruction of the rain forest.

Finally, let me make it clear that this is an authorization, this is not an appropriation. The bill and the committee report both make clear that any appropriation will be fully offset during the appropriations process.

Again, building on President Bush's Enterprise for the Americas Initiative, this bill moves beyond Latin America. It provides this benefit worldwide to any eligible country, and it more precisely targets less developed countries that have the kind of tropical forests that provide the most benefits. If enacted, its effects will be not only to encourage economic growth consistent with conservation but, as Chairman Gilman noted earlier, it will be to promote U.S. policy interests, foreign policy interests. Because, if they want to participate, countries are required to have a good human rights record, counternarcotics program, counterterrorists policies, and democratic elections.

As I conclude, I want to thank this committee again for expediting and improving this bill; and I want to acknowledge the good work of the gentleman from New York (Mr. GILMAN), the gentleman from Illinois (Mr. PORTER), the gentleman from Indiana (Mr. HAMILTON), the gentleman from Nebraska (Mr. BEREUTER) and many others on this issue over the years.

This bill simply builds on these efforts by providing new incentives to protect tropical forests worldwide in a targeted and fiscally responsible way. I urge my colleagues on both sides of the aisle to support it.

Mr. HAMILTON. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Chairman, I thank the ranking member for the time and his leadership on this issue.

I certainly want to join my colleagues in commending the gentleman from Ohio (Mr. PORTMAN) for his leadership, the gentleman from New York (Mr. GILMAN) and the gentleman from Indiana (Mr. HAMILTON) for their leadership on this, and the gentleman from Ohio (Mr. BEREUTER) as well, and all others who made this bipartisan, excellent bill possible today, the Tropical Forest Conservation Act.

As a member of the Subcommittee on Foreign Operations, Export Financing and Related Programs of the Committee on Appropriations, I know full well what the debt of burden does to many of these countries. I also know that tropical forests contain about half the world's earth, plant, and animal species, many of which still have not been identified. They also are extremely effective sinks for carbon dioxide, significantly reducing greenhouse gases in the atmosphere.

Our colleague very eloquently said what has always been clear to us, that everything in nature is connected, whether it is the benefit we receive in the rain forest in terms of pharmaceuticals or whether it is preventing greenhouse emissions from increasing and the greenhouse gases affecting the constituents of the gentleman from Ohio (Mr. PORTMAN) in Ohio.

So it is clear in terms of debt and it is clear in terms of protecting the rain forests, the tropical forests, that we have a need. There is opportunity based on precedent. The Bush Administration's Enterprise for the Americas Initiative presented a precedent and this is an expansion, as that has been indicated, and happily before the President's trip to Africa. The opportunity to reduce the burden of debt in these countries is being done with precedent and in a very wise way.

I am very, very pleased and want to make the point that the rule of nongovernmental organizations is very significantly mentioned in this legislation. Under the measure, each beneficiary country would be required to establish a Tropical Rain Forest Protection Fund to preserve, maintain, and restore its tropical forest. These funds would be distributed through competitive grants to local nongovernmental or other organizations with conservation expertise.

Further to that, management of the funds would be overseen by international boards consisting of officials appointed by the U.S. Government as well as by the host government; and these boards would include representatives of environmental, nongovernmental organizations active in the beneficiary country, local community groups, and scientific or academic organizations. I think this transparency and this involvement of nongovernmental and community-based groups is very, very healthy.

In conclusion, I want to say that this is a very smart approach, because the program established in the bill is intended to specifically target countries that have tropical forests with the greatest degree of biodiversity and that are under the most severe threat.

My colleagues have talked about the other criteria, that the country has to have a democratically elected government, not support active international terrorism, must support international narcotics controls, and may not engage in violations of internationally recognized human rights. Under the measure, the President would determine whether or not countries meet the criteria.

I am very, very pleased to congratulate my colleagues for this strong bipartisan effort to preserve the rain forest and reduce the debt of these countries.

Mr. BEREUTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of this legislation, and I am pleased to be a cosponsor.

The world's tropical forests, which are biodiverse, economically crucial and ecologically irreplaceable, are now disappearing faster than any other natural community. We heard the comments of the gentleman from Ohio (Mr. PORTMAN) on that subject.

Most of these forests are located in developing countries. Most of these countries are poor, many with crushing debt burdens. This body should view this legislation as a creative opportunity to address the twin problems of Third World debt and deforestation.

Mr. Chairman, one of the benefits of seniority is seeing some ideas gain acceptance after a period of time. Mr. Chairman, this is to trace a little bit of legislative history. But this proposal is, as the gentleman from Ohio (Mr. PORTMAN) indicated, based to some extent on the success of the Enterprise for the Americas Initiative from the Bush administration.

We saw good results from that. It is a creative variation of the EAI theme. As chairman of the Subcommittee on Asia and the Pacific, this Member would like to note that the forests and jungles of Vietnam, Cambodia, Laos, and Thailand are rapidly disappearing. Vietnam, for example, has only 19 percent forest coverage today, compared to 43 percent 50 years ago.

The legislation before this body today will go beyond the Latin American focus of EAI to offer protection in tropical forests in Africa, East Asia, and the south Asian subcontinent, among other parts of the world.

Mr. Chairman, this Member was particularly interested in Bangladesh, which is one of the world's poorest nations. It is struggling with both overwhelming PL 480 debt and severe environmental problems. This Member would ask the body's indulgence to describe how today's legislation is likely to affect Bangladesh and what would be required of a country such as Bangladesh to participate in the proposed debt swap.

Now, to its credit, Bangladesh continues to service their debt, with great difficulty I might add. This, however, puts the United States in the rather embarrassing position of receiving almost as much money back as it is giving humanitarian assistance because of the PL 480 debt interest.

To be eligible for debt reduction under this legislation, a country must contain an appropriate tropical forest and meet specific and economical and political criteria. At the March 10, 1998, markup of this legislation by the Committee on International Relations, the administration testified that Bangladesh did indeed possess the requisite tropical forests of global importance. This was particularly true with regard to the forest's importance of habitat for various endangered species which we described, and the specific area in Bangladesh was noted.

The political eligibility criteria of this legislation requires the debtor country to have a democratically elected government which is not pursuing egregious policies in the area of human rights, narcotics or terrorism. The State Department has confirmed that Bangladesh would meet these political criteria, and that is a very important part of this bill.

The economic eligibility criteria required of a debtor country is to have in place or be making progress towards an IMF arrangement, World Bank structure, or sectoral adjustment loans if necessary, to have put in place major investment reforms and, if appropriate, to have agreed with its commercial bank lenders on a satisfactory lending program. It is this Member's understanding that the International Monetary Fund is negotiating a potential staff-monitored program with Bangladesh, for example.

In addition, as evidence of major investment reforms, Bangladesh has concluded a bilateral investment treaty with the United States. On a preliminary basis, the Department of the Treasury has determined that if Bangladesh concludes its negotiation on an IMF staff-monitored program, it should meet with economic eligibility requirements for debt reduction under this legislation.

Based on the above, it is my sincere hope that serious consideration will be given to Bangladesh within the provisions of this legislation. Debt buy-back such as envisioned in this legislation would permit Bangladesh to address its lingering debt problems while preserving its tropical forest. Mr. Chairman, I bring this specific country's example to our attention, but it is an example of how it will work elsewhere.

In closing, Mr. Chairman, this Member thanks the distinguished gentleman from the State of Ohio (Mr. PORTMAN) for introducing this important piece of legislation with creativity, with original cosponsorship, the gentleman from Indiana (Mr. HAMILTON) and the gentleman from Ohio (Mr. KASICH).

I commend the efforts of the distinguished gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations, for his leadership demonstrated over the years on environmental matters and for helping, with the cooperation of the gentleman from Indiana (Mr. HAMILTON), to bring this legislation to the floor.

As other Members in this body have noted, this legislation enjoys bipartisan support and is not opposed by the administration. The bill was favorably reported by a voice vote of the full Committee on International Relations without any discernible objection.

Mr. Chairman, I urge strong adoption of H.R. 2870; and I reserve the balance of my time.

Mr. HAMILTON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I commend the sponsors, the gentleman from New York (Mr. GILMAN), the gentleman from Indiana (Mr. HAMILTON), the gentleman from Ohio (Mr. KASICH), the gentleman from Ohio (Mr. PORTMAN), the gentleman from Nebraska (Mr. BEREUTER) and others on the committee that have worked on this. It is a good bill. It deserves their support.

This bill builds upon the Conservation Organization's efforts that began the debt for nature swaps with the advent of many of these less developed nations in terms of trying to strive with meeting their needs by debt and find that the economic wherewithal to make the payments is not there. And the consequence, Mr. Chairman, is that, very often, they attempt to exploit in an improper way the natural resources of that country; and one of these natural resources, as has been pointed out, is these tropical and temperate rain forests.

While this bill focuses on the tropical rain forests, they may solve the problem of meeting their debt repayment for the year by sacrificing and selling off the tropical rain forest, but the problem is that they destroy their economic base and much of the biodiversity for the future.

Added to that, the activities of these nations as they are developing and struggling to make these debt payments by, in essence, selling their legacy, their patrimony of these natural forests as they look at it in South America and other parts of the world, there are natural phenomena that are also working against these areas.

Today, as we stand here on the floor, 23 to 25,000 square miles of uncontrolled fire has devastated parts of Amazonia, about 16 million acres in the last few months. In addition to that, the gentleman from New York (Mr. GILMAN) cited the persistent problem in Indonesia in which millions of acres of rain forest have been destroyed.

So I think that we cannot do as much as we would like to do about controlling the weather. There are some ideas about that, if anyone has any, in terms of dealing with El Nino. But we can control what is happening in terms of these debt repayments.

This is a move forward to, in fact, try to achieve an international understanding and realization of the importance of these tropical rain forests that, as have been pointed out, are in less developed countries of the world and attempting to preserve them and all of the positive benefits that they give from being our pharmacy, for dealing with medications, the hydrological cycles that they represent, the presence of carbon in these areas, and of course I think most important the maintenance of the biodiversity which is so unique to many of these forests, which really have not been inventoried, much less fully understood, in terms of what the benefit and interrelationship might be with mankind and the benefit for mankind.

I urge support of the bill.

Mr. BEREUTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. CHABOT), a member of the Committee on International Relations.

Mr. CHABOT. Mr. Chairman, I thank the gentleman for yielding.

I rise in strong support of the Tropical Forest Conservation Act, and I want to commend my friend and colleague from Ohio (Mr. Portman) for his leadership and his hard work on this important legislation.

□ 1145

It is nice to see Mr. PORTMAN's son Jed, who is 7 years old and in the second grade, on the floor of the House here this morning with his father, because his generation will benefit from the passage of this legislation in many ways. Congratulations, Jed.

I also want to commend the gentleman from New York (Mr. GILMAN) and the gentleman from Indiana (Mr. HAMILTON) of the Committee on International Relations and also the gentleman from Nebraska (Mr. BEREUTER) for all their leadership in shepherding this bill through the committee. I am pleased to be one of the original 16 cosponsors with my colleagues on this particular committee in supporting this legislation.

Tropical forests provide a wide range of benefits to the entire world. They help to reduce greenhouse gases. They house many of the species used in the developing of lifesaving pharmaceutical products. They affect rainfall, which of course affects crop production and coastal resources worldwide.

As these forests continue to be exploited, last year an estimated 30 million acres, for example, were lost, the

need to save them becomes more and more urgent.

Mr. Chairman, the Tropical Forest Conservation Act is a sound, free-market approach to a very serious global environmental problem. It will encourage the preservation of tropical forests without creating a burden for the American taxpayer. It is good, sensible legislation. It is worthy of our support. I urge adoption of the legislation.

I want to again compliment and commend the gentleman from Ohio (Mr. PORTMAN) for proposing this legislation.

Mr. HAMILTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this legislation. Let me first extend my congratulations to the gentleman from Ohio (Mr. PORTMAN), the chief sponsor of the bill. I think he has done marvelous work in bringing this bill to the floor of the House. It is a bipartisan initiative in every respect. I also want to extend my thanks to the gentleman from New York (Mr. GILMAN) for his willingness to accommodate both the concerns of the administration and the concerns of other Members. Their constructive suggestions and amendments improved this bill. I also want to note that the gentleman from New Jersey (Mr. PAYNE), who spoke previously has been a steadfast supporter of the bill, but was inadvertently omitted from the list of cosponsors.

This bill has been very well explained by my colleagues on the floor. I am not going to repeat what they have said. I do want to acknowledge the outstanding work of the gentleman from Nebraska (Mr. BEREUTER). He was one of the early supporters of this program and has seen it through all the way. He gave us an excellent description just a moment ago of the impact the bill would have on Bangladesh.

We bring so many bills to this floor under confrontational and adversarial conditions. We all understand that is the way the process works. But it is a very great pleasure to participate in the development of legislation, such as the bill before us today, that has such solid, broad bipartisan support. It has been a pleasure for me to work on it.

Let me simply point out to Members that the administration's position on the bill is that they support passage of H.R. 2870. At the same time, however, the administration has expressed concern about the potential financing of the program. The sponsors of the bill hope that these financing procedures can be worked out in the future. But it is important to note that the administration supports passage of the bill. I urge my colleagues to join me in supporting H.R. 2870.

Mr. Chairman, I reserve the balance of my time.

Mr. BEREUTER. Mr. Chairman, I yield myself such time as I may consume, only to thank the gentleman from Indiana (Mr. HAMILTON) for his kind remarks toward me.

Mr. KOLBE. Mr. Chairman, I rise in strong support of the Tropical Forest Conservation Act of 1998, and I would like to commend the gentlemen, Messrs. PORTMAN and KASICH, from Ohio, for their efforts. The purpose of this legislation is simple—to facilitate greater protection of tropical forests while being cognizant of today's tight budgetary constraints.

The benefits derived from these biologically diverse forests are numerous. Rain forests should not be considered as just a source of timber. They provide a livelihood for people, a habitat for plants and animals, and help stabilize the global climate. Unfortunately, more than half of the earth's tropical forests have disappeared. I believe it is in the best interest of America to cooperate with the rest of the world to protect this vital resource.

Developing countries face enormous economic pressures which have increased the pressure on the world's rainforests. By relieving the economic burdens that fuel this destruction and exploitation of fragile resources, we can help redirect a nation's development efforts to more environmentally friendly projects. HR 2870 addresses this need through an innovative program—restructuring the U.S. debts of extremely poor countries in exchange for local protection of tropical forests.

This program would not be open to any country wanting to restructure its debt. A country could participate only if it meets certain eligibility requirements, such as having a democratically elected government. Also, a country would be prohibited from supporting terrorism and would have to cooperate in the international war on drugs. These are not the only criteria a country must meet to receive the benefits of debt restructuring. An eligible country must use the funds only to "preserve, maintain, and restore the tropical forests."

Also, the distribution of these funds would be monitored by an administering body composed of U.S. Government officials and representatives from various environmental, scientific, and academic organizations.

This legislation builds on President Bush's Enterprise for the Americas Initiative, providing an effective solution to deforestation while assisting less-developed countries restructure uncontrollable debt.

This bill shows what can be accomplished when everyone, irrespective of political and ideological views, puts their differences aside to solve a common problem. I urge my colleagues to vote for H.R. 2870.

Mr. PORTER. Mr. Chairman, I rise in strong support of this bill. In 1988, I offered the first debt-for-nature bill. This legislation was then incorporated into the Enterprise for the Americas Initiative (EAI) by President Bush. This initiative forgave approximately $800 million in debt from seven Latin American countries that would have never been repaid. This exchange generated approximately $150 million in investment for the preservation of tropical forest ecosystems.

A recent World Wildlife Fund report stated the tropical forests are being lost at a rate of 42 million acres per year. The EAI has helped to preserve many important tropical forests in the Western Hemisphere, most notably the Beni Biosphere Reserve in Bolivia. I am a cosponsor of this bill because it builds on my initiative. This financial mechanism has been successful in preserving tropical forests in our hemisphere and we must now look to other important rainforests, especially those in Indonesia. Eighty-eight percent of the original forest in the Asia-Pacific region have been destroyed and current wildfires throughout the islands of Indonesia are exacerbating this situation. This bill expands the EAI to this region and will hopefully facilitate the protection of tropical forests throughout the world.

As Chairman of Global Legislators Organization for a Balanced Environment (GLOBE USA) and Co-Chairman of the Congressional Human Rights Caucus, I support the use of debt-for-nature swaps not only because of the success they have had in protecting rainforests but also because they utilize local non-governmental organizations. By working with and through these community groups, natural resources are preserved and the rights of indigenous peoples are respected. I have lauded the success of these debt exchanges in the past and I hope that this program will continue to expand.

I encourage my colleagues to support this legislation.

Mr. HAMILTON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BEREUTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2870

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

SECTION 1. DEBT REDUCTION FOR DEVELOPING COUNTRIES WITH TROPICAL FORESTS.

The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following:

"PART V—DEBT REDUCTION FOR DEVELOPING COUNTRIES WITH TROPICAL FORESTS

"SEC. 801. SHORT TITLE.

"This part may be cited as the 'Tropical Forest Conservation Act of 1998'.

"SEC. 802. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds the following:

"(1) It is the established policy of the United States to support and seek protection of tropical forests around the world.

"(2) Tropical forests provide a wide range of benefits to humankind by—

"(A) harboring a major share of the Earth's biological and terrestrial resources, which are the basis for developing pharmaceutical products and revitalizing agricultural crops;

"(B) playing a critical role as carbon sinks in reducing greenhouse gases in the atmosphere, thus moderating potential global climate change; and

"(C) regulating hydrological cycles on which far-flung agricultural and coastal resources depend.

"(3) International negotiations and assistance programs to conserve forest resources have proliferated over the past decade, but the rapid rate of tropical deforestation continues unabated.

"(4) Developing countries with urgent needs for investment and capital for development have allocated a significant amount of their forests to logging concessions.

"(5) Poverty and economic pressures on the populations of developing countries have, over time, resulted in clearing of vast areas of forest for conversion to agriculture, which is often unsustainable in the poor soils underlying tropical forests.

"(6) Debt reduction can reduce economic pressures on developing countries and result in increased protection for tropical forests.

"(b) PURPOSES.—The purposes of this part are—

"(1) to recognize the values received by United States citizens from protection of tropical forests;

"(2) to facilitate greater protection of tropical forests (and to give priority to protecting tropical forests with the highest levels of biodiversity and under the most severe threat) by providing for the alleviation of debt in countries where tropical forests are located, thus allowing the use of additional resources to protect these critical resources and reduce economic pressures that have led to deforestation;

"(3) to ensure that resources freed from debt in such countries are targeted to protection of tropical forests and their associated values; and

"(4) to rechannel existing resources to facilitate the protection of tropical forests.

"SEC. 803. DEFINITIONS.

"As used in this part:

"(1) ADMINISTERING BODY.—The term 'administering body' means the entity provided for in section 809(c).

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

"(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(3) BENEFICIARY COUNTRY.—The term 'beneficiary country' means an eligible country with respect to which the authority of section 806(a)(1), section 807(a)(1), or paragraph (1) or (2) of section 808(a) is exercised.

"(4) BOARD.—The term 'Board' means the board referred to in section 811.

"(5) DEVELOPING COUNTRY WITH A TROPICAL FOREST.—The term 'developing country with a tropical forest' means—

"(A)(i) a country that has a per capita income of $725 or less in 1994 United States dollars (commonly referred to as 'low-income country'), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; or

"(ii) a country that has a per capita income of more than $725 but less than $8,956 in 1994 United States dollars (commonly referred to as 'middle-income country'), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; and

"(B) a country that contains at least one tropical forest that is globally outstanding in terms of its biological diversity or represents one of the larger intact blocks of tropical forests left, on a regional, continental, or global scale.

"(6) ELIGIBLE COUNTRY.—The term 'eligible country' means a country designated by the President in accordance with section 805.

"(7) TROPICAL FOREST AGREEMENT.—The term 'Tropical Forest Agreement' or 'Agreement' means a Tropical Forest Agreement provided for in section 809.

"(8) TROPICAL FOREST FACILITY.—The term 'Tropical Forest Facility' or 'Facility' means the Tropical Forest Facility established in the Department of the Treasury by section 804.

"(9) TROPICAL FOREST FUND.—The term 'Tropical Forest Fund' or 'Fund' means a Tropical Forest Fund provided for in section 810.

"SEC. 804. ESTABLISHMENT OF THE FACILITY.

"There is established in the Department of the Treasury an entity to be known as the 'Tropical Forest Facility' for the purpose of providing for the administration of debt reduction in accordance with this part.

"SEC. 805. ELIGIBILITY FOR BENEFITS.

"(a) IN GENERAL.—To be eligible for benefits from the Facility under this part, a country shall be a developing country with a tropical forest—

"(1) whose government meets the requirements applicable to Latin American or Caribbean countries under paragraphs (1) through (5) and (7) of section 703(a) of this Act;

"(2) that has put in place major investment reforms, as evidenced by the conclusion of a bilateral investment treaty with the United States, implementation of an investment sector loan with the Inter-American Development Bank, World Bank-supported investment reforms, or other measures, as appropriate; and

"(3) whose government meets other requirements related to its environmental policies and practices, as determined by the President.

"(b) ELIGIBILITY DETERMINATIONS.—

"(1) IN GENERAL.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part.

"(2) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

"SEC. 806. REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CONCESSIONAL LOANS UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

"(a) AUTHORITY TO REDUCE DEBT.—

"(1) AUTHORITY.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1997, as a result of concessional loans made to an eligible country by the United States under part I of this Act, chapter 4 of part II of this Act, or predecessor foreign economic assistance legislation.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

"(A) $25,000,000 for fiscal year 1999;

"(B) $75,000,000 for fiscal year 2000; and

"(C) $100,000,000 for fiscal year 2001.

"(3) CERTAIN PROHIBITIONS INAPPLICABLE.—

"(A) IN GENERAL.—A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(B) ADDITIONAL REQUIREMENT.—The authority of this section may be exercised notwithstanding section 620(r) of this Act or section 321 of the International Development and Food Assistance Act of 1975.

"(b) IMPLEMENTATION OF DEBT REDUCTION.—

"(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

"(2) EXCHANGE OF OBLIGATIONS.—

"(A) IN GENERAL.—The Facility shall notify the agency primarily responsible for administering part I of this Act of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

"(B) ADDITIONAL REQUIREMENT.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation for the country shall be established relating to the agreement, and the agency primarily responsible for administering part I of this Act shall make an adjustment in its accounts to reflect the debt reduction.

"(c) ADDITIONAL TERMS AND CONDITIONS.—The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 704(a)(1) of this Act:

"(1) The provisions relating to repayment of principal under section 705 of this Act.

"(2) The provisions relating to interest on new obligations under section 706 of this Act.

"SEC. 807. REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CREDITS EXTENDED UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

"(a) AUTHORITY TO REDUCE DEBT.—

"(1) AUTHORITY.—Notwithstanding any other provision of law, the President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1997, as a result of any credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to a country eligible for benefits from the Facility.

"(2) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

"(i) $25,000,000 for fiscal year 1999;

"(ii) $50,000,000 for fiscal year 2000; and

"(iii) $50,000,000 for fiscal year 2001.

"(B) LIMITATION.—The authority provided by this section shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to this section are made in advance.

"(b) IMPLEMENTATION OF DEBT REDUCTION.—

"(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

"(2) EXCHANGE OF OBLIGATIONS.—

"(A) IN GENERAL.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

"(B) ADDITIONAL REQUIREMENT.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation shall be established for the country relating to the agreement, and the Commodity Credit Corporation shall make an adjustment in its accounts to reflect the debt reduction.

"(c) ADDITIONAL TERMS AND CONDITIONS.—The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 604(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c):

"(1) The provisions relating to repayment of principal under section 605 of such Act.

"(2) The provisions relating to interest on new obligations under section 606 of such Act.

"SEC. 808. AUTHORITY TO ENGAGE IN DEBT-FOR-NATURE SWAPS AND DEBT BUYBACKS.

"(a) LOANS AND CREDITS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

"(1) DEBT-FOR-NATURE SWAPS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser described in subparagraph (B) any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible purchaser described in subparagraph (B), reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt-for-nature swap to support eligible activities described in section 809(d).

"(B) ELIGIBLE PURCHASER DESCRIBED.—A loan or credit may be sold, reduced, or canceled under subparagraph (A) only to a purchaser who presents plans satisfactory to the President for using the loan or credit for the purpose of engaging in debt-for-nature swaps to support eligible activities described in section 809(d).

"(C) CONSULTATION REQUIREMENT.—Before the sale under subparagraph (A) to any eligible purchaser described in subparagraph (B), or any reduction or cancellation under such subparagraph (A), of any loan or credit made to an eligible country, the President shall consult with the country concerning the amount of loans or credits to be sold, reduced, or canceled and their uses for debt-for-nature swaps to support eligible activities described in section 809(d).

"(D) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to subparagraph (A), amounts authorized to be appropriated under sections 806(a)(2) and 807(a)(2) shall be made available for such reduction of debt pursuant to subparagraph (A).

"(2) DEBT BUYBACKS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible country any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible country, reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than the lesser of 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support eligible activities described in section 809(d).

"(3) LIMITATION.—The authority provided by paragraphs (1) and (2) shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant such paragraphs are made in advance.

"(4) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans and credits may be sold, reduced, or canceled pursuant to this section.

"(5) ADMINISTRATION.—

"(A) IN GENERAL.—The Facility shall notify the administrator of the agency primarily responsible for administering part I of this Act or the Commodity Credit Corporation, as the case may be, of eligible purchasers described in paragraph (1)(B) that the President has determined to be eligible under paragraph (1), and shall direct such agency or Corporation, as the case may be, to carry out the sale, reduction, or cancellation of a loan pursuant to such paragraph.

"(B) ADDITIONAL REQUIREMENT.—Such agency or Corporation, as the case may be, shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

"(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

"SEC. 809. TROPICAL FOREST AGREEMENT.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary of State is authorized, in consultation with other appropriate officials of the Federal Government, to enter into a Tropical Forest Agreement with any eligible country concerning the operation and use of the Fund for that country.

"(2) CONSULTATION.—In the negotiation of such an Agreement, the Secretary shall consult with the Board in accordance with section 811.

"(b) CONTENTS OF AGREEMENT.—The requirements contained in section 708(b) of this Act (relating to contents of an agreement) shall apply to a Agreement in the same manner as such requirements apply to an Americas Framework Agreement.

"(c) ADMINISTERING BODY.—

"(1) IN GENERAL.—Amounts disbursed from the Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

"(2) COMPOSITION.—

"(A) IN GENERAL.—The administering body shall consist of—

"(i) one or more individuals appointed by the United States Government;

"(ii) one or more individuals appointed by the government of the beneficiary country; and

"(iii) individuals who represent a broad range of—

"(I) environmental nongovernmental organizations of, or active in, the beneficiary country;

"(II) local community development nongovernmental organizations of the beneficiary country; and

"(III) scientific or academic organizations or institutions of the beneficiary country.

"(B) ADDITIONAL REQUIREMENT.—A majority of the members of the administering body shall be individuals described in subparagraph (A)(iii).

"(3) RESPONSIBILITIES.—The requirements contained in section 708(c)(3) of this Act (relating to responsibilities of the administering body) shall apply to an administering body described in paragraph (1) in the same manner as such requirements apply to an administering body described in section 708(c)(1) of this Act.

"(d) ELIGIBLE ACTIVITIES.—Amounts deposited in a Fund shall be used to provide grants to preserve, maintain, and restore the tropical forests in the beneficiary country, including one or more of the following activities:

"(1) Establishment, restoration, protection, and maintenance of parks, protected areas, and reserves.

"(2) Development and implementation of scientifically sound systems of natural resource management, including land and ecosystem management practices.

"(3) Training programs to strengthen conservation institutions and increase scientific, technical, and managerial capacities of individuals and organizations involved in conservation efforts.

"(4) Restoration, protection, or sustainable use of diverse animal and plant species.

"(5) Mitigation of greenhouse gases in the atmosphere.

"(6) Development and support of the livelihoods of individuals living in or near a tropical forest, including the cultures of such individuals, in a manner consistent with protecting such tropical forest.

"(e) GRANT RECIPIENTS.—

"(1) IN GENERAL.—Grants made from a Fund shall be made to—

"(A) nongovernmental environmental, conservation, and indigenous people organizations of, or active in, the beneficiary country;

"(B) other appropriate local or regional entities of, or active in, the beneficiary country; and

"(C) in exceptional circumstances, the government of the beneficiary country.

"(2) PRIORITY.—In providing grants under paragraph (1), priority shall be given to projects that are run by nongovernmental organizations and other private entities and that involve local communities in their planning and execution.

"(f) REVIEW OF LARGER GRANTS.—Any grant of more than $100,000 from a Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

"(g) ELIGIBILITY CRITERIA.—In the event that a country ceases to meet the eligibility requirements set forth in section 805(a), as determined by the President pursuant to section 805(b), then grants from the Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 805(a).

"SEC. 810. TROPICAL FOREST FUND.

"(a) ESTABLISHMENT.—Each beneficiary country that enters into a Tropical Forest Agreement under section 809 shall be required to establish a Tropical Forest Fund to receive payments of interest on new obligations undertaken by the beneficiary country under this part.

"(b) REQUIREMENTS RELATING TO OPERATION OF FUND.—The following terms and conditions shall apply to the Fund in the same manner as such terms and conditions apply to an Enterprise for the Americas Fund under section 707 of this Act:

"(1) The provision relating to deposits under subsection (b) of such section.

"(2) The provision relating to investments under subsection (c) of such section.

"(3) The provision relating to disbursements under subsection (d) of such section.

"SEC. 811. BOARD.

"(a) ENTERPRISE FOR THE AMERICAS BOARD.—The Enterprise for the Americas Board established under section 610(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(a)) shall, in addition to carrying out the responsibilities of the Board under section 610(c) of such Act, carry out the duties described in subsection (c) of this section for the purposes of this part.

"(b) ADDITIONAL MEMBERSHIP.—

"(1) IN GENERAL.—The Enterprise for the Americas Board shall be composed of an additional four members appointed by the President as follows:

"(A) Two representatives from the United States Government.

"(B) Two representatives from private nongovernmental environmental, scientific, and academic organizations with experience and expertise in preservation, maintenance, and restoration of tropical forests.

"(2) CHAIRPERSON.—Notwithstanding section 610(b)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(2)), the Enterprise for the Americas Board shall be headed by a chairperson who shall be appointed by the President from among the representatives appointed under section 610(b)(1)(A) of such Act or paragraph (1)(A) of this subsection.

"(c) DUTIES.—The duties described in this subsection are as follows:

"(1) Advise the Secretary of State on the negotiations of Tropical Forest Agreements.

"(2) Ensure, in consultation with—

"(A) the government of the beneficiary country,

"(B) nongovernmental organizations of the beneficiary country,

"(C) nongovernmental organizations of the region (if appropriate),

"(D) environmental, scientific, and academic leaders of the beneficiary country, and

"(E) environmental, scientific, and academic leaders of the region (as appropriate),

that a suitable administering body is identified for each Fund.

"(3) Review the programs, operations, and fiscal audits of each administering body.

"SEC. 812. CONSULTATIONS WITH THE CONGRESS.

"The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this part and the eligibility of countries for benefits from the Facility under this part.

"SEC. 813. ANNUAL REPORTS TO THE CONGRESS.

"(a) IN GENERAL.—Not later than December 31 of each fiscal year, the President shall prepare and transmit to the Congress an annual report concerning the operation of the Facility for the prior fiscal year. Such report shall include—

"(1) a description of the activities undertaken by the Facility during the previous fiscal year;

"(2) a description of any Agreement entered into under this part;

"(3) a report on any Funds that have been established under this part and on the operations of such Funds; and

"(4) a description of any grants that have been provided by administering bodies pursuant to Agreements under this part.

"(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—Not later than December 15 of each fiscal year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this part by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.".

The CHAIRMAN. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Are there any amendments to the bill?

AMENDMENT NO. 1 OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. GILMAN:

Page 10, after line 15, insert the following:

(c) NOTIFICATION REQUIREMENT.—The President shall notify the congressional committees specified in section 634A of this Act at least 15 days in advance of each reduction of debt pursuant to this section in accordance with the procedures applicable to reprogramming notifications under such section 634A.

Page 10, line 16, strike "(c)" and insert "(d)".

Page 12, after line 25, insert the following:

(c) NOTIFICATION REQUIREMENT.—The President shall notify the congressional committees specified in section 634A of this Act at least 15 days in advance of each reduction of debt pursuant to this section in accordance with the procedures applicable to reprogramming notifications under such section 634A.

Page 13, line 1, strike "(c)" and insert "(d)".

Page 16, after line 21, insert the following:

(b) NOTIFICATION REQUIREMENT.—The President shall notify the congressional committees specified in section 634A of this Act at least 15 days in advance of each sale, reduction, or cancellation of loans or credits pursuant to this section in accordance with the procedures applicable to reprogramming notifications under such section 634A.

Page 16, line 22, strike "(b)" and insert "(c)".

Mr. GILMAN. Mr. Chairman, this amendment merely gives the Congress an extra level of protection with regard to this bill. Under the current bill, the administration must notify the Congress when a country is eligible for debt relief. While that is comforting, the Congress would not know of the amount of debt to be forgiven, the financial commitment to the environment made by the host country, the specific habitat to be protected or the local groups designated by the administration and host country to carry out the project.

Under this bill, we are giving authority to the President to carry out debt relief anywhere a country is eligible. We want to do projects in difficult nations like Indonesia and eventually the Congo where critical habitats are, but I have some concerns about the governments and local groups there. This amendment would give us one last look at the complete arrangement before moving forward.

We would reference section 634(A) of the Foreign Assistant Act, using a well-worn procedure of consultation between the Congress and the executive branch. I understand that the Treasury Department had some concerns with the amendment. I am totally willing to work with them to refine the notification process as the bill moves through the Senate. Accordingly, I urge our Members to support the amendment.

Mr. HAMILTON. Mr. Chairman, I rise in support of the amendment. I commend the gentleman for bringing it forward. I think all of us agree that the Congress should be notified of any appropriations to eligible countries under the bill. I was pleased to hear the gentleman say a moment ago that he would work with the administration with regard to a notification process that conserves administrative resources and is not duplicative. I urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. GILMAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 388, further proceedings on the amendment offered by the gentleman from New York (Mr. GILMAN) will be postponed.

Are there further amendments?

AMENDMENTS NO. 2 AND 3 OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendments No. 2 and 3 offered by Mr. VENTO:

Page 19, after line 20, insert the following:

"(5) Research and identification of medicinal uses of tropical forest plant life to treat human diseases and illnesses and other health-related concerns.

Page 19, line 21, strike "(5)" and insert "(6)".

Page 19, line 23, strike "(6)" and insert "(7)".

Page 23, line 12, after "scientific" insert "indigenous,".

Page 23, line 14, after "scientific," insert "indigenous,".

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, again I commend the gentleman from Ohio (Mr. PORTMAN), the principal sponsor of the bill. These amendments are noncontroversial amendments. I appreciate the support of the gentleman from New York (Mr. GILMAN) and the gentleman from Indiana (Mr. HAMILTON), chairman and ranking member of the committee.

I would want to point out that this is a good bill, but one of the major ways that we gain information here is by consulting with the indigenous people of these areas from the rain forests that in fact have used many of the products, the plants, both the fauna and flora of these rain forests for medicinal and other purposes. That consultation process is recognized in Amendment No. 3 that I have here where I amend and put the word "indigenous," as well as consulting with the scientists, with the government officials and others, the academic side, to in fact consult with the indigenous people. What we really have in consulting with the indigenous people from these cultures is really the history of humankind in terms of the success, the trial and errors that they have used in terms of applying these plant substances, these animal substances for medicinal uses. It only is

logical, in fact that is the way that most scientists, most ethnobotanists and others in fact gain the clues as to where to search for and look and seek these, what we call wonder drugs today, Mr. Chairman.

Secondly, this amendment would make in order on page 20 a new eligible activity for grant, which would be research and identification of medicinal use of tropical forest plants to treat human diseases and illness and other related concerns. In other words, Mr. Chairman, the concern here was that while I think it is consistent in the bill, the oft repeated goal of trying to preserve this pharmacological material from these forests, in fact, the grant process did not specify for this purpose. My amendment offered en bloc will do that.

Mr. Chairman, my interest in this springs from work that I conducted in years past leading the Parks and Public Lands Committee in designating as a park the fallow tropical rain forest of American Samoa. I encountered and became a friend of Dr. Paul Cox, a professor from Brigham Young University in Utah, and who now is leading the Tropical Forestry Botanical Garden in Hawaii. He is a noted scholar and has been recognized by Time Magazine as one of the 10 top medical scientists in 1997. He related the experience that he had as a Mormon missionary first, and later as a professor of botany in terms of trying to gain the understanding and currently gain that from the indigenous people, from the American Samoan, from the Western Samoan people and has in fact been able to have several compounds and materials considered for medical use in the United States. Very often, he put it pretty bluntly that many of these countries in order to get a school or a building are prepared to sell off thousands of acres of their land so they get a school or other building put up. The fact of the matter is the real value of those lands that we know and is within the biodiversity and other characteristics which they exhibit. What he has been able to do, and I know it is not the subject of this bill but I will be submitting legislation on it, was to in fact give the indigenous people, the American Samoan or the Western Samoan people, part of the profit that comes from the replication of these natural compounds and substances that were the intellectual property of these Samoan people. This is, I think, putting a real value on it and a positive incentive for others to share this information and then to benefit as well from such discovery.

H.R. 2870 is a positive bill. Its goal is to end or significantly curtail the destruction of the world's tropical forests with nature's debt for swapping a commitment to preserve such rain forests as a new and working policy and law. In the past half-century we have logged or burned half of the planet's tropical forests. In the eighties, as a matter of fact, they were disappearing at the rate of 30 million acres per year—roughly the size of Pennsylvania. And as we have seen again and again, when you slash, burn or log the forest, many species, the biodiversity, of flora and fauna are lost, most often permanently!

This legislation seeks to stem that tide. With passage of H.R. 2870, the United States will continue and strengthen its efforts to encourage developing nations to treat their forests responsibly. It expands the successful model created by the Enterprise for the Americas Initiative (EAI) in which the United States offers debt relief to nations in exchange for the protection of important forest habitats. With passage of this bill, nations around the world will be able to participate in a program that has worked very well in the Americas. That's good news for Mother Earth because there are tropical forests around the globe—in Africa, Polynesia, Asia, and elsehwere.

I commend Mr. KASICH, Mr. PORTMAN, Mr. GILMAN, and Mr. HAMILTON for working together on a bipartisan basis to bring this issue to the floor. It proves something that I have been saying for a long time: The environment is not and should not be a partisan issue.

Today I seek to offer two amendments that address a unique aspect of our rain forests. The amendments focus on the role that tropical forests and the culture of the people that live in such areas play in the discovery and development of new pharmaceuticals.

An estimated one-half of the Earth's 250,000 plants survive in tropical forest ecosystems. Of these, less than one percent have been exhaustively studied for their possible role as medicinal substances. This is incredible considering that important medicines come from such natural plant resources including aspirin, codeine, quinine, which combats malaria, and taxol, which has proven effective in the first against ovarian and breast cancer, and many more. The basic chemistry comes from nature first and is replicated in our labs for commercial manufacture. These are the wonder drugs that save lives and improve our quality of life.

A very good friend of ours, Professor Paul Cox, has worked extensively in the field of ethnobotany—the study of the relationship between plants and people. I will seek unanimous consent that a profile of Mr. Cox that appeared in Time Magazine appear in the RECORD following my statement. Dr. Cox is our modern scientist learning from indigenous peoples. He has spent time in Polynesia and discovered an impressive array of pharmaceuticals used by the indigenous people to develop medicines from plants and animals that are found in their natural rain forest environment. Just among the most recent discoveries were medicinal substances to cure or reduce skin inflammation, rashes, diarrhea and asthma—all for the asking and understanding of the paleotropical rainforest people of Samoa, a Polynesian island in the Western Pacific.

In other parts of the world, indigenous peoples have used plants that fight anything from fungal infections of the skin to cancer. The problem is that there are neither enough scientists such as Dr. Cox nor enough money to fund their essential research. My amendment would address the grant expenditure provisions of this bill to include eligibility for the research and identification of medicinal uses of tropical forest flora and fauna to treat human diseases and illnesses.

This is an urgent issue that merits our attention. Just as the tropical forests are disappearing at an alarming rate, the use of plants in traditional societies seems to be a pursuit of previous generations that are passing on with their know how. Two of the Samoan healers who worked with our friend Mr. Cox to develop a powerful antiviral compound passed away in 1994! Their knowledge went with them. One can only speculate about the number of healers Mr. Cox or other ethnobotanists have not yet reached. In passing this amendment, we may be able to capture much of this know how, a body of knowledge that is the experience of mankind and human history to exploit such natural resources.

While this small change won't translate into more money to definitively access and inventory potential medicinal flora and fauna, it is a very positive step to embrace the activity as eligible for such support and perhaps curing some of our most stubborn diseases today and tomorrow.

I am also offering in this enbloc amendment a policy to expand the consultation requirement for nations when they are shaping and writing Tropical Forest Agreements. The bill currently includes a requirement to consult with scientists and academics who are familiar with tropical forest issues. My amendment would be certain that indigenous representatives, the local people of such areas, are at the table, as well. As I note above, within these cultures there are, in many cases, a far more intimate knowledge of the utility of the earth's rain forests than we could attain. Let us use it daily and openly acknowledging and rewarding their special knowledge and culture. It is absolutely crucial that we include such input into the tropical forest preservation that this measure envisions.

An issue related to these two amendments that I considered raising today is the protection of the intellectual property—the value of such knowledge and know-how that healers in traditional society possess. Indeed, if a pharmaceutical company were to find a cure for cancer or AIDS with the help of healers and traditional medicine, we should certainly ensure that they were properly compensated and share in the reward and profit for the use of their culture's intellectual property. As this is of course a more complicated issue and not as relevant to the issues in this bill, I will attempt to address this issue at a later date in a separate policy initiative. I simply wanted to note to the Chairman and the ranking member that this was something we should keep in mind as we proceed with the preservation and utilization of these biologically diverse rain forests.

Natural weather events over which we have little control today are resulting in fire out of control in Amazonia—23 to 25,000 square miles, in fact some 16 million acres have been affected. Additionally in parts of the Indonesian region, fire has devastated vast regions of virgin rain forest, areas that will be lost for all of the important qualities—a carbon sink, the hydrological regime of these ecosystems, the sheer biodiversity, and the major source of pharmaceutical products—for tomorrow is

being adversary impacted by such phenomenon is essential that we pass this measure and most importantly make it work. The international nature of our environment has never been more apparent, but alas the willingness of the United States to lead and to participate seems to be subject to a paralysis of fear and suspicion. Hopefully this measure signals a reversal of the denial that has characterized a number of harmful House-passed measures that undercut voluntary conservation treaties and agreements key to a rational pursuit of global environmental policy based on success and cooperation around the world.

It was a pleasure working on this issue with the members of the Committee and the sponsors of this bill. I am especially pleased that we will be able to dispose of these important issues without controversy today. These are good amendments to a good bill and I ask for my colleagues support.

SEEKING ANSWERS IN ANCIENT RAIN-FOREST REMEDIES IS A LIFE'S WORK FOR PLANT HUNTER

The teacher and student sit cross-legged, facing each other on the floor of the open-sided hut in Western Samoa. Behind them the rain forest rises to the pinnacle of a long-dormant volcano. Beneath the thatched roof, a gaggle of children intently watches the proceedings. The teacher is Salome Isofea, 30, a young healer who is demonstrating her art. The man opposite her, a Westerner named Paul Alan Cox, is no ordinary student. He is a botany professor and dean at Brigham Young University in Provo, Utah, a world specialist in medicinal plants and, far from least in this exotic setting, the paramount chief of the nearby village of Falealupo. To people here, he is known as Nafanua, in honor of a legendary Samoan warrior goddess who once saved the village from oppression and protected its forests.

Salome is explaining a traditional cure for pterygium, an eye affliction common to the tropics in which vision gradually becomes obscured as a layer of tissue encroaches over the cornea. The traditional cure used by healers is leaves of Centella asiatrica, a groundhugging vine, which Salome chews into a poultice, smears on a cloth and then places as a compress on the afflicted eye for three consecutive nights.

But before this can be done, Salome explains, there is another crucial part of the cure. Holding a coconut-shell bowl containing ashes, she flicks them in the direction of Cox, who is playing the patient. When he soberly asks why the ashes are necessary, she replies that they enhance "spiritual transmission" between healer and patient. "We Westerners have to suspend judgment at these times."

ONLY YOUNG PRACTICING HEALERS, COX BELIEVES, CAN PREVENT THE LOSS OF CENTURIES OF KNOWLEDGE

Look at our own belief in doctors wearing white coats. In Western culture that uniform is comparable to the "spiritual transmission she sees in the use of ash."

Moments like this are typical of Cox's experience as he scours the world's flora in search of plants that will benefit Western medicine. Cox has spent years in Samoa interviewing or apprenticing himself to traditional healers. He has also traveled throughout the South Pacific, as well as in Southeast Asia, South America, East Africa and as far north as Sweden's Lapland. In Samoa alone, healers have led him and his colleagues to 74 medicinal plants that might prove useful.

Samoan healers concoct poultices and infusions from the leaves, bark and roots of local plants, using them for conditions that range from high fever to appendicitis. Among them are root of 'Ago (curcuma longa) for rashes, leaves of the kuava tree (Psidium guajava) for diarrhea, and the bark of vavae (Ceiba pentandra) for asthma. Virtually all the healers are women who learned their art from their mothers, who in turn learned it from their mothers. Now knowledge of the recipes and their administration, even the location of the plants in the forests, is endangered as more and more daughters forgo the long filial apprenticeships in favor of using Western pills and ointments.

For this reason, the discovery of young practicing healers like Salome delights Cox, who believes that only people like her can prevent the loss of centuries of knowledge. If he can carry Salome's knowledge to the developed world in the form of plants whose myriad chemical compounds might help combat incurable diseases—notably cancer, AIDS and Alzheimer's—the impetus to save the Samoan rain forest, and all forests, will be that much stronger.

Fewer than 1% of the world's 265,000 flowering plants, most inhabiting equatorial regions, have been tested for their effectiveness against disease. "We haven't even scratched the surface—not even in our own backyard," says Jim Miller, director of the Missouri Botanical Garden's natural-products program. Yet nearly a quarter of prescription drugs sold in the U.S. are based on chemicals from just 40 plant species. Examples are abundant. Codeine and morphine are derived from poppies. Vincristine and vinblastine, isolated from the rosy periwinkle, help treat cancers, including Hodgkin's disease and some leukemias. Curare, taken from several lethal Amazonian plants and often used to tip hunting arrows, is used in drugs that bolster anesthesia. An extract of the snakeroot plant, reserpine, traditionally employed in Asia to counteract poisonous snake bite, is the basis of a number of tranquilizers and hypertension drugs. Taxol, a compound in the bark of the Pacific yew, is used to treat some cases of advanced ovarian and breast cancer.

The drive is intensifying to collect and screen more natural products for their medicinal effects, says Gordon Cragg, chief of the National Cancer Institute's natural-products branch: "Nature produces chemicals that no chemist would ever dream of at the laboratory bench." All this is heartening for biologists and environmentalists concerned about the dwindling of the planet's biodiversity, mostly concentrated in a wide girdle around the equator. Human activity, from farming to logging and road building, is chewing at this girdle, driving countless species to extinction even before they have been discovered. "I see ethnobotany—the study of the relationship between people and plants—as the key to the preservation of this vast collection of species as well as a pathway to halting many diseases," says Cox.

Cox, 44, a Mormon, first came to Samoa in 1973, when he was assigned to the country for his two-year compulsory missionary service after he graduated from Brigham Young as a botany major. His father was a park ranger and his mother a wildlife and fisheries biologist; his grandfather created the Utah state park system; and his great-grandfather was a founder of Arbor Day. Cox naturally expected to end up involved in conservation, but his stint in Samoa surpassed all his expectations.

He was not only impressed by the far-reaching influence of botany that he witnessed—beginning with the scene of a Samoan fisherman using a plant to poison fish in a river—but he also learned to speak and write Samoan better than many Samoans. (A difficult language, Samoan in its most elegant form requires extensive knowledge of local ritual and legend.) Cox went on to earn a doctorate in biology at Harvard, then joined Brigham Young's faculty as a botanist studying plant physiology and pollination.

In 1984 Cox returned to Samoa as an ethnobotanist, propelled there by personal misfortune. That year, Cox's mother had died a long and painful death from cancer. After witnessing her suffering, Cox experienced a revelation of sorts. Well aware of the rich tradition of folk healing he had observed a decade earlier, he now hoped to find a cure for cancer. "I vowed I would do whatever I could to fight the disease that killed my mother," he writes in Nafanua: Saving the Samoan Rain Forest, a book being published this fall that recounts his work and life in Samoa.

This time he brought along his wife and four young children. The family settled on the island of Savai'i in the isolated village of Falealupo, the westernmost point of Western Samoa, one of the world's poorest countries (average annual per capita income: $100). Here, far from many of the Western influences of neighboring American Samoa, Cox felt he could learn about the plants and the healers who use them before both vanished.

Major technological advances in screening processes have helped Cox and other ethnobotanists immensely. Pharmacologists must analyze between 10,000 and 17,000 chemical compounds before finding one with the potential to be tested for efficacy in humans. Until recently, animal testing and clinical trials of a single drug required an average 12 years of research and cost up to $300 million. But initial screening can now be done in a matter of days without using animals. Molecular biologists are able to isolate enzymes that can trigger human diseases, then expose those enzymes to a plant's chemical compounds. If a plant extract blocks the action of a particular enzyme—say, one that promotes a skin inflammation—they know the plant has drug potential. By extracting specific chemicals from the leaves, roots or bark with a series of solvents and testing each sample individually, scientists can determine which of the plant's thousands of compounds actually blocks the enzyme.

As a result of these advances, about 100 U.S. companies are searching out plants. Drug companies and scientific institutions are collaborating on field research all over the globe, racing to study as many natural substances as possible before they, or the native people who use them, disappear. Some work with the handful of ethnobotanists like Cox to ferret out drug candidates based on their knowledge of indigenous peoples. Others use a broad-brush approach, mass-collecting plants whose chemical compounds might contribute to new drugs.

One of the most extensive prospecting efforts is the National Cancer Institute's, which is focusing on screening plants for compounds active against the AIDS virus and nine major types of cancer. Since 1986, the NCI has received samplings of thousands of different species from ethnobotanists as well as such institutions as the New York Botanical Garden, the Missouri Botanical Garden and the University of Illinois at Chicago.

In contrast to random collecting, Cox feels ethnobotanical field research provides a far more streamlined way of locating plants

that have medical potential. "Indigenous people have been testing plants on people for thousands of years," says Cox. More important, healers may alert ethnobotanists to nuances that random collecting could miss. Take Homalanthus nutans, a rain-forest tree whose bark Samoans have used for centuries as a cure for hepatitis. Cox quickly found that he could not just casually go into the forest and gather the bark because (1) there are two varieties of the tree, and the bark of only one is effective, and (2) only trees of a certain size produce the desired extract.

After Cox collected the proper bark samples, he sent them to the NCI in the mid-1980s for testing. One isolate, called prostratin, appeared to inhibit growth of the AIDS virus, at least in the test tube, leading the NCI to patent it. If prostratin should ever be developed and approved by the Food and Drug Administration, both the Western Samoan government and the citizens of Falealupo could be in for a windfall under a royalty arrangement that Cox worked out between both entities and the NCI.

Cox has located three other medically promising plants. Two of the plants, used by Samoans to control skin inflammations, are being investigated by a pharmaceutical firm. The third doubles the life span of infection-fighting T lymphocytes in the test tube; its effect in the human body is not yet known. Cox's family has already benefited from the anti-inflammatories. After his infant daughter Hillary came down with a skin infection that did not respond to Western ointments, a healer ground up some leaves; the resulting greenish goo made the infection disappear. When Cox's son Paul Matthew was stung by wasps, healers rubbed bark on the wounds, and the swelling vanished.

When Cox first arrived in his adopted village of 2,000, he put himself under the tutelage of a healer named Pela, now 82, who agreed to be his mentor. Recently, Pela introduced Cox to cures for eye diseases other than pterygium: a poultice of beach pea leaves for sun blindness, fluid from immature coconuts for general eye injury, and eye drops from a fern (Phymatosorus scolopendrium) as a treatment for cataracts. Cox heard two other healers from different villages verify this use of the fern, and he was exuberant. "When three healers all use the same thing for cataracts, it's like a dream come true," he exclaimed.

Cox is more than a healer's apprentice. He knows that if the rain forests of Samoa continue to disappear, hundreds of potential drugs hidden there may never be found. So he spends much of his time between Brigham Young semesters trying to preserve the acreage that remains. More than 80% of the lowland rain forest has already been logged. Cox's aim is to offer cash-poor Western Samoans an alternative to selling out to loggers.

Samoans have traditionally used the forest for hunting, collecting medicinal plants, harvesting wild fruits and cutting trees for their dugout canoes. In this crucible of nature and culture, Cox believes, lies hope for conservation and the future of ethnobotany. "We can't save the forest without saving the culture," he says, "and we can't save the culture without saving the forest."

In 1988, Falealupo almost lost its 30,000-acre forest. The government told the villagers to construct a new school. It would cost $65,000, and the village would have to foot the bill. Ironically—or tellingly—a logging company arrived in the village shortly afterward and offered to pay $65,000 for permission to cut down the forest. The villagers, their hand forced, submitted.

Cox intervened just in time. He offered to raise enough money by mortgaging his home in Utah. But while in the U.S. to make arrangements, he pleaded the case to his students and two Mormon businessmen. Within six weeks they had raised the money, and Cox, back in Samoa, formalized an agreement with the villagers to protect their forest for 50 years.

It was during this period that the villagers informed Cox that they wanted to name him heir to the goddess Nafanua. When he declined, fearing that the title would interfere with his research, the villagers refused to sign the preservation agreement. Cox relented. "Being a deity is not my cup of tea," he says, "but Nafanua stands for conservation and rain-forest ecology, so I said to them 'O.K., I'll take the cards I've been dealt.'" Now chiefs and children alike respectfully address him as Nafanua.

As a result of this work, Cox and a chief who helped him shared one of the six prestigious Goldman Environmental Prizes for 1997. Each received $37,500. Since then Cox has expanded his preservation efforts by establishing the Seacology Foundation, based at Brigham Young. Some of the foundation's funding comes through Cox's ethnobotanical success with medicinally, or in this case cosmetically, valuable plants. When Nu Skin International, a Utah-based personal-care company, wanted to hire Cox as a consultant, he charged a $40,000 fee that he plowed into the foundation. He also asked Nu Skin and Nature's Way, another Utah cosmetics firm, each to match his Goldman Prize award. Subsequently, Nu Skin began using extracts of a plant with anti-inflammatory properties in a foot cream. Seacology receives 25¢ for every tube of the cream sold.

The foundation has since provided money for the Western Samoan village of Tafua to preserve its 20,000-acre rain forest. It helped persuade Congress to authorize the National Park of American Samoa—about 10,000 acres of forests and 420 acres of coral reefs in the neighboring archipelago. And it has helped villages build schools, medical clinics and cisterns to catch rainfall, the main source of drinking water.

In Falealupo, the foundation paid for the construction of a series of connected platforms and a walkway 200 ft. high between two huge trees at the edge of the forest. Administered by villagers, the serial complex has brought in about $1,000 a month from tourists and school groups since it opened, profit that the villagers use to maintain the forest. "This is the first time these people have made money from the forest without destroying it," says Cox. "If they keep making this kind of money and other villages hear about it, the forests will be saved."

Cox dreams that one day soon the people of Western Samoa will see the benefit of preserving not only the rain forests surrounding their villages but also the vast cloud forests that still cloak the sides of the volcanoes that form the spine of Savaii. Here he hopes the villagers will agree to "make the biggest national park in the whole world," before the chain saws get there too. He wants them to become as excited about the project as he is, rather than have the impetus come from outside. Behind this goal lies a philosophy that runs through Cox's work: helping native people understand the wealth of their heritage so that they will want to preserve it rather than sell it. Since it's no less than Nafanua who is urging them on, that seems a reasonable goal.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding. I want to commend him for his amendments. I want to notify the gentleman from Minnesota that we accept his amendments.

Mr. VENTO. I appreciate the gentleman's support and his interest in this matter.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Ohio.

Mr. PORTMAN. I thank the gentleman for yielding. I just want to add to that that we think these are thoughtful amendments. One of the major underlying purposes of this legislation of course is to promote protection of plants that can cure diseases. I think his second amendment certainly does that. I think it clarifies the use of grants. It is helpful. I think the addition of the members to the EAI board is also helpful in that regard and also to be sure the indigenous people are represented. I think the amendments are helpful legislation. I join the chairman of the committee in supporting them.

Mr. HAMILTON. Mr. Chairman, I rise in support of the amendments. I think they are valuable additions to the bill. The gentleman from Minnesota has made a positive, constructive contribution. The first amendment pertains to expanding eligible activities to include research and identification of tropical forest plants for medical use. I am told that flowering plants and ferns have given rise to over 120 commercially sold drugs and account for some 25 percent of all prescriptions issued in the United States. This fact indicates the importance of this amendment.

The second amendment that was offered would include indigenous people in the consultation process to establish the local administering body. We should all recognize that the indigenous people play a very critical role in helping researchers identify plants and flora that have medicinal use.

□ 1200

Their guidance and experience provide very important direction to researchers. Mr. Speaker, these are two excellent amendments, and I commend the gentleman from Minnesota (Mr. VENTO).

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota (Mr. VENTO).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GILMAN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 388, further proceedings on the amendments offered by the gentleman from Minnesota (Mr. VENTO) will be postponed.

Are there other amendments?

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 388, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 1 offered by the gentleman from New York (Mr. GILMAN), and Amendments No. 2 and 3 offered by the gentleman from Minnesota (Mr. VENTO).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. GILMAN

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. GILMAN), on which further proceedings were postponed, and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 416, noes 1, not voting 14, as follows:

[Roll No. 61]

AYES—416

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Ganske
Gejdenson
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOES—1

Hilliard

NOT VOTING—14

Foley
Frost
Furse
Gallegly
Gekas
Gephardt
Gonzalez
Lewis (GA)
Martinez
Parker
Poshard
Rangel
Riggs
Schiff

□ 1220

Mrs. CUBIN changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FOLEY. Mr. Chairman, on rollcall No. 61, I was attending a meeting with the Senate on N.I.H. funding. Had I been present, I would have voted "aye."

AMENDMENTS OFFERED BY MR. VENTO

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendments offered by the gentleman from Minnesota (Mr. VENTO) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendments.

The Clerk redesignated the amendments.

RECORDED VOTE

The SPEAKER pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 335, noes 79, not voting 17, as follows:

[Roll No. 62]

AYES—335

Abercrombie
Ackerman
Allen
Andrews
Archer
Baesler
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Burr
Buyer
Calvert
Camp
Campbell
Canady
Capps
Cardin
Carson
Castle
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Ganske
Gejdenson
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings (FL)
Hefley
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Hoyer

Hulshof
Hunter
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Redmond
Regula
Reyes
Rivers
Rodriguez
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Adam
Smith, Linda
Snyder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thompson
Thune
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOES—79

Aderholt
Armey
Bachus
Baker
Barr
Bartlett
Barton
Bonilla
Brady
Bunning
Burton
Callahan
Cannon
Chabot
Chenoweth
Coble
Coburn
Collins
Combest
Crane
Crapo
Cubin
DeLay
Doolittle
Emerson
Everett
Fossella
Gibbons
Graham
Granger
Hansen
Hastings (WA)
Hayworth
Herger
Hilleary
Hoekstra
Hostettler
Hutchinson
Inglis
Jenkins
Johnson, Sam
Jones
McKeon
Mica
Moran (KS)
Myrick
Nethercutt
Neumann
Parker
Paul
Paxon
Peterson (PA)
Petri
Pickering
Pombo
Radanovich
Riley
Rogan
Ryun
Salmon
Sanford
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Smith (OR)
Snowbarger
Solomon
Souder
Stearns
Stump
Sununu
Taylor (NC)
Thomas
Thornberry
Tiahrt
Wamp
Wicker
Young (AK)

NOT VOTING—17

Doyle
Foley
Frost
Furse
Gallegly
Gekas
Gephardt
Gonzalez
Houghton
Lewis (GA)
Lewis (KY)
Martinez
Poshard
Rangel
Riggs
Royce
Schiff

□ 1231

Messrs. CALLAHAN, HANSEN, and WICKER, and Ms. GRANGER changed their vote from "aye" to "no."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FOLEY. Mr. Chairman, on rollcall No. 62, I was attending a meeting with the Senate on N.I.H. funding. Had I been present, I would have voted "aye."

The CHAIRMAN. Are there any further amendments to the bill?

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. QUINN) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2870) to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests, pursuant to House Resolution 388, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GILMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 356, noes 61, not voting 14, as follows:

[Roll No. 63]

AYES—356

Abercrombie
Ackerman
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crapo
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Ganske
Gejdenson
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Redmond
Regula
Reyes
Rivers
Rodriguez
Roemer

Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith, Adam
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson
Thune
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOES—61

Aderholt
Barr
Bartlett
Bonilla
Brady
Burton
Cannon
Chenoweth
Coble
Coburn
Collins
Combest
Crane
Cubin
Danner
DeLay
Doolittle
Duncan
Emerson
Everett
Fossella
Gekas
Hansen
Herger
Hilleary
Hostettler
Jenkins
Johnson, Sam
Jones
Lewis (KY)
Lucas
Neumann
Ney
Parker
Paul
Paxon
Peterson (PA)
Petri
Pombo
Radanovich
Riley
Ryun
Salmon
Sanford
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Smith (OR)
Snowbarger
Solomon
Stearns
Stump
Taylor (NC)
Thornberry
Tiahrt
Wamp
Watkins
Watts (OK)
Young (AK)

NOT VOTING—14

Bonior
Doyle
Frost
Gallegly
Gephardt
Gonzalez
Lewis (GA)
Martinez
Poshard
Rangel
Riggs
Schiff
Smith, Linda
White

□ 1249

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 2870, the bill just passed.

The SPEAKER pro tempore (Mr. GILLMOR). Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT OF PROCEDURES AND DEADLINE FOR PRINTING OF AMENDMENTS ON H.R. 2578, THE VISA WAIVER EXTENSION

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute.)

Ms. PRYCE of Ohio. Mr. Speaker, the Committee on Rules is planning to meet next week to grant a rule on H.R. 2575, the Visa Waiver Extension.

Subject to the approval of the Committee on Rules, this rule may include a provision requiring amendments to be preprinted in the amendment section of the Congressional RECORD before being offered.

So, for example, if the bill is considered on the floor on Wednesday, as is currently anticipated, amendments would have to be submitted for the RECORD by Tuesday, March 24th.

Amendments to be preprinted should be signed by the Member and submitted at the Speaker's table.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House. It is not necessary to submit amendments which comply with the rules to the Committee on Rules or to testify.

LEGISLATIVE PROGRAM

(Mr. ROEMER asked and was given permission to address the House for 1 minute.)

Mr. ROEMER. Mr. Speaker, I rise to inquire of the majority leader or his designee about the schedule for next week for the House of Representatives.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. ROEMER. I am delighted to yield to the majority leader.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding to me.

I am pleased to announce we have concluded legislative business for the week.

The House will next meet on Monday, March 23rd, at 2 p.m. for a pro forma session. There will be no legislation considered and no votes on that day.

On Tuesday, March 24, the House will meet at 12:30 p.m. for morning hour and 2:00 p.m. for legislative business. Members should note we do not expect any recorded votes before 5:00 p.m. on Tuesday.

We will consider the following bills under suspension of the rules on Tuesday:

H.R. 2843, the Aviation Medical Assistance Act of 1997; H.R. 3039, the Veterans Transitional Housing Opportunities Act of 1997; H.R. 3211, a Bill Regarding Eligibility Requirements for Burial in Arlington National Cemetery; H.R. 3213, a Bill to Clarify Enforcement of Veterans' Employment Rights; H.R. 3412, the Small Business Investment Company Technical Corrections Act of 1998; and H.R. 118, the Traffic Stops Statistics Act of 1997.

The House will also take up a bill on the Corrections Day Calendar, H.R. 3096, a Bill Relating to Termination of Benefits for Convicted Persons.

On Wednesday, March 25, and the balance of the week, the House will meet at 10 a.m. to consider the following legislation:

H.R. 2578, a Bill to Extend the Visa Waiver Pilot Program; H.R. 2589, the Copyright Term Extension Act; H.R. 3310, the Small Business Paperwork Reduction Act Amendments of 1998; H.R. 2515, a Bill to Address the Declining Health of Forests; H.R. 3246, the Fairness for Small Business and Employees Act of 1998; and H.R. 3485, The Campaign Reform and Election Integrity Act of 1998.

We also hope to bring up H.R. 1757, the State Department Reauthorization Bill, conference report.

Mr. Speaker, we hope to conclude legislative business for the week by 2 p.m. on Friday, March 27.

Mr. Speaker, I would also like to discuss the schedule for the last week of March. As the schedule we distributed at the beginning of the year indicates, the House will meet on Monday, March 30th, through Wednesday April 1. We have a number of very important pieces of legislation for the week, including the supplemental appropriations bill and the BESTEA bill. Members should note it will be necessary to begin legislative business and votes at noon on Monday, March 30.

On Wednesday, April 1, we will adjourn for the spring district work period, from which the House will return on Tuesday, April 21st.

Mr. Speaker, I want to thank the gentleman for yielding to me.

Mr. ROEMER. Mr. Speaker, I thank the majority leader and would just inquire further of him for some clarification on the schedule.

Does the gentleman expect us to be in late on Tuesday night, since we begin votes at 5 with six bills and one correction?

Mr. ARMEY. If the gentleman will continue to yield, he is referring to Tuesday of next week?

Mr. ROEMER. That is correct.

Mr. ARMEY. No, I do not expect to be in late. We will probably take those votes at 5, and that will probably be the business for the evening.

Mr. ROEMER. Does the gentleman from Texas expect any late votes next week?

Mr. ARMEY. It is possible that Wednesday and Thursday could be late evenings.

Mr. ROEMER. If the gentleman would continue to elucidate on the schedule, does he expect campaign finance reform to come to the floor next week or any time soon?

Mr. ARMEY. I thank the gentleman for asking. Yes, as I noted, I expect it to be on the floor sometime next week.

Mr. ROEMER. Can the gentleman be more specific as to a day?

Mr. ARMEY. I would expect Wednesday or Thursday.

Mr. ROEMER. Wednesday or Thursday.

And would the majority leader tell the House as well about the State Department conference bill coming to the floor; when he expects that bill to come to the floor and what the vote tally might be?

Mr. ARMEY. Again, I thank the gentleman for asking. We expect that bill to be on the floor sometime next week, and as soon as we have more definitive information, we will let the Members know.

Mr. ROEMER. If the majority leader knows the answer to this question, on H.R. 3246, the bill dealing with the National Labor Relations Board, does he expect that bill to be coming before the House next week?

Mr. ARMEY. Once again, I thank the gentleman for asking, and we would expect that bill on Thursday of next week.

Mr. ROEMER. Thursday next week.

Mr. Speaker, with that I do not have any further questions of the majority leader, other than to say that I think a lot of us have been seeing a lot of our families for the past couple of months, and we hope to continue to do that into the year. Does the majority leader expect us to have late nights with the appropriations bills coming up soon?

Mr. ARMEY. Again, I thank the gentleman for his questions, and I do hope Members have had time to be with their families.

Mr. ROEMER. The gentleman sounds like that time is over.

Mr. ARMEY. Well, I think the week following next will be a rigorous and demanding week. It is a short week of only 3 days, and we will then have an opportunity to spend some time in our districts working and visiting with our families and celebrating Easter.

We will then, as we come back, move fairly quickly into the appropriation season. And as the gentleman knows, appropriation season can be a season of the year when we do have more than a fair share of late evenings. And, of course, that is always regrettable, but the work must be done.

Mr. ROEMER. Mr. Speaker, I thank the majority leader, and I want to say to him that I will continue to work with him and his office on these scheduling issues.

□ 1300

ADJOURNMENT TO MONDAY, MARCH 23, 1998

Mr. TIAHRT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore (Mr. GILLMOR). Is there objection to the request of the gentleman from Kansas?

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 24, 1998

Mr. TIAHRT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 23, 1998, it adjourn to meet at 12:30 p.m. on Tuesday, March 24, for morning-hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. TIAHRT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

NATIONAL AND COMMUNITY SERVICE AMENDMENTS ACT OF 1998—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–231)

The SPEAKER pro tempore (Mr. GILLMOR) laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on Education and the Workforce and ordered to be printed:

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. Citizens 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 in 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 volunteers in repairing and repainting Cardozo High School in the Shaw neighborhood of Washington, DC. 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.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IMPORTANCE OF DOMESTIC OIL PRODUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, I rise today to talk about an issue awfully important to Kansans and the American economy. Yesterday, the Washington Post contained a front-page story on oil prices hitting the lowest level in 10 years. And while to many of my colleagues this may sound like good news, I would like to take just a moment to remind everyone that there are, as usual, two sides to every story.

For the Kansas oil industry, this recent drop in prices is devastating and could result in substantial job loss for the State's oil industry. Most important, however, is the potential loss in infrastructure for domestic oil production in the future. Kansas produces over 40 million barrels of oil, and the oil industry supports around 15,000 jobs in our State.

Historically, Kansas has produced almost 6 billion barrels of oil to fuel our domestic economy. But with the recent drop in prices of crude from about $16 a barrel to about $10.75, this industry is in danger. For Kansas, it is a simple proposition that it is not just the reduction in price but this means we are plugging wells that rarely are put back into production.

Our dependence in this country on imported oil continues to grow. According to the Department of Energy, crude oil imports were over 7.7 million barrels a day in the last 4 weeks. This has a tremendous impact on our balance of trade. And we must keep in mind that imported oil comes at a significant price. The United States spends over $250 billion annually for the Department of Defense, with a large amount of those resources devoted to the Middle East.

I am certainly a strong supporter of our Armed Forces and recognize the value of defense spending. However, when we are spending billions of dollars in defense money to protect imported oil, we might question what we are doing to protect the basic infrastructure of our domestic oil supply. At this time, it is clear that, while we will protect our international suppliers, we do little to protect or even to promote our domestic oil production.

Mr. Speaker, the oil and gas industry has long been an important and fundamental sector of the economy of the United States. It is time that we in this Congress recognize that this industry is important and we work to ensure its survival for the future.

A TRIBUTE TO SARAH HEGARTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. BARRETT) is recognized for 5 minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, today I would like to pay tribute to a brave young woman from my District who passed away on Monday, just a few weeks after receiving a three-organ transplant.

Sarah Hegarty was a remarkable young woman with hope and promise for the future. She spent the last 2 years of her life simultaneously isolated from the life she lived so vibrantly and immersed in friends and family offering love and support for her throughout her ordeal.

Her family has been saddened by the loss of a loved one at such an early age, but they also have been enriched by the strength and courage Sarah displayed and the support their community has given them.

Though she was only 17, Sarah lived a full life. She was a starting guard on the Divine Savior Holy Angels High School 1996 State Championship Basketball Team. She was an all-conference soccer player. She was an integral part of life at her school, and her friends stayed by her side during 2 years of surgery and hospital stays.

Sarah's classmates at Divine Savior Holy Angels High School conducted several spiritual services for Sarah during her illness. They carried with them a tape of the service conducted just before her latest surgery and played it for her in her hospital room. Sarah's classmates found solace in the services and used the services as a means to pay tribute to her.

On Tuesday, as the Nation celebrated St. Patrick's Day with parades and the wearing o' the green, the students at Divine Savior Holy Angels High School celebrated the life of a classmate, a teammate, their friend, Sarah Hegarty. A writer for our local paper described the service quite appropriately as a remembrance of "someone with whom they had walked the noisy courts of triumph into the quiet corridors of pain."

On the day she died, Father Larry Gillick, a friend of the family, visited her and relayed his thoughts of the struggle both Sarah and her parents endured. He said, "She is a fighter, two years of this suffering; what parents won't do. Amazing love."

That is what it is, Mr. Speaker, amazing love. I can only offer condolences and the best wishes from myself and my family to Sarah's parents, Dolly and Jerry; her brother, James; and her sisters as they begin down the long road of healing. I know Sarah will be missed, and I am confident that her life made an impact that will always be remembered.

AMERICA HAS A CRISIS OF THE SOUL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. TIAHRT) is recognized for 5 minutes.

Mr. TIAHRT. Mr. Speaker, today America is enjoying a great economic time. We are setting record after record on the New York Stock Exchange. This is a reflection of the confidence that the average investor has in the market.

Likewise, many retailers are enjoying a prosperous year because consumer confidence has increased and we Americans are buying more. Unemployment is at the lowest level in 20 years. Things just look good on the outside, but on the inside America has a crisis of the soul.

The statistics are staggering. Drug abuse is increasing, especially for younger Americans, making our society more dangerous, more susceptible to robbery, car jacking and gang-related crimes.

Child abuse has increased, as broken homes try to mend themselves with new relationships; and, too often, it is a stepparent that is the initiator of the abuse. Children are so vulnerable to an adult, and far too often the one parent fails to protect the children from another.

Spouse abuse has increased. Often women who are physically unable to defend themselves are the victims.

Divorce rates are also a high percentage of marriages. Many people choose not to honor the commitments they made on their wedding day; and, too often, it is the children that suffer. Often quietly, they suffer through retreating into their rooms filled with the darkness of insecurity.

Yes, Mr. Speaker, America is experiencing a crisis of the soul. Culturally, we have turned from the virtues that built a great Nation, virtues like hard work, honesty, integrity, faith in God, respect for our neighbors, both men and women, regardless of race or religion. Now we seem adrift in an ocean of quiet pain and suffering, abused children that never make the news, abused spouses that never make the news unless it is the most violent of cases, broken homes, broken dreams, broken promises, broken commitments, broken commitments to ourselves, our families, our country, and our God.

How can we return to that fullness our soul desires? How can we rebuild our families? How can we make America better?

Well, Mr. Speaker, I believe each of us know in our hearts what is right and what is wrong, and each of us have to make choices that are the right choices. For, if we fail, our country fails.

So I would like to challenge my colleagues and my fellow Americans that we return to the virtues that built a great Nation: honesty, integrity, hard work, honoring commitments, faith in God, treating our fellow man as we would treat ourselves.

FEDERAL BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BARTLETT) is recognized for 5 minutes.

Mr. BARTLETT of Maryland. Mr. Speaker, I want to speak today about an issue which is very important to America and its future.

I have here a chart which shows the Federal budget. Ordinarily, things above the line are good. But, in this case, things below the line are good. Because when we are above the line, we have a deficit; and when we are below the line, we have a surplus. What we see is that, for fiscal year 1998, we have a surplus; for 1999, a surplus; a small surplus for 2000; and then big surpluses after that. That is really good news.

Supposedly, we have balanced the budget; and America will now be on a course to reducing our debt. If we pay this money back on the debt or if we spend it or give it back as a tax cut, at least the debt should stay the same as it is now.

But when we look at the next chart, what we see here, and these are estimates from CBO, the Congressional Budget Office, the official office that estimates where the economy is going, how large the deficit is going to be, how large the debt is going to be, and what we see here is that there is an ever-rising debt, that the debt goes up and up.

How can the debt go up when we have balanced the budget and we have a surplus? Now, if we spent the surplus, at the worst, the debt ought to stay the same. But the debt is going up and up. As a matter of fact, the debt goes up almost a trillion dollars, from about $5.4 to about $6.4 trillion by about 2002. How in the world can that happen? How can we have a balanced budget with a surplus and still have a very large increase in the debt?

□ 1315

It is because of the way we define the budget. The balanced budget that our people talk about is when we balance the amount of money which comes into the government against the amount of money which goes out of the government. But something over 10 percent of the money that comes into the government is not the government's money to spend.

Let me show Members the next chart. The next chart shows the elements of our debt. About two-thirds of our debt are held by the public. About a third of our debt is in government accounts. What are these so-called government accounts? What that debt is, is money which does not belong to the government, should not be spent for the government except for the purpose for which it is collected.

Social Security is about a third of that, the Social Security Trust Fund. Last year we took about $59 billion out of the Social Security Trust Fund, spent it for routine government operating activities, and make the perfectly silly statement that the Social Security surplus offsets the deficit. That is because they refer to a unified budget, all that comes in and all that goes out, but over 10 percent of what comes in is not the government's to spend. The reason the debt goes up is because the government owes that money. About $180 billion a year is about the amount of money that is taken out of the trust funds and spent for general government operating activities. That is not the government's money to spend. As a matter of fact, most of that money belongs to seniors.

Look at the categories. Social Security, Medicare, railroad retirement, military retirement, civil service retirement. That is over 90 percent of all of the trust fund money that is spent belongs to seniors. It needs to be there in those trust funds so it will be available for seniors. All that is in those trust funds is a bunch of IOUs. The bills come due when we need to have them. We do not have a balanced budget. The budget is in fact out of balance by about $180 billion a year.

We need to be honest with the American people. We have balanced a unified budget, but that does not keep the debt from going up. Let me put it back up here. The debt goes up about $1 trillion over the next 5 or 6 years. That represents the $180 billion a year that we are taking from the trust funds and spending on routine government operating activities. The budget, as anybody outside of the Beltway would define it, is clearly not balanced. We are still running a deficit of $180 billion a year. That is money taken from accounts largely owned by our senior citizens.

We need to demand that the government have honest accounting. We really need to balance the budget. No senior I know wants to pass on a bigger and bigger debt to their children and their grandchildren. That is what this accounting does. We need to demand honest accounting, we need to have truly a balanced budget. To get there we have got to spend $180 billion a year less. That is our challenge in the Congress. Hold us to that responsibility.

ILLEGAL DRUGS

The SPEAKER pro tempore (Mr. GILLMOR). Under a previous order of the House, the gentleman from Florida (Mr. MICA) is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come before the House again this afternoon to talk about one of the greatest threats to our Nation and to our society. That is the threat of drugs and illegal narcotics. I have spoken many times on the floor about this. Today let me review for a minute again the history of how we got ourselves into the situation where we have a tide of drugs coming into this country and countless deaths because of drug abuse and drug misuse.

First of all, in 1993, when the other party controlled the White House, the other body and the House of Representatives, they took actions which we are paying for today. First, they cut and almost eliminated most of the staff in the drug czar's office. Then they cut the military involvement in the war on drugs. Then they decimated and cut the source country programs to stop drugs where they are grown and where they are produced. Then they appointed a Surgeon General that said just say maybe. At probably one of the lowest points we had comments replayed by the President who said if he had it to do over again, he would inhale.

We also had a situation that we are looking into now on my Subcommittee on National Security, International Affairs, and Criminal Justice where Federal drug prosecutions in this country are actually down and have dropped. Just within the last few weeks, this administration took the final blow in certifying Mexico, which is the source of 50 percent of the hard drugs entering this country, certifying them, making them eligible for benefits of the United States trade, aid, and foreign assistance.

It just is not right. The results are incredible. Listen to these statistics. Since 1992, drug use among teens has skyrocketed 70 percent. Half of high school seniors think that it is easy to obtain cocaine and LSD in a national survey. Eighth grade drug use has increased by 150 percent since 1992. One out of 4 high school seniors is currently a user of illegal drugs.

I come from central Florida, a beautiful area in our Nation. Let me tell Members what has happened in my community, a rather prosperous district in central Florida, is doing very well and economically well placed. But in Orlando, in 1995, we ranked fifth in the Nation in cocaine deaths per capita. Orange County and Osceola counties in central Florida led our State in heroin deaths per capita in 1996. Cocaine deaths in Orlando went up in 1996 to 87 from an already high number of 75. Tampa and St. Petersburg had a combined 91 deaths in 1997. The wholesale price of heroin in central Florida has dropped dramatically from 1991 to 1997.

Let me tell Members what Republicans have done. We have restored some of the Clinton cuts from the 1993 to 1995 period. We have gotten our military back into the war. We have restarted our source country interdiction and eradication programs. We have passed tougher laws. We think tougher laws work. You can spend a lot of money. But look at New York City with a Republican mayor, Rudy Giuliani. In just a few years with tough enforcement and tough prosecution, they have dramatically dropped the crime and incidence of drug abuse and use in that city.

Tomorrow in central Florida we initiate a HIDTA. It is called a high intensity drug trafficking initiative. That program is a Federal program, but it is combined, bringing Federal resources with State, local and prosecutorial forces together to have tough enforcement in central Florida. If you do drugs in central Florida, you are going to do jail. We are going to arrest you. We are going to make it tough on you.

Tomorrow in central Florida, we hope to take a lead in stopping this rash of drug trafficking, this rash of deaths from heroin, cocaine overdoses among our youth. I know you can get tough. I know it will work.

In closing, let me tell Members a little example. Out here at First Street there is an Officer Thompson. Everyone knows about Officer Thompson because if you jaywalk at his corner and his beat, he enforces the law. So very few people, Capitol staff or Members, ever jaywalk where Officer Thompson is, because he is a tough enforcer of current laws. That is what we are going to do in central Florida. That is what we need to do in the United States of America, is stop drugs at their source. If you do drugs, you are going to do time. We are going to enforce the laws of this country.

AFFORDABLE HEALTH INSURANCE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, next week I plan to introduce the Affordable Health Insurance Act of 1998. This is the House companion bill to Senator KENNEDY's legislation that he will also shortly introduce.

Mr. Speaker, in 1996, 2 years ago, Senators KENNEDY and Kassebaum introduced the Health Insurance Portability and Accountability Act of 1996, which became known as the Kennedy–Kassebaum bill. The Kennedy–Kassebaum bill sought to improve portability and continuity of health insurance coverage and to limit preexisting conditions exclusions. This was part of our overall effort to reform health care and health insurance and try to make it easier for people to transfer their health insurance when they moved from job to job and to make sure that people who had preexisting conditions were not excluded from being able to obtain health insurance because they lost their job or changed their job or decided that they needed health insurance.

At the time, 2 years ago, as cochair of our Democratic Health Care Task Force, I worked with a majority of Democrats and some moderate Republicans to push for passage of the Kennedy–Kassebaum bill. On August 21, 1996, it was signed into law by President Clinton as Public Law 104–191. Those of us who pushed for the Kennedy–Kassebaum legislation were hopeful that what we set out to do would be accomplished in the 2 years since it was enacted into law. However, the General Accounting Office recently issued a report. The GAO is the nonpartisan investigative arm of Congress. They recently, just this past week, issued a report that said that many people who tried to move from the group health insurance market to the individual health insurance market under the Kennedy–Kassebaum law may, and I quote, "may be effectively priced out of the market."

Those who fought for the original Kennedy–Kassebaum legislation thought that people who left the group market would be provided access to the individual health insurance market. Unfortunately, what the GAO found is that consumers who either leave their job or for other reasons leave the group market are being charged between 140 percent to 600 percent of the standard premiums when invoking Kennedy–Kassebaum to obtain insurance in the individual market.

Kennedy–Kassebaum was intended to provide access for people, for Americans, to health insurance. Unfortunately, when the price of the premiums becomes so outrageously unaffordable, essentially that access is denied. And so the promise of Kennedy–Kassebaum to provide access is essentially denied because the health insurance is unaffordable.

I wanted to, if I could, Mr. Speaker, talk a little bit more about the recommendations and the concerns that came out of this GAO report. As I said, the main concern was that the high rates that are being charged individuals basically make the guarantee of health insurance in Kennedy–Kassebaum not real. But the GAO mentioned a number of things in addition to the high rates which I think should be brought to my colleagues' attention and to the American people.

The GAO identified these problems. They said, first, that some States, including California, have not passed all

the laws needed to carry out the Federal statute. And the Federal Government does not have enough money or personnel to fill the breach.

I am reading, I should say, Mr. Speaker, from a New York Times article from this past Tuesday, March 17, on the front page, which went into some of the recommendations and some of the concerns expressed in the GAO report.

The second thing that the GAO mentioned was that the regulations are vague and ambiguous, so insurers do not fully understand their obligations. Then they said the consumers lose most of their rights if they do not buy an individual insurance policy within 63 days of losing group coverage, but they are often unaware of this time line.

The GAO also said that some insurers have redesigned their benefits in ways that exclude coverage of particular illnesses or costly procedures for a specified period of time and that these tactics may not be illegal, but defeat the purpose of the law.

Finally, the GAO report says that some companies have told insurance agents that they will not get commissions for selling policies to individuals with medical problems; in other words, those with the preexisting conditions that we were concerned about.

President Clinton has said that he will address one problem this week by notifying State officials that it was against the law for insurers to penalize agents who sell policies to high-risk individuals. These are all concerns that we certainly need to address in Congress or that need to be addressed through agency action by the executive branch.

□ 1330

But really, the whole focus of the law and the main concern that I have is the issue of affordability. A lot of consumers I think may be disappointed because they cannot buy affordable policies pursuant to Kennedy–Kassebaum, and in The New York Times article it actually mentions that one insurer, American Medical Security of Green Bay, Wisconsin, a subsidiary of United Wisconsin Services, said it reserved the right to charge high-risk individuals 5 times the rates charged to healthy people.

Now, the law does not restrict the premiums that a company may charge for individual health insurance coverage. I think our feeling was, those of us who voted for this bill, was that we were hopeful that the insurance companies, even if it was not required by law, that there be a limit on how much they could charge, that they would voluntarily exercise some restraint in how much they would charge high-risk people or those with preexisting conditions. Obviously, the GAO report says that that is not necessarily happening, and I think, therefore, it means that the Federal Government must, and this Congress must, intervene to pass legislation that would limit how much could be charged these high-risk or these people with preexisting conditions.

The legislation that Senator KENNEDY and I will be introducing will end this price-gouging practice. It will ensure that the true intent of the original Kennedy–Kassebaum legislation will be guaranteed. Those who enter the individual market should not be denied health care for being responsible citizens by seeking to maintain health care coverage.

The Affordable Health Insurance Act of 1998 is responsible legislation, and I would urge my colleagues that they cosponsor the bill before we put it in next week, and that we see action swiftly to pass the legislation. Congress, I do not believe, can allow these excessive premium increases to go unchecked.

Mr. Speaker, I wanted to say that in many ways, the issue of affordability and the denial of access because of the lack of affordability that I mentioned in the context of Kennedy–Kassebaum makes me also feel that we should address the issue of affordability in the context of the Medicare expansion legislation that has been proposed by President Clinton and that I support 100 percent. Democrats earlier this week announced expansion of health coverage for Americans aged 55 to 65, basically putting in legislation that would enact into law what the President has articulated.

The President has been saying for the near elderly, the people between 55 and 65 that are not yet eligible for Medicare, that they should be able to buy into the Medicare system in certain circumstances, depending upon their age or circumstances, because what we find is that increasingly, this group of people in that 10-year, from 55 to 65, are the ones who lose their job or whose spouse loses their job or loses their coverage and cannot find health insurance, affordable health insurance, on the private market. And so what we are saying, let us expand Medicare in certain circumstances so that they can buy into Medicare without additional cost to the Medicare program.

The President's bill that is now supported by the Democratic leadership both in the House and in the Senate, presents three options to this age group to obtain insurance, and I will just briefly mention it. It says, individuals 62 to 65 years old with no access to health insurance may buy into Medicare by paying a base premium now and deferred premium during their post-65 Medicare enrollment. Individuals in the second category from 55 to 62 who have been laid off and have no access to health insurance, as well as their spouse, may buy into Medicare by paying a monthly premium of about $400. Now, $400 generally is about what the cost would be to buy into the Medicare program.

Then the third category, retirees age 55 or older whose employer-sponsored coverage is terminated may buy into their employer's health insurance for active workers at 125 percent of the group rate.

I wanted to say, though, again, going back to the issue of affordability and how it may impact the Kennedy–Kassebaum legislation, I think again we may face a situation where the President's buy-into Medicare provides access, but for many people who cannot afford the $400 a month or can only afford to pay part of the $400 a month, they may be still denied access to Medicare and to health insurance because of the cost. So while I applaud the President's buy-into Medicare proposal as a means to provide additional access, I believe that providing some financial assistance to the near elderly will address issues surrounding its affordability.

I am working on legislation that will provide economic assistance for those aged 62 to 64 who choose to buy into the Medicare program and for those age 55 to 64 who have been laid off or displaced. As is the President, I am not necessarily seeking to increase Medicare costs, but am seeking to make one of the best health care programs in the world accessible and affordable to an important segment of the uninsured population. My idea, which would be to create a sliding scale of assistance in which any near elderly who chose to participate into the buy-into Medicare would still pay most of the costs, but would receive some assistance, depending on need.

While Medicare is now at one of its strongest points since its inception, I believe that now is not the time to further increase Medicare expenditures in an irresponsible manner. Instead, I would seek to offset any additional costs associated with this plan over and beyond the President's proposal. Potential sources would include additional Medicare fraud and abuse provisions and potential monies from the tobacco settlement.

Mr. Speaker, again, for those of us who believe, and I do very strongly, that health insurance should be guaranteed to every American, we have been, of course, disappointed in the last 4 or 5 years since the President proposed his universal health insurance proposal that more and more people are now uninsured. The number of Americans who have no health insurance continues to grow. And we have tried to address this issue by passing the Kennedy–Kassebaum legislation; by initiating a health care program for kids on the Federal level last year; and now by trying to address managed care reform, patient protections, and also by the Medicare expansion that I just spoke about.

The bottom line is that we have to do whatever we can to make health insurance more available to those Americans who have do not have coverage, because I am very fearful that as time goes on, more and more people will enter the ranks of the uninsured, and I see absolutely no positive benefit to our society or to our economy if that continues. I think in the long run, it will make health insurance in this country not only less accessible, but also will ultimately affect the quality of our health care as well. So it is something that every American needs to be worried about.

THE INTERNATIONAL ARENA: ARMENIA AND INDIA

Mr. Speaker, I would like to now switch, if I could, to a couple issues related to the international arena and focus on two areas where I have been very concerned. One is Armenia, and the other is India. I am the cochairman of our caucus on Armenia and our other caucus on India, and both of these two countries, interestingly enough, recently went through elections in a very democratic way, one that I think can be emulated, if you will, by the rest of the world.

If I could turn to Armenia, because of the election, this has been a very important week for the Republic of Armenia. On Monday, March 16, the first round of elections for the Presidency of Armenia took place. The turnout was approximately 66 percent. A runoff election between the 2 top vote-getters will be held on Monday, March 30.

Mr. Speaker, this election is an important development in Armenian democracy. Since gaining its independence from the Soviet Union in 1991, Armenia has worked to establish the procedures and institutions of civil society while adopting economic reforms. Despite being surrounded by hostile neighbors that have imposed economically devastating blockades, Armenia has overcome years of oppression and dictatorship to become a functioning democracy.

When former President Levon Ter-Petrosian, who led the Nation through the early years of independence, resigned last month, the succession of the Prime Minister to the post of acting President was held in a peaceful, orderly and lawful way. Although it is disappointing to see the extremely critical and often inaccurate portrayal provided by much of the media, I am proud to say, Mr. Speaker, that Armenia has become one of the true success stories of the former Soviet empire, and this week's elections are further proof of that.

As we celebrate the progress of democracy in Armenia, we cannot forget the suffering that has been and continues to be visited upon the Armenian people by Turkey. The latest Turkish assault on Armenians takes the form of an affront to the history, culture and religion of Armenians in Turkish-occupied northern Cyprus. Many Members of this body, including myself, have been very critical of the Turkish occupation of Cyprus and the fact that Turkey has not been willing to heed international calls that it withdraw from Cyprus.

The latest development is that the ancient Sourp Magar monastery, referred to as the "Armenian Monastery," near Kyrenia in the northern part of Cyprus, which Turkey illegally occupies, is now to be converted into a tourist hotel. That is right, Mr. Speaker. A monastery that dates to 1,000 A.D., which was bombed during Turkey's invasion of the island 24 years ago, and which has been plundered and neglected, will be restored for the purpose of turning the property into a hotel.

I have to say, Mr. Speaker, that I am pleased to note that this desecration of the monastery has not gone unchallenged. The Honorable Nikitas Kaklaminis, member of the European Parliament from Greece, has officially raised a question with the European Parliament which I would like to quote from. He says, "This plan by the Turks proves that the Turkish occupation authorities do not respect the cultural heritage of the island, and obviously the monuments of Christianity in the north part of Cyprus. I would like the European Commission to inform me about the way it intends to react against the practice of a brutal regime, which is supported by 40,000 Turkish soldiers who occupy almost 40 percent of Cyprus, something that has lasted for 24 years."

Catholicos Aram I of the Armenian Church of Antelias, Lebanon, who I had the honor to meet last year when he visited New Jersey, has also addressed a letter of complaint to the Executive Director of the U.N. Education, Scientific and Cultural Organization, UNESCO, also to the Secretary General, the President of Cyprus, the President of Armenia, the International Religious Council, the National Assembly of Armenia, and the Catholicos of All Armenians and other organizations, calling the restoration conversion scheme of this monastery sacrilegious and nonhumanitarian and a violation of our religious and cultural values.

Mr. Speaker, the plans for this monastery are consistent with the Turkish disrespect of both Armenian and Greek holy places in Cyprus and throughout Asia Minor. Turkey has tried to remove traces of Greek in Armenian history, change place names and generally tried to assert Turkish supremacy.

I hope that the European Commission and other international organizations will make it clear to Turkey that this type of behavior is simply not acceptable. I am also asking my colleagues in this House to join me in appealing to UNESCO to take a stand against this wanton disregard for a site with great religious, historic and cultural significance. I will also be calling to our administration to raise this issue with the Government of Turkey. While our list of grievances with Turkey is a long one, perhaps this issue can serve to convince the Turkish regime that it must have more respect for its neighbors.

TRIBUTE TO PATRIARCH KAREKIN II

Finally, Mr. Speaker, I wanted to pay tribute this afternoon to a great Armenian religious leader who labored for decades under Turkish rule, and this is Patriarch Karekin II, the spiritual leader of Turkey's Armenian Christians, who died on March 10 of this year at the age of 71 after a long illness. An estimated 50,000 ethnic Armenians live in Turkey, the majority of them members of the Patriarch's church. Karekin II was the 83rd holder of the position of Patriarch of Istanbul, obviously a title with a great historical legacy. The Armenian Patriarchate will begin the process of electing a successor on April 14th.

Mr. Speaker, Armenia was the first Christian state, and the church continues to play an important unifying role in the life of the Armenian community, both in Armenia itself and throughout the Armenian Diaspora, including here in the United States. I join Armenians everywhere in paying tribute to this great leader and mourning his passing.

AAPI LEGISLATIVE CONFERENCE

Mr. Speaker, finally this afternoon I would like to mention an issue of concern to those of us who are in the India Caucus, and I mentioned that I cochair the India Caucus in Congress. Next week the American Association of Physicians of Indian Origin, AAPI, will be having a legislative conference. They come to Washington every year, and they go around and visit various Members of Congress and also Senators to talk about the issues that they are concerned about that impact physicians of Indian origin.

□ 1345

This conference will focus a great deal on the issue of health care reform, particularly managed care reform. I wanted to say that, with approximately 30,000 physicians of Indian origin in the United States practicing medicine, AAPI has begun to be heard in Washington, D.C.

I have a number of Indian physicians and members of AAPI in my district and throughout the State of New Jersey. They have become very politically active, and this legislative conference is just another manifestation of that.

Two issues of particular importance to the AAPI members that they will be discussing next week are managed care reform and International Medical Graduate or IMG equity. I would just

like to take a little time now to talk about these two issues.

On the issue of managed care reform, AAPI has played an active role for pushing for comprehensive managed care reform. At the end of 1996, I received a copy of AAPI's policy statement on managed care. This statement outlined five basic principles for managed care reform: first, to ensure patient choice; second, to provide for contract and termination nondiscrimination; third, to limit financial incentives that reduce appropriate health care; fourth, to eliminate gag clauses that restrict physician-patient communications; and, fifth, to ensure that medical decisions are in the hands of physicians and not a managed care bureaucrat.

These positions or these concerns that were outlined by AAPI are, of course, also the concerns that many Americans have with regard to managed care and HMOs. They are the same concerns, essentially, or among the same concerns that the President and the Democratic leadership in the House and the Senate have identified in putting together patient protection legislation, which is probably the number one priority for the President and for the Congress, for the congressional Democrats this year.

Of course, we have been thwarted so far in our efforts to move managed care reform legislation by the Republican leadership that has refused to move any bill in this regard.

Let me say that AAPI, after having read AAPI's white paper on managed care reform and working with AAPI and the Indian physicians, I introduced the Health Care Consumer Protection Act, H.R. 3009, last November. It is modeled after the AAPI policy statement and includes strong language prohibiting provider discrimination based on race, national origin, and place or institution in which a health professional's education was received.

In addition, important due process provisions will work to create objective, not subjective, criteria for choosing network physicians. This bipartisan legislation has 31 additional cosponsors.

Since that time, managed care reform has gained momentum. It is likely to become one of the biggest issue this year, 1998. I want to say that AAPI recognized managed care reform as the key issue years ago. I believe that their hard work and determination will ultimately lead to results for all physicians and for the benefit of American people.

The second major issue that AAPI is concerned about relates to international medical graduates, the so-called IMGs, those physicians who went to medical school abroad before they came to the United States.

As a result of the Balanced Budget Act that we passed in Congress and that the President signed into law last summer, residency slots at medical colleges or medical schools are expected to decline. Representing the largest group of international medical graduates, physicians of Indian origin are rightly concerned that IMG slots may be the ones that see the largest reductions in the context of these residency reductions.

Determining which slots will be reduced, I would say, and AAPI certainly says, should not be done in an arbitrary fashion; in other words, in deciding who is going to fill the reduced residency slots for medical education. It should be done in an objective way so that those who are IMGs can compete. The criteria should be objective and equitable. Qualifications of physicians, not national origin or geographic location of medical education, should be the deciding factor.

The reason why this is important to the average American is because approximately 85 percent of the IMGs are in practice serving predominantly in urban and underserved areas. They are the ones that go into the cities and into the rural areas where other doctors do not want to practice, particularly in public hospitals.

It is very important for us and for those who need health care in those urban centers as well as in those rural areas to be able to have a physician. If they cannot get a physician who happens to be an IMG, then, oftentimes, they are not going to get any physician at all.

So I am trying to point out why IMGs play a very vital role in the health care delivery system in the United States.

AAPI has been in the lead both on managed care reform to guarantee objective due process and then now leading the charge to ensure that IMGs are not discriminated against. I will continue to work with AAPI and other organizations that continue to fight for the same principles.

As this session of Congress moves forward, it is my hope that both issues will be addressed. Certainly the Indian physicians who come here next week for the legislative conference will go around to the various congressional offices and explain why managed care reform and objective criteria for international medical graduates is something that they should all support in the interests of the American people.

UPDATE ON THE CAMPAIGN FINANCE INVESTIGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, as we close this week, I thought I would inform my colleagues and anyone else who may be paying attention that, regarding the investigation that I am charged to chair involving illegal foreign campaign contributions and the possibility of people in very high offices of this country breaking the law, we are now up to 89 people, 89 people who have been associates or friends of the President or political allies or contributors, 89 people have either taken the fifth amendment or fled the country.

□ 1400

A lot of my colleagues have asked me about the progress of our investigation. I tried to explain to them that we are making some headway. Charlie Trie, one of the friends of the President who had fled the country and gone to China, has now returned. He is under indictment and we believe there is negotiations going on with him of a plea bargaining nature, but we are not sure about that. The fact of the matter is there has been an indictment of Mr. Trie, a personal friend and associate of the President. We have a number of others that we believe ultimately will face indictment.

But the biggest problem we face with the investigation is getting people to talk to us. Toward that end, we have asked the President to contact people who have fled the country to come back and appear before the committee so that they can help us get to the bottom of all these allegations. So far the White House, the President and the White House, has not been cooperative in asking foreign governments to insist that these people return. We have got James and Mochtar Riady in Indonesia whom we would like to have come back. We have asked for the assistance of the White House in convincing these gentlemen, who are executives of the Lippo Corporation and friends of the President in Indonesia, to help us get them back. So far we have had no cooperation.

We have asked the President and the State Department to work with us to get people back from other countries like China. We have not had that success. As a matter of fact, the Chinese government would not let my investigators even get a visa to come to China to investigate these allegations of illegal activities.

So we are having a difficult time. The President I understand is going to be going to China before too long. There will be Members of Congress, I understand, accompanying him. I would like to urge the President to postpone his trip until China allows my investigators to go in there and to give them visas so that they can do the job that they have been charged by the Congress to do.

Mr. Speaker, I hope if the President or any of his friends at the White House or any of his colleagues here in Congress happen to be paying attention, I hope they will urge him to send

a message to China that any diplomatic missions to China will be deferred until we get some cooperation from the Chinese government regarding our investigation. I think it is unbelievable that all the trade that we do with China, all the business that we do with China, all the breaks we have given to China, even in spite of their human rights violations, which are legion, they will not cooperate by allowing our investigators to have a visa to get into China.

Mr. Speaker, I will just end up by saying that we want to get to the bottom of all this to finish this investigation as quickly as possible. If the President would just come forward and talk to us, if his friends would not take the Fifth Amendment and would come forward and talk with us, we could conclude the investigation rapidly. I would urge all those involved to give us their cooperation so we can get it concluded. That is what the American people want.

REPORT ON THE CAPITAL CITY

The SPEAKER pro tempore (Mr. GILLMOR). Under the Speaker's announced policy of January 7, 1997, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 60 minutes.

Ms. NORTON. Mr. Speaker, I rise to bring to the House a report on the capital of the United States and its progress in relieving itself of financial and management distress.

Mr. Speaker, this House has had, and justifiably so, a special interest in its capital city. Almost 3 years ago the capital of the United States met the same fate as several large cities before it, as Cleveland, as New York, and as Philadelphia. The capital found that its bonds were no longer at investment grade and it could no longer borrow money without the assistance of a control board. To its credit, this House, working in a bipartisan fashion, passed a bill, very much like bills that had been passed to assist other cities who had met such problems. That bill preserved self-government in the District of Columbia, but as a result of quarrels between city officials and the control board and as a result of a pace that perhaps was too slow in fixing the city's problems, the Congress, largely through the appropriation committees, infringed upon self-government in the District of Columbia. And so we have a strange situation to be sure.

The capital of the United States has less democracy than any other piece of American soil. I know that this body joins me in wanting to assure that this state of affairs does not last much longer. I have indicated to my own constituents in the District of Columbia that, though they have every reason to be outraged that there would be any less democracy here than elsewhere, there is only one way to assure that democracy will be restored and that we will go further and have the same level of democracy as the States and the territories, and that is for the city to quickly bring itself to the point where particularly its services and operations are services that the residents of the District of Columbia, first and foremost, can be proud of, that every American would be proud of, and that of course this Congress would be proud of.

It seems to me, Mr. Speaker, that it is my obligation to keep this body informed of whether or not progress is indeed being made, especially since this body and the other body were concerned that progress had been too slow. Very substantial changes are beginning to occur and very substantial progress is beginning to be made, Mr. Speaker. Therefore, it is my intention to come to the floor sometimes in 5-minute debate period, sometimes in one-minute debate period, and sometimes for a special order debate period, as today, and report to this body on progress that is being made.

Mr. Speaker, a couple of weeks ago I came to report that the District was actually experiencing a surplus 2 years ahead of when the District budget was supposed to be balanced on an annual basis under congressional mandate. I reported that in a 1-minute speech before the House and I noted that Members on both sides of the aisle applauded, and I remember saying, only half jokingly, Mr. Speaker, let the record show that this body applauded for the District of Columbia. I know that this body will indeed applaud when the capital city of the United States is brought back to its full majesty.

Mr. Speaker, let me begin with a report not of the surplus and what it contains, not of the large picture, but, rather, of a small part of the picture that I think would especially please this body. Of all of the services in the District of Columbia, none has the attention or perhaps deserves the attention that this body has given to education. This body knows where to focus on when it looks to see whether the city is improving, and so it has looked at the schools and it has looked at education.

Mr. Speaker, on the front page of the Washington Times, just yesterday, I was surprised to see a report, something that I did not know of, and I doubt that anyone in this body knew of. The headline reads, Mr. Speaker, "Computer Castoffs Inspire Teens."

Mr. Speaker, this is a report of how at one D.C. school, Wilson High School, students are taking outdated systems and computers, repairing them and rebuilding computers, this in a city which has had to beg, borrow, I will not say steal because that has not occurred, computers. This school needs 400, it has 150. But what is amazing about this piece is that there is a teacher at Wilson High School who decided to make a course of getting old computers, taking them apart and repairing them. The students keep a journal of the steps they go through to repair the computers.

They obviously learn much about the complicated nature of these machines. There are some of us trying to become computer literate. These youngsters are beyond literacy and into making the things, making them work. They have a computer lab. This is the largest public school in the district. It has got almost 1600 students. What it has done, one teacher, many like him, the problem is they do not make the front page of the Washington Times or any other newspaper, one teacher is doing what I would imagine is probably not being done anywhere else in the United States; if so, by very few. And that is not only teaching youngsters how to become computer literate but getting deeply analytically into computers.

Can you think of any better way, Mr. Speaker, to teach youngsters problem solving or how to exercise their analytical faculties? Can you imagine the confidence a youngster gets who has not thought himself very good at much to learn that he can actually work on computers and make them work again and work for every one?

Apparently these renovated computers can also be borrowed and taken home by a student so long as that student remains in school. So the computers do double duty. They help youngsters to understand that there is a reason not to drop out of school in a town that has had a high dropout rate.

Mr. Speaker, the progress in the schools has been difficult to make. I point out this progress because it is at that level that the progress is being made and it is at that level that this body is likely to hear too little just by the nature of things. I want to say something further about the schools, again, because of the special interest of this body in schools and because so much that is good is happening in schools. I have to tell you, it is not good enough for the residents of the District of Columbia. There is still a lot of contention around the schools, but compared to where we were, I think this body would be pleased to see forward movement. There is concern that the schools open three weeks late because the roofs were not fixed in time. Well, for some of us, we remember when the roofs were not fixed at all. Of course, what happened was that a whole bunch of roofs got fixed and are still being fixed and when roofs on schools are fixed, then all kinds of damage and other problems that come from leaky roofs also disappear.

May I take this opportunity once again, Mr. Speaker, to thank the 254 Members of the House and Senate who

during that three-week period when school was closed answered my call to take youngsters from D.C. high schools as interns.

□ 1415

I want to thank those Members. And there were many who buttonholed me, staff and Members alike, to tell me how these youngsters were doing, helping them as volunteer interns in their offices.

Some of my colleagues may know that we have started a small program, to become larger in the summer and to be full-blown next year, for permanent volunteer interns from the D.C. high schools to come into the House and the Senate. My colleagues can imagine what this will mean to youngsters in the District. Here they are in the Nation's Capitol, and the Capitol to them is an awesome, almost fearsome place, especially when we consider the power this body has over the District that it does not have over others, almost unapproachable. And here they are invited in by Members of this body and of the other body to actually work in their offices.

The experience was a salutary one for the youngsters and for the Members, and I thank the Members for the way in which Members, I must say, of every persuasion and tendency and across both sides of the aisle answered this call.

I have a special program, indeed, called D.C. Students in the Capitol because of the unapproachable nature of the Capitol to the folks who live here. And it says teachers should bring their students. There is a time when they come, I meet with them for a few minutes, they tour the Capitol, they get to sit in on a hearing, and they get to feel at peace and at home with this place.

Now, I recognize that even though the facilities are being improved, even though, frankly, top to bottom, changes that have not yet fully manifested themselves are going on, that there continues to be great concern about the schools. I want to speak about one program that thrills me.

The District, like almost every other city in many States, has social promotion. They have social promotion because they do not know what to do with the youngster. They do not want to keep the youngster back because they think that will hurt the youngster's self-confidence. They do not want the youngster to be larger, bigger than the other kids. They just move them forward. And the harm that that does ought to be clear by now, but, frankly, one of the reasons it continues to be done is people do not do the grunt work it takes to figure out a better way to do it.

Arlene Ackerman, the new chief educational officer of the schools, has done just that. She has started a program called Summer Stars Program. Twenty thousand students this summer are going to have made probably so little progress, because Ms. Ackerman just got here and the reforms are just beginning, but instead of being socially promoted, these youngsters are going to go to what would have been called summer school, but is no longer called that because it is no longer that.

It is the beginning, here in the Nation's capital, of a year-round school, the kind of school we think every jurisdiction in the United States should have today. Do my colleagues want to know why Japanese kids do better? Not because they are smarter. They do better than American kids, blacks, whites and Hispanics, because they go to school longer, and they study harder. That is the key to it.

Well, for youngsters who are behind, they will be in the first class of the year-round school. Now, the year-round school is going to have classes in the evenings during the regular school year so that many kids next year will not have to go to school in the summer because they will be part of the year-round school program.

But students who score below basic on the so-called Stanford 9 test in both reading and math must go rather than be promoted. These students must go even though they have not been retained in their grade. And ninth-graders and seniors who need one credit to graduate or for promotion must go to this Summer Stars Program.

They are also telling students who should go who they are. And there are a whole set of students who should go, who do not need to go, who we expect to go, because if they do not go, they are going to need to go. This, we think, is the way to approach education today; not by screaming and yelling and engaging in the kinds of fads that education tries out year by year and still leaves us with the same problems, but by doing the grunt work to figure out what we need to do to get hold of it.

These youngsters are going to receive highly structured remedial work with 2 hours of reading and 2 hours of math. They will receive phonics instruction. They are going to receive oral language activities. They are going to receive writing activities. They are going to receive individual instruction. They are going to receive group instruction. They are going to receive computer instruction.

They are going to go to school, grades 1 through 11. First-graders are going to go, and people about to go into their senior year are going to go, and all the grades in between. And they are going to go for 4 full hours a day; 8:30 to 12:30. And then some will go from 8:30 to 1:30, and some will go from 3:30 to 8:30 for enrichment programs.

There will be 10 middle schools, 10 high schools and 60 elementary schools; 15 students to one teacher. These youngsters are going to learn when that is the student-teacher ratio.

Who will be the teachers? There is going to be not only an internal search, those teachers already there, but there will be an internal and external search. Only applicants with outstanding qualifications will be selected for the year-round Summer Stars Program. The initial screening of these teachers is going to include a writing sample, for example.

One of the reasons my colleagues have seen me on the floor in opposition to the vouchers program that some still continue to propose for the District is not only that I do not think that is the best thing, the best way to approach education for the majority of the youngsters, but I have a very special reason this year, Mr. Speaker, and that is this program.

This Summer Stars Program is simply too good to be turned away for yet another experiment, whether it is vouchers or, frankly, my favorite experiment. If there is $7 million for youngsters for private vouchers, who would say that that money should not be used for this first year-round program to end social promotion in the Nation's capital? Who would say that that is not, at this juncture, given where the District of Columbia public schools are and where the city itself is, that the best use of that money would not be that?

It takes $10 million to run this program. If $7 million are to be found in a vouchers program, and the Congress is serious about the attention it has paid to schools, it will help us start this first year-round school. It will help us to become a model for Baltimore, for Philadelphia, for New York, for L.A., for Chicago, for the small towns and the large cities that need to do precisely this kind of thing.

I have started with the schools, Mr. Speaker, because the schools have been, and rightly so, of special interest and special concern to this body. I do want to make a correction, because people, for understandable reasons, when they talk about the District, talk about the District 4 years or even 10 years ago. And one of the things I hear from time to time is that the District has the highest cost per pupil in the United States.

Well, that may have been so once, Mr. Speaker, but it has not now been for a very long time. The District has downsized tens of thousands of employees and perhaps too much in the schools, if anything. Now, an independent analyst tells us that the District is spending about $7,000 per student, and even that amount includes our payments to the teacher retirement fund, which often is not included in per-pupil reports.

Indeed, Mr. Speaker, it is important to have a sense of what that $7,000 figure means. The best way would be to

compare the District to its immediate region. We are at $7,000; Prince George's County, $7,120; Fairfax County, $7,650; Montgomery County, $9,000; Arlington County, $9,300. Mr. Speaker, my colleagues should see straight away that that means the District of Columbia has the lowest per-pupil cost in this region, even though it has by far the largest number of children who need special care and special programs.

We cannot talk cost anymore. We have to say to the District that they have to do the best they can with what they have. But if the Congress, in its wisdom, has additional money, it has to put that money where the biggest payoff is for the average child in this system.

And as my colleagues know, Mr. Speaker, the average child in this system can do a whole lot better. Arlene Ackerman said, for example, in a hearing we had just this week, that District of Columbia students will be reading the equivalent of 25 books this next school year. In one fashion or another, each child is going to read the functional equivalent of 25 books. That is what I call raising standards and raising standards big time.

Mr. Speaker, the Congress should come forward now and help us raise those standards. I ask my colleagues not to dash the hopes and the efforts of the District by going back to one of my colleagues' favorite notions. If my colleagues are for vouchers, bring a voucher bill before the floor and vote it up or down. My colleagues control the House and the Senate. Better yet, find some districts that, in fact, would like vouchers and make sure that they, in fact, get vouchers. But when we have a district that has voted 89 percent against vouchers, who in America would say that in the face of that, a body of people, where no one represents the District with a full vote, should overturn what 89 percent of the people of the District of Columbia have said?

But I do not come to the floor to have another philosophical or ideological fight on this floor about vouchers. This is too serious, Mr. Speaker. We are now to the point of where we are seeing real progress in the District; a surplus, movement on school facilities, a new chief educational officer who has her head on straight and knows that we have to raise the bar and youngsters will jump to meet it. Help us help them.

Now, Mr. Speaker, perhaps the best news for the city overall has been the emergence of a general fund surplus. This is a city that had the exact opposite only 2½ years ago. Its audit was in such bad shape that it could not even get a so-called clean opinion, because in order to get a clean opinion from the auditor, all the papers have to be in shape so the auditor can, in fact, know whether the entity is in shape. The District got a clean opinion this year and reported a general fund surplus of $185.9 million.

The District clearly continues to attract my colleagues' constituents to this city. Whatever the District's reputation, people are coming in larger numbers than ever. We have the largest turnout of tourists ever.

□ 1430

The economy of the city is beginning to come back, Mr. Speaker. One indication of that is the sale of homes in the District. All across the region there is beginning to be some greater sale of homes. But when we look at the District and compare it to the rest of the region, we know that something very different and very important is happening in this city and that it is moving forward.

The District over the past year had a 31-percent increase in the number of homes sold. The next highest in the region was only 17 percent. The District is coming up with almost twice as much of an increase in homes sold as the rest of the region. If that is not some indication that there is a return in confidence in the city, I do not know what is. When people decide to move here and live here and buy a home here and risk their capital here, they are saying that something has turned around in the City.

Mr. Speaker, may I thank this body for contributing to those figures? Because, although those figures were going up, I believe that a bill passed by this body at my request last year has helped to make home sales go up; and that is a bill that was included in the tax benefit package, that is a $5,000 home buyer tax credit. Essentially, it says that if they have an income and they are joint filers up to $130,000 or single filers up to $90,000 and they buy a home in the District of Columbia, they can get a tax credit up to $5,000.

I do not need to tell my colleagues, Mr. Speaker, that that is enough to make some people go out and buy a house or a condominium, and it certainly is enough to make some people who are renting in a house or condominium to say, I think I might stop paying the rent man and pay myself and buy this house and get a tax credit.

I have strongly supported the kinds of tax credits that have this effect, and I want to thank this body here and now for helping to make what was already a housing sale increase sail forward even faster.

Mr. Speaker, when I look at the budget surplus, and remember those home buyers are going to be paying taxes to the District of Columbia in sales taxes and other kinds of taxes and that is going to ease the burden of the District, but when I look at the surplus the City is already showing, I want my colleagues to know that it is not simply because we have a good economy. This administration deserves credit for its role in the good economy, and it has gotten credit from both sides of the aisle.

I certainly take nothing away from the President and the administration when I say that some of the credit belongs simply to good management in the District of Columbia, at least when we are talking about the surplus that the District is now experiencing. The District is now collecting taxes from people it did not collect taxes from before because its system for collecting taxes was in such disarray.

The District's deficit had, in part, to do with the fact that the District would wait weeks upon weeks to cash checks. Now it cashes a check within 1 day.

When the Chief Financial Officer was hired, he found records scattered in boxes on floors. Mr. Speaker, I cannot say enough about what it took to clean that kind of mess up. They could not go to a computer and push some buttons and say voila. Somebody had to get down on their knees, go through these files and straighten them up and computerize them.

Surplus is due as well to other internal controls. Reducing, for example, the improper extension of emergency contracts. If somebody gets a contract and then he keeps on getting it on an emergency basis, the City may never know whether somebody else would do that same job for less. Those kinds of controls are showing up now as part of a surplus. Extensive training of agencies and of accounting staffs have been part and parcel of this improved management.

Mr. Speaker, there have been real sacrifices made to achieve these improvements. Employees in the District of Columbia have not gotten a raise since 1994. Imagine what that would be like. Imagine what our Federal workers would think if we were to deny raises in that way.

I had to press the school system when they came before us just before Christmas because there were workers in the school cafeterias, the lowest paid workers there, who had not received a wage in 7 years, even though there were arbitrator awards twice awarding them wages and they had begun to be paid. So we cannot get work out of people if we continue to deny them annual raises.

What is good about what is happening, Mr. Speaker, however, is that accountability is being demanded for increases in pay; and it is that accountability that is different about the way the District is approaching its business. The District still has to reduce its government more, and it has a long way to go to get the kind of government that District residents deserve.

But Mr. Speaker, let me put before you another figure that will surely convince you that the District has

turned the corner. There has been a 20-percent decrease in crime and a 40-percent decrease in homicides over the last year. We were hitting in the top when it came to crime. Everybody else's crime was going down. Ours continued to go up.

The District is now at the end game of recruiting a new police chief. It has got a half dozen top-notch people competing for the job. By moving analytically, step by step, on reorganizing the police department, putting more and more cops into the streets, and there is still more to go there, reorganizing the department into community policing, we have gotten an almost immediate payoff in the reduction of crime. There is nothing more important that could have been done, even more important, if I might say so, than schools, than to reduce crime.

People are not going to live in a city where they fear for their lives, and the reduction in crime is a salient indicator that this body would surely want to use in deciding whether progress is being made in the District of Columbia.

Now, Mr. Speaker, a good friend and Member wrote a dear colleague when I asked that money for vouchers be spent on the year-round program, the Summer Stars Program, this summer, in order to finally, finally, eliminate social promotion. A good friend responded that, no, we could continue to use that money on vouchers, as he apparently desires, because the District can simply use its surplus to fund the year-round program.

Wait 1 minute, Mr. Speaker. In last year's appropriation, the District was admonished to use every cent of its surplus to pay down its deficit. The District is still carrying an accumulated deficit of over $300 million. When I say that your capital is a balanced budget, I mean on an annualized basis, the way this country has a balanced budget on an annualized basis but is carrying a huge deficit.

So the District is carrying an operating deficit from the time when it went down and went bankrupt. Now, the District was told, and I thought prudently, do not spend that surplus. Do not use it on anything, not even your schools, not even crime. Use it to pay down your debt. Do not borrow to pay down your debt.

So, Mr. Speaker, I do not want to hear anybody say now that the District should use the surplus for the Summer Stars program, especially when Members of this body are coming forward and saying that there is $7 million to be used on school vouchers. That money should be used for the Summer Stars program; and the District should, in fact, use its surplus to pay down the deficit.

The only other function that it has identified for use for some of this surplus is for the management reform that this body has mandated on the District. The District must have not only its finances straightened out but its management straightened out in 4 years if, in fact, the control board is to sunset. And I know that the howls from this body about the disarray of the operations of the District of Columbia are such that they would want the District to spend that money first on deficit reduction, then of course on straightening out its management. And there we are into something that will not even be done by the end of 4 years when the control board is to go, because part of the District's problem is an almost absence of technology in its agencies.

Would you believe, Mr. Speaker, the District still has rotary phones in most of its agencies? We cannot even do computers as long as we do not have push button phones.

So certain kinds of priorities are there. If there is money for schools, it certainly should go for Dr. Ackerman's Summer Stars program. The District should do what the Congress told the District it should do.

The Congress said, the District should use all the money to pay down the deficit. It also said, the money should be used for tax cuts for D.C. residents. I am trying to get a tax cut on the Federal side for D.C. residents with a bill that has strong support from the Speaker and the majority leader that would be a progressive flat tax.

I would certainly like to see some reduction in D.C. taxes, but I think that the Chief Financial Officer is correct when he says that the reduction in city taxes, given the outstanding deficit, should take place on a planned course as the city is downsized and improved so that all of that occurs in tandem and so that we do not throw out of sync the very good building of a surplus that has begun to occur.

Mr. Speaker, the improvements in the District abound, and I am going to be coming forward with others. I must speak at some length about one that I think almost no one expected. The District was on not the dirty dozen list, because there is a whole lot more than a dozen cities on the list of troubled public housing authorities, and the District was big-time on that list.

Two and a half years ago a man came from Seattle, Washington, to try to take hold of this chaos and put it back together again. The District, over 20 years it had more directors of its public housing than anybody could count. The District, frankly, was no different from other troubled public housing; but nobody expected anything to happen.

When we talk about things we can at least do something over the short run, perhaps we think of schools and public housing. Well, in 2½ years David Gilmore, to his great credit, has taken the District off the list of troubled housing authorities.

□ 1445

The District had a score of 22 out of 100 when he came here. Now it has got a score of 65.5, which puts it well up in the list of housing authorities around the country. It is how David Gilmore has done this that I think we all should take note of. I have said to District officials, everybody ought to sit at the knee of David Gilmore, because here is a man who obviously knows how to manage people, manage ideas, and manage hardware. Somehow he has put them all together. He has moved the crack addicts and the nonpayers out of public housing. I do not even hear anybody screaming about it. He knows how to manage people so that that occurs. He moves into a public housing complex where he sees that the whole thing has to be taken apart and you have to start all over again.

What does the man do, Mr. Speaker? The first thing he does is to put in the sod. Can you imagine the effect it has on public housing tenants who have lived with crime and chaos for years to see somebody coming in, he says he is going to fix it and they hold down, they hunker down and prepare to have dust and nails and debris flying all around them. But they wake up and the first thing they see that morning is that the sod is being planted.

This is a man who knows how to manage people, Mr. Speaker. He knows how to bring hope to the hopeless. What he has done is to organize tenant societies within those public housing authorities. You can imagine what happens when you have moved out the troublemakers, moved in the sod, fixed the public housing, got it in shape again.

There is a new chief of police for public housing. Mr. Speaker, I have met with that man. He tells me that his job mostly consists of getting stray dogs and cats and taking them back to their owners, because the people are taking care of their own renovated public housing, because we have got in place a man who knows what he is doing.

I have to tell you that I do think that is the key to everything in this world. I think that perhaps David Gilmore with all the good work that is being done in the District is the very best and is something to teach everybody, from the Control Board to the Mayor, to the City Council, to the Member who represents the District and the Congress, because he has put it all together. When you go to him and tell him about a problem, he fixes it, he finds a way to fix the system to have you get to him more quickly. He knows how to hire good people, and he knows how to take the staff who is there and to get work out of them and to get rid of those you cannot get work out of.

There are all the stories in the Washington Post or the Washington Times about how the whole world is being shook up down at the public housing

authority. I think this man needs to write himself a manual and pass it out. And first pass it around the District and then pass it around the country, because he is showing us something about how to fix a broken city. Yes, it was broken, Mr. Speaker. You are listening to a fourth generation Washingtonian. When my hometown became broken, there was a very special level of sadness for this Washingtonian, because my own great-grandfather, Richard Holmes, walked away from a plantation in Virginia. No runaway slave, Richard Holmes, he just walked off a plantation in Virginia in the early 1860s and came across the river to the District and planted the Holmes family here. Somehow or the other, through our 4 generations in this city, with problems that you might expect would have occurred in the early part of this century when my grandfather entered the D.C. fire department, later on when my father was in high school during the Great Depression, in 1954 when I was sitting in Dunbar High School, segregated, and heard the bell chime and the principal tell us that the schools would now be integrated under Brown v. Board of Education, to the time of my own children. Through all of that, Mr. Speaker, throughout this century, there was no time in which this city saw the bitter, bitter experience of bankruptcy.

So for me, it was a time of special trial, especially since it was during that time that I represented the District and it was I who came forward and said that it had to have a Control Board. That was painful, but it was necessary, because it is necessary to do what has to be done for a city when it has to be done. I have shared the disappointment of this body that what had to be done has not been done as quickly as it should have been done and, if I may say so, Mr. Speaker, could have been done. And so you have not found me to be an apologist for the District. You have found me to be its defender, to ask people to step back and treat the city with respect, but no apologist for a city that does not stand up and do what has to be done to save itself. And so that is what the city is doing now.

Mr. Speaker, the city has a great challenge. It was able to keep its population, because it is such a livable city, much longer than most large American cities which experienced a total drain of residents. The District did not begin to experience that until the late eighties and now we have come to that moment, so that the great burden on the city now is to recoup and retain its middle class. The District has had a frightening loss of residents. It is experiencing that just as it is beginning to turn the corner and get its full majesty back. But once that drain continues to occur, it is very difficult to turn it back.

That is why the $5,000 homebuyer tax credit passed by this body has been so important. The fact is that between 1989 and 1997, Mr. Speaker, the District has shown itself to be losing 3 times as many residents as it lost in the whole of the 1980s. In other words, we are having devastating population loss. People do not look to see if the budget is balanced, if there is a surplus or even if the public housing is being fixed to decide whether to cross the District line, going the reverse of where my great-grandfather came when he came to Washington. Instead, they simply go where the grass seems greener.

Mr. Speaker, they do not even look at what business sees. While we have been losing population, business has been coming back to Washington, again, Mr. Speaker, an indication that something important is happening in this town. Look at the new MCI Center. That was located in Prince George's County. That has done a reverse migration from the suburbs to the city. Mr. Speaker, the MCI Center has been built by Mr. Abe Pollin. He has built it 100 percent with his own money. There is virtually no other example of an arena in the United States that was built with private money. Arenas are being built almost exclusively with taxpayer money. Why would Mr. Pollin build an arena in the capital of the United States with his own money? Mr. Speaker, he knows something that I hope this Congress finds out soon and that business clearly knows first. There is money to be made here.

There are 20 million visitors who come each year. I see some of them in the galleries. This is a city with unused economic potential. There is a wonderful infrastructure here. There is a metro that brings a whole region into the center of the city and so Mr. Pollin, who took his arena out of the District 20 years ago, has brought it back in a marvelous new center where the Caps and the Wizards, if you please, now play, as does Georgetown University and other teams from the region. But the very fact that somebody would build an arena with private money and take it from the suburbs and move it back to this city tells you that the capital of the United States is coming back and coming back fast.

If you need another example, let me give you one just as spectacular. In the United States today, convention centers are built everywhere, in small towns, big cities, little hamlets, everybody wants a convention center. You build it with taxpayer funds because that is the only way you can get it built. But not in the District of Columbia. The hotel and restaurant industry came to the District 3 years ago and said, "Tell you what, District. Tell you what we're going to do. We're going to tax ourselves and build the convention center ourselves."

Why would the hotel and restaurant industry which complains that it is overtaxed, tax itself to build a convention center in the Nation's capital? They know where the money is, Mr. Speaker. The District cannot attract the big conventions, like the AMA Convention and the ABA Convention because our convention center is too small. Who loses? The District of Columbia loses, which is to say the taxpayers who then have to make up for what visitors to conventions would pay, but the hotel and restaurant industry loses, because those visitors do not come to use their facilities, either. And so instead of waiting the District out, they have stepped up and they will be breaking ground, with their own money, money that is already being built in a lockbox, with their own money, to build the convention center.

Mr. Speaker, you do not build a convention center with private money if you think the city has no future. Mr. Speaker, you do not build an arena in a city with private money if you think the city has no future. The city has a future. The city is coming back. The first people to understand it are those who have the most to lose, private businesspeople who have put their money where their mouth is, which is what I am asking this Congress to do when it comes to our schools, to put their money on the summer program and not on vouchers, where it will have no measurable effect on the average kid in the District of Columbia.

Nevertheless, Mr. Speaker, you have never seen me give the rosy, merry picture of the District. That is why I have spoken about the frightening decline in the D.C. tax base. I have introduced a bill, as recently as last week, called the D.C. Economic Recovery Act that would give a tax break to District residents from their Federal income taxes. I come forward to do this for the District, recognizing it would not be done for others because the District is a special case and you have made it so, and it is so under the Constitution of the United States.

We have no State, Mr. Speaker. So that when residents leave the District, a very different phenomenon occurs than when they leave Baltimore or Richmond because when they take their money with them, there is no State to recycle their money back to the District of Columbia, as the State recycles money back to Baltimore and as the State recycles money back to Richmond. If there is no State to recycle the money back, then you say, "Well, why don't you tax the people who come in every day to work here and use the same services that residents use here during the day?" The reason we do not do so, Mr. Speaker, is because this body, and the other body, the Congress of the United States, has indeed barred a commuter tax.

So the District is left high and dry. People leave, no way to make up for

them because no State to help make up for their flight, and no way to make people who come in and use our services pay for the use of those services because the Congress has barred a commuter tax. I am asking this body to help make up for putting your capital between a rock and a hard place, and I am pleased and may I give credit to the leadership of this body and of the other body for supporting the D.C. Economic Recovery Act.

Mr. Speaker, the figures speak for themselves. We want to hear them now so that we will not be the last to turn out the lights.

□ 1500

The figures speak for themselves. If we look at who the movers are, we see that 25 percent of them earn between $35,000 and $50,000, and 38 percent of them earn between $50,000 and $100,000. Mr. Speaker, those are middle-income taxpayers right there. That is 63 percent of the people moving in that core, prime middle-income group between $35,000 and $100,000. Those are the people who pay taxes to the District government.

If the District does not have people to pay taxes to the government, no amount of surplus can make up for the flight of its core tax base. That is why I have introduced the District of Columbia Economic Recovery Act, not as special treatment to the District, but to make up for the special detriment that this body has placed on the District because we believe that that is necessary because it is the capital of the United States.

Who is not leaving the District, Mr. Speaker? Those who make under $15,000; or put it another way, it is the poor. That is to say, under $15,000, only 3 percent left. The years I am talking about for these numbers, Mr. Speaker, are 1990 to 1996.

The very rich are not leaving in large numbers either. Only 10 percent of those who make $100,000 or more are leaving, and we are overly dependent upon these very rich people, and I love every last one of them, and I hope they do not go anywhere.

Mr. LEWIS of California. Mr. Speaker, will the gentlewoman yield?

Ms. NORTON. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I could not help but watch with interest the gentlewoman's discussion on the floor here today as the gentlewoman has been talking about her wonderful District, which is our Nation's capital, and I wanted to share with those who are focusing upon the presentation my experience in dealing with the gentlewoman regarding the city.

I first was drawn by way of attention when the gentlewoman mentioned David Gillmor, who is the housing director here and a fellow who we have both worked with, a fabulous public servant who is among those who is trying to make a difference in the Nation's capital and is making a very special contribution.

I also wanted to share with the gentlewoman and others the fact that just a short time ago I returned from a, not exactly a ribbon-cutting, but essentially that, at a Habitat for Humanity, location very close to the Capitol here, where in this case Freddie Mac was presenting a check for $1 million for a program that the gentlewoman knows as the House That Congress Built.

But as we were doing that, we were also expressing our appreciation for those who come together, in this case to help Ms. Christy Ingram and her family prepare to move in, probably sometime this summer to their new home here in the Nation's capital as a result of partnering that is going on in the city, that is designed to try to make a little difference here.

As the gentlewoman knows, I come from California, but when I am in the Nation's capital doing this job, I am a constituent of yours, for I live in the city. I am very proud that I do. It is a marvelous community that needs all the help that all of us together should and want to give it. But especially I just wanted to express my appreciation to you and to those of you like David Gillmor who are truly making a difference for all of us who live here.

Ms. NORTON. Mr. Speaker, I thank the distinguished gentleman from California (Mr. LEWIS) for taking the time to come to the floor. I do have to say to this body that the gentleman from California, who represents his own district with great energy and great distinction, nevertheless decides he always has to do good where he is and has initiated a program here that he is now spreading through the rest of the country. He came to me, imagine how I felt, when a distinguished and senior, not in age, but in longevity in the House came to me and said, we want to build a house by the Congress of the United States here in the capital of the United States, and I want to thank the gentleman for his work for the District.

NO WAIVER OF JACKSON-VANIK

(Mr. ROYCE asked and was given permission to address the House for 1 minute.)

Mr. ROYCE. Mr. Speaker, 1 week ago the administration issued a waiver of the Jackson-Vanik amendment, opening the way for OPIC and Exim funds to filter into Vietnam. I was expecting this decision to come from the administration; however, I had hoped that common sense would guide that decision. Vietnam is a Communist country. Its citizens enjoy no religious freedom, little economic freedom, and no freedom to vote, and it is not getting better.

The recent promotion of a hard-line Communist to the Secretary General position, a man who once stated that his government has concerns that foreigners are somehow out to undermine Vietnam's independence, has stalled all hopes of changing the economy in Vietnam. Vietnam is not ready for OPIC. Your support or opposition to OPIC and Exim is not in question here. What is is the government subsidies for businesses in Communist Vietnam.

In anticipation of this decision by the administration, I introduced H.R. 3159, legislation which will now make this waiver null and void. The United States should not extend these benefits to a country that has done little in the way of granting freedom to its citizens. I ask my colleagues to cosponsor this important legislation.

WHITE HOUSE SILENCE: AMERICANS WANT THE TRUTH

The SPEAKER pro tempore (Mr. WHITFIELD). Under the Speaker's announced policy of January 7, 1997, the gentleman from Texas (Mr. DELAY) is recognized for 10 minutes as the designee of the majority leader.

Mr. DELAY. Mr. Speaker, not far away in a United States Federal courthouse, a grand jury may hold in its hands the fate of our President. Now, how it will end is anyone's guess. At this moment, fair-minded people are suspending judgment.

All we can say for sure is that the Presidency seems diminished by it. Republican and Democrat alike, we will all be happy to have this spectacle behind us, because for weeks I have withheld comment on the charges leveled at the President. I thought it only fair that he be given the chance to explain himself to the American people without any rush to judgment on our part. These are, after all, serious charges, and premature condemnations of the President would not be fair to him or to the public.

So I waited for the President to speak out, and I waited, and I waited, and I waited. But with each passing day, the silence emanating from within the White House grows evermore deafening. It is a silence broken only by the sound of character attacks launched at the President's accusers.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman from Texas will suspend.

It is not in order to refer to the President in personal terms. Discussion of "charges leveled at the President" dwell on personality and are not in order, under longstanding precedents of the House, which are recorded on pages 175 to 176 of the House Rules Manual.

The gentleman may continue.

Mr. DELAY. Mr. Speaker, I have checked the speech with the Parliamentarian and have gotten clearance from the Parliamentarian for this speech.

The SPEAKER pro tempore. The Chair is advised by the Parliamentarian's Office that certain recommendations for change in the text were not communicated.

The gentleman may continue.

Mr. DELAY. Mr. Speaker, the President's own spokesman has said that he does not want to know the truth about this entire affair. He has also said that the truth may be very complicated, as it so often is with the President. But while the President's spokesman may not want to know the truth, the American public deserves to hear it.

The President's silence is a grave disservice to the American people who elected him. Twice a plurality of voters elected Bill Clinton to lead this country. Twice they put their faith in him to do the people's work. Well, Mr. Speaker, a Presidency enveloped in scandal is good for nobody, and the faith that the American people have put in President Clinton has been violated time and time again.

I sometimes hear that none of this has any relevance to public policy. The President's defenders point to the polls that show high job approval ratings. While this may be an appropriate defense for an administration guided by polls rather than principles, it fails to even scratch the surface of the true implications of this affair.

For most of this Nation's history, the American people have held a very high standard of conduct for the President of the United States. The reverence with which they held this office of the Presidency dictated this higher standard. Now it seems that the loftiness of the office is an excuse for a lower standard. He is the President. We should give him the benefit of the doubt. As long as the economy performs well, it does not matter how a President acts, or so the thinking goes.

Well, I disagree with that thinking. One should not be able to get away with more simply because of the office that he holds. The leader of the free world should be held to a higher standard, not a lower one. After all, the eyes of our Nation and of the world are constantly upon him.

Mr. Speaker, poll numbers are fleeting, but the tarnishing of the highest office in the land has permanent consequences, and as for the character and morality of our leaders, I do not see it as my duty as a Congressman to give frequent lectures on this subject. We are legislators, we are not preachers. And all of us are flawed. We have all made mistakes. But there comes a point when remaining silent becomes a breach of responsibility. I cannot remain silent any longer. To do so would be to forsake my duty as an elected voice of the people. I am a representative of the people, and it is on their behalf that I implore the President to come forward with the truth.

The charges against the President of the United States are very serious, and that is why Congress may have to act on them.

Aiding in his defense, the President is said to have the best political tacticians and consultants in the business. We see and hear from these consultants very often. They miss no opportunity to malign the motives of the independent counsel or belittle the investigation, or send forth into the airwaves any number of legalistic evations and desperate semantic stonewalls.

Ken Starr is just doing his job. The independent counsel is doing the job that the Attorney General of the United States and a three-judge panel has asked him to do. Yet, if we look at the charges made against him, one would think he was the devil incarnate.

It is always the same with these people. The spin, the whole spin, and nothing but the spin. Are these the best political minds in the business? I am not so sure about that. They certainly know how to buy time, but that only works for just so long. They may be able to obscure the truth for a while, but they cannot change it. Their act is wearing very thin with the American people. It only aggravates the offenses and postpones the day of truth-telling.

I cannot think of a better way to bring on formal congressional proceedings than to go on hindering, obstructing and belittleing the judicial proceedings that are now under way.

Now, if that is the current White House strategy, then they will not be first to discover that deceit is one offense our forgiving public will not abide.

□ 1515

We Republicans know something about this from our party's bitter experience just a generation ago. There is no more fragile construct than a stone wall. In any scandal, the shortest route to safety is always the truth.

It is worth recalling that many of these same people 6 years ago promised, and I quote, "the most ethical administration in history." The troubling thing is that they still believe it. Six years and who knows how many scandals later, their moral self-assurance seems undiminished. Where does this self-assurance come from? It seems to arise from a profound understanding of everybody's misdeeds except their own.

No administration has ever been more demonstrative in acknowledging our national sins past and present than this one. This is the same President who has so touchingly apologized for the sins of racism, the sins of discrimination, the sins committed during World War II against Japanese-Americans, and so on through our entire checkered social history.

How easy admissions come when the wrongdoing is someone else's. How repentant they are when the guilt is broad and general and national and universal. But now the question is one of personal wrongdoing. A strange silence has fallen over the White House. Mr. Speaker, at the heart of this investigation are some very, very serious questions, and a shrug is not an answer.

The response that these are personal traits that the public was well aware of when it elected him, that times are good, and people just do not care, and so on, likewise, rings very hollow to me. We have heard this line many times from the commentators.

I must say it absolutely amazes me. It is not very flattering, no matter how you look at it. Surely it marks the first time a President's integrity has ever been defended on the grounds that our expectations were low to begin with.

I do not for 1 minute buy into the argument that the public does not care about integrity, because, like most of us, the public is clearly bewildered by all of this. I suppose you can add to that a certain public fascination with this spectacle.

But we have an administration that often seems to defy so many of life's rules: honesty is the best policy; character is destiny; whatsoever a man soweth, so shall he reap. We all grow up believing these rules were firm and inflexible. Yet, somehow this White House seems to have found a loophole in each one of them.

They shy from the truth. They attack the character of others as if to divert attention from their own. They sow shame and scandal. Up till now, it seems to be working. But all of this can only work for just so long. In politics, as in life, you cannot stave off the consequences forever.

My money is still on the old saying that honesty is the best policy. Where simple honesty is concerned, there is no such thing as executive privilege. Sooner or later, straight answers will have to come out. The longer the White House waits, the greater the harm to themselves and to their bond of trust with the American people.

The sooner we hear the truth, the sooner they will regain public trust and respect. Let me repeat that, Mr. Speaker, not mere approval or popularity but trust and respect. Leaders do not live by polls alone. Without trust and respect, they are nothing, and any title they hold is a mockery.

On his way to Washington for the 1993 inauguration, the President-elect, Bill Clinton, made a stop at Monticello to pay homage to Thomas Jefferson. It was Jefferson who offered, perhaps, the most prophetic comment of the next 6 years of this presidency. No man will ever bring out of the presidency the reputation which carries him into it.

Something is amiss when a president receives almost as many bills from his lawyers as from Congress. The judicial proceedings will run their course regardless of this White House

stonewalling. But if the President would just tell the truth to the American people, it would go a long, long way toward bringing this ordeal to an end. The truth, the truth is the only thing now that can preserve the dignity of the presidency.

That is what it is it all comes down to, Mr. Speaker, is the truth. The Independent Counsel must pursue it. Congress must expect it. The public must hear it. The President must tell it. Then, finally, we can put this sad chapter behind us and move on.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today through noon on Wednesday, March 25, on account of official business in the district.

Mr. MARTINEZ (at the request of Mr. GEPHARDT) for today, on account of an unexpected emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:

Mr. FILNER, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

Mr. BARRETT of Wisconsin, for 5 minutes, today.

The following Members (at the request of Mr. TIAHRT) to revise and extend their remarks and include extraneous material:

Mr. MORAN of Virginia, for 5 minutes, today.

Mr. EWING, for 5 minutes, today.

Mr. TIAHRT, for 5 minutes, today.

Mr. BARTLETT of Maryland, for 5 minutes, today.

Mrs. CHENOWETH, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

The following Member (at his own request) to revise and extend his remarks and include extraneous material:

Mr. BURTON of Indiana, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. YOUNG of Florida and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,055.

The following Members (at the request of Mr. PALLONE) and to include extraneous matter:

Mr. KIND.
Mr. TOWNS.
Mr. KANJORSKI.
Ms. STABENOW.
Mr. DIXON.
Mr. PAYNE.

The following Members (at the request of Mr. TIAHRT) and to include extraneous matter:

Mr. REDMOND.
Mr. PORTMAN.
Mr. BLILEY.

The following Members (at the request of Mr. PALLONE) and to include extraneous matter:

Mr. WEYGAND.
Mr. QUINN.
Mr. BLILEY.
Mr. KANJORSKI.
Mr. PORTMAN.
Mr. THOMPSON.
Mr. EDWARDS.
Mr. YOUNG of Florida.
Mr. BOB SCHAFFER of Colorado.
Mr. KIND.
Mr. DIXON.
Mr. HALL of Texas.
Mr. CLYBURN.
Mr. DOOLEY of California.
Mr. CLAY.

The following Members (at the request of Mr. DELAY) and to include extraneous matter:

Mr. MCCOLLUM.
Mr. FORBES.
Mr. MORAN of Virginia.
Mr. PORTER.
Mr. GALLEGLY.
Mr. MCDERMOTT.
Mr. WELLER.
Mr. SKELTON.
Mr. PAYNE.
Mr. MENENDEZ.

ADJOURNMENT

Mr. DELAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 21 minutes p.m.), under its previous order, the House adjourned until Monday, March 23, 1998, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

8099. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Tomatoes Grown in Florida and Imported Tomatoes; Final Rule to Change Minimum Grade Requirements [Docket No. FV98-966-1 FR] received March 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8100. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Raisins Produced from Grapes Grown in California; Final Free and Reserve Percentages for 1997-1998 Crop Natural (Sun-Dried) Seedless and Zante Currant Raisins [FV98-989-1 IFR] received March 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8101. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Titanium Dioxide; Exemption from the Requirement of a Tolerance [OPP-300632; FRL-5779-3] (RIN: 2070-AB78) received March 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8102. A letter from the Deputy Executive Director, U.S. Commodity Futures Trading Commission, transmitting the Commission's final rule—Distribution of Customer Property Related to Trading on the Chicago Board of Trade-London International Financial Futures and Options Exchange Trading Link [17 CFR Part 190] received February 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8103. A letter from the the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of March 1, 1998, pursuant to 2 U.S.C. 685(e); (H. Doc. No. 105—232); to the Committee on Appropriations and ordered to be printed.

8104. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Veterans Employment Emphasis [DFARS Case 97-D314] received March 9, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

8105. A letter from the Director, Office of Management and Budget, transmitting a report regarding actions to combat terrorism, pursuant to Public Law 105—85; to the Committee on National Security.

8106. A letter from the Assistant Secretary, Indian Affairs, Department of the Interior, transmitting the Department's final rule—Housing Improvement Program (RIN: 1076-AD52) received February 25, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8107. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule—Mergers or Conversions of Federally Insured Credit Unions to Non Credit Union Status; NCUA Approval [12 CFR Part 708a] received March 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

8108. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to repeal and streamline a wide range of programs of the Department of Housing and Urban Development, and for other purposes; to the Committee on Banking and Financial Services.

8109. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Assistance Regulations; Acquisition Regulations; Revisions to Rights in Data Regulations (RIN: 1991-AB33) received March 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8110. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries [AD-FRL-5976-3] received March 12, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

8111. A letter from the Assistant Secretary for Legislative Affairs, Department of State,

transmitting Ambassador Frank Wisner's report on Russian-Iranian missile cooperation; to the Committee on International Relations.

8112. A letter from the Chairman, Federal Mine Safety and Health Review Commission, transmitting the Annual Performance Plan for fiscal year 1999, pursuant to Public Law 103—62; to the Committee on Government Reform and Oversight.

8113. A letter from the Secretary, Federal Trade Commission, transmitting a report of activities under the Freedom of Information Act for the calendar year 1997, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

8114. A letter from the Director, Office of Government Ethics, transmitting the Office's final rule—Amendments to the Office of Government Ethics Rules under the Equal Access to Justice Act (RIN: 3209-AA20) received March 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

8115. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

8116. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure [Docket No. 980129023-8023-01; I.D. 030498B] received March 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8117. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Central Regulatory Area of the Gulf of Alaska [Docket No. 971208295-7295-01; I.D. 030998A] received March 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8118. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Eastern Regulatory Area of the Gulf of Alaska [Docket No. 971208295-7295-01; I.D. 030698D] received March 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8119. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 1998 Harvest Specifications for Groundfish [Docket No. 971208297-8054-02; I.D. 112097A] received March 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8120. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 24 [Docket No. 971030259-8039-02; I.D. 101497C] received March 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8121. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting the Department's final rule— Periods of Lawful Temporary Resident Status and Lawful Permanent Resident Status to Establish Seven Years of Lawful Domicile [INS No. 1748-96; AG Order No. 2063-96] (RIN: 1115-AE27) received March 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

8122. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Taxation of fringe benefits [Revenue Ruling 98-14] received March 16, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8123. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Low-Income Housing Credit [Revenue Ruling 98-13] received March 16, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8124. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Interest Rate [Revenue Ruling 98-17] received March 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8125. A letter from the Chief, Regulations Branch, U.S. Customs Service, transmitting the Service's final rule—Copyright/Trademark/Trade Name Protection; Disclosure of Information [T.D. 98-2] (RIN: 1515-AB28) received March 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8126. A letter from the Chief, Regulations Branch, U.S. Customs Service, transmitting the Service's final rule—General Enforcement Provisions; Removal of Agency Management Regulations [T.D. 98-22] (RIN: 1515-AC02) received March 6, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8127. A letter from the Chief, Regulations Branch, U.S. Customs Service, transmitting the Service's final rule—Customs Service Field Organization; Designation of Kodiak, Alaska, as a Customs Port of Entry [T.D. 98-24] received March 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

8128. A letter from the Chief, Regulations Branch, U.S. Customs Service, transmitting the Service's final rule—Publication of Filer Codes [T.D. 98-25] (RIN: 1515-AB27) received March 18, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3113. A bill to reauthorize the Rhinoceros and Tiger Conservation Act of 1994 (Rept. 105-455). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. POMEROY (for himself, Mr. KOLBE, Mrs. KENNELLY of Connecticut, Mr. ENGLISH of Pennsylvania, Mr. LEVIN, Mrs. THURMAN, Mr. PAYNE, Mr. GREEN, Mr. BOSWELL, Mr. RAHALL, Mr. FROST, Mr. YATES, Mr. STUPAK, Mr. TORRES, Mr. EVANS, Ms. DELAURO, Mr. UNDERWOOD, Ms. WOOLSEY, Mr. LEWIS of Georgia, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. SESSIONS):

H.R. 3503. A bill to amend the Internal Revenue Code of 1986 to enhance the portability of retirement benefits, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for condition of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHUSTER (for himself and Mr. OBERSTAR) (both by request):

H.R. 3504. A bill to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance; to the Committee on Transportation and Infrastructure.

By Mr. DOOLEY of California (for himself and Mr. BOYD):

H.R. 3505. A bill to amend the Clean Air Act to provide for the implementation of the revised ozone and particulate matter standards, and for other purposes; to the Committee on Commerce.

By Mr. EHLERS (for himself, Mr. JONES, Mr. LEWIS of Kentucky, Mr. TIAHRT, Mr. HORN, Mr. KNOLLENBERG, Mr. ADERHOLT, Ms. PRYCE of Ohio, Mr. KINGSTON, Mr. SMITH of Michigan, Mr. BARR of Georgia, Mr. PETERSON of Pennsylvania, Mr. BOEHNER, Mr. SUNUNU, Mr. BLUNT, Mr. CHAMBLISS, Mr. TRAFICANT, Mr. GILCHREST, Mr. HASTINGS of Washington, Mr. GREENWOOD, Mr. WATKINS, Mr. HANSEN, Mr. LATOURETTE, Mr. LAHOOD, Mr. GANSKE, Mr. GILMAN, Mr. BUNNING of Kentucky, Mr. EWING, Mr. HOEKSTRA, Mr. BATEMAN, Mr. SENSENBRENNER, Mr. WHITFIELD, Mr. CAMP, Mr. LEACH, Mr. FAZIO of California, Mr. BURR of North Carolina, Mr. CAMPBELL, Mr. FAWELL, Mr. KILDEE, Mr. BILBRAY, Mrs. KELLY, Mr. LINDER, Mr. HASTERT, Mr. STUMP, Mr. EVERETT, Mr. DEAL of Georgia, and Mr. CALLAHAN):

H.R. 3506. A bill to award a congressional gold medal to Gerald R. and Betty FORD; to the Committee on Banking and Financial Services.

By Mr. SPENCE:

H.R. 3507. A bill to suspend until December 31, 2001, the duty on certain electrical transformers for use in the manufacture of audio systems; to the Committee on Ways and Means.

H.R. 3508. A bill to suspend until December 31, 2001, the duty on loudspeakers not mounted in their enclosures; to the Committee on Ways and Means.

H.R. 3509. A bill to suspend until December 31, 2001, the duty on parts for use in the manufacture of loudspeakers; to the Committee on Ways and Means.

By Mr. BONIOR (for himself, Mr. GEPHARDT, Mr. FAZIO of California, Mrs. KENNELLY of Connecticut, Ms. DELAURO, Mr. LEWIS of Georgia, Mr. MENENDEZ, Mr. FROST, Mr. CLAY, Mr. OWENS, Mr. HINCHEY, Mrs. CLAYTON, Mr. ACKERMAN, Mr. BARRETT of Wisconsin, Mr. BECERRA, Mr. BERMAN,

Mr. BLAGOJEVICH, Mr. BORSKI, Mr. BROWN of California, Mr. BROWN of Ohio, Mr. CARDIN, Ms. CARSON, Ms. CHRISTIAN-GREEN, Mr. CONYERS, Mr. COYNE, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. DEFAZIO, Mr. DELAHUNT, Mr. DICKS, Mr. DIXON, Mr. ENGEL, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FORD, Mr. FRANK of Massachusetts, Mr. GEJDENSON, Mr. GREEN, Mr. GUTIERREZ, Mr. HALL of Ohio, Mr. HASTINGS of Florida, Mr. HEFNER, Mr. HILLIARD, Ms. HOOLEY of Oregon, Mr. JACKSON, Ms. JACKSON-LEE, Ms. KAPTUR, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK, Mr. KLECZKA, Mr. KLINK, Mr. KUCINICH, Mr. LAFALCE, Mr. LAMPSON, Mr. LANTOS, Mr. LEVIN, Ms. LOFGREN, Mrs. LOWEY, Mr. MANTON, Mr. MARKEY, Mr. MARTINEZ, Mr. MASCARA, Mr. MATSUI, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mr. MEEHAN, Mrs. MEEK of Florida, Ms. MILLENDER-MCDONALD, Mr. MILLER of California, Mrs. MINK of Hawaii, Mr. MOAKLEY, Mr. NADLER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OLVER, Mr. PALLONE, Mr. PAYNE, Ms. PELOSI, Mr. POSHARD, Mr. RAHALL, Mr. RANGEL, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. SABO, Ms. SÁNCHEZ, Mr. SANDERS, Mr. SAWYER, Mr. SCHUMER, Mr. SCOTT, Mr. SHERMAN, Ms. SLAUGHTER, Mr. STARK, Mr. STOKES, Mr. STRICKLAND, Mr. TIERNEY, Mr. THOMPSON, Mr. TORRES, Mr. TOWNS, Ms. VELÁZQUEZ, Mr. VENTO, Ms. WATERS, Mr. WAXMAN, Mr. WEYGAND, Mr. WEXLER, Ms. WOOLSEY, Mr. WYNN, Mr. YATES, Mr. FILNER, and Mr. OBEY):

H.R. 3510. A bill to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage; to the Committee on Education and the Workforce.

By Mr. THOMAS (for himself, Mr. STARK, Mr. BILIRAKIS, Mr. WAXMAN, Mr. HOUGHTON, Mr. ENSIGN, Mr. MCCRERY, Mr. KLECZKA, Mr. LEWIS of Georgia, Mrs. THURMAN, Mr. CAMP, Mr. LINDER, Mr. HAYWORTH, Mr. CHRISTENSEN, Mr. SAM JOHNSON, and Mr. TOWNS):

H.R. 3511. A bill to amend title XI of the Social Security Act to authorize the Secretary of Health and Human Services to provide additional exceptions to the imposition of civil money penalties in cases of payments to beneficiaries; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CHRISTENSEN:

H.R. 3512. A bill to amend title 18, United States Code, with respect to Federal prisoners, and for other purposes; to the Committee on the Judiciary.

By Mrs. CLAYTON (for herself, Mrs. MEEK of Florida, Mr. BROWN of California, Mr. HOLDEN, Mr. FROST, Mr. BISHOP, Mr. BONIOR, Mr. THOMPSON, Mr. BOSWELL, Mr. PASTOR, Ms. STABENOW, Mr. ETHERIDGE, Mr. MASCARA, Mr. HILLIARD, Ms. CHRISTIAN-GREEN, Mr. BAESLER, Mr. CONDIT, Mr. SKELTON, Mr. POMEROY, Mr. HINCHEY, Mr. TOWNS, Mr. STARK, Ms. FURSE, Ms. DANNER, Mr. LEWIS of Georgia, Mr. ABERCROMBIE, Mr. GEPHARDT, Mr. SCOTT, Ms. DELAURO, Mr. MCINTYRE, Mr. DOOLEY of California, Mr. SANDERS, Mr. PRICE of North Carolina, Mr. FALEOMAVAEGA, Ms. JACKSON-LEE, Ms. KILPATRICK, Mr. RUSH, Mr. CLYBURN, Mr. WYNN, Mr. DAVIS of Illinois, and Mr. WATT of North Carolina):

H.R. 3513. A bill to reform agricultural credit programs of the Department of Agriculture, and for other purposes; to the Committee on Agriculture.

By Mr. CONYERS (for himself, Mr. SCHUMER, Mrs. MORELLA, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BALDACCI, Mr. BARRETT of Wisconsin, Mr. BLAGOJEVICH, Mr. BOUCHER, Ms. BROWN of Florida, Mr. BROWN of California, Ms. CARSON, Ms. CHRISTIAN-GREEN, Mr. CLEMENT, Mr. COYNE, Mr. CRAMER, Mr. CUMMINGS, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. DOOLEY of California, Mr. ENGEL, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FAZIO of California, Mr. FILNER, Mr. FOLEY, Mr. FORD, Mr. FROST, Ms. FURSE, Mr. GEJDENSON, Mr. GEPHARDT, Mr. GUTIERREZ, Ms. HARMAN, Mr. HILLIARD, Mr. HINCHEY, Mr. JACKSON, Ms. JACKSON-LEE, Mrs. KENNELLY of Connecticut, Ms. KILPATRICK, Mr. KLECZKA, Mr. LAMPSON, Mr. LANTOS, Mr. LEACH, Mr. LEWIS of Georgia, Ms. LOFGREN, Mrs. LOWEY, Mrs. MCCARTHY of New York, Mr. MCDERMOTT, Ms. MCKINNEY, Mrs. MALONEY of New York, Mr. MANTON, Mr. MARKEY, Mr. MATSUI, Mr. MEEHAN, Mrs. MEEK of Florida, Mrs. MINK of Hawaii, Mr. MORAN of Virginia, Mr. NADLER, Ms. NORTON, Mr. PALLONE, Mr. PAYNE, Ms. PELOSI, Mr. POMEROY, Ms. ROYBAL-ALLARD, Mr. RUSH, Ms. SÁNCHEZ, Mr. SANDERS, Mr. SAWYER, Mr. SCOTT, Mr. SHERMAN, Ms. SLAUGHTER, Mr. STARK, Mr. TORRES, Mr. UNDERWOOD, Mr. VENTO, Ms. WATERS, Mr. WAXMAN, Mr. WEXLER, and Ms. WOOLSEY):

H.R. 3514. A bill to prevent violence against women, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, Ways and Means, Commerce, Banking and Financial Services, National Security, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHRLICH:

H.R. 3515. A bill to amend title 38, United States Code, to exclude from income, for purposes of determining annual income for veterans' non-service-connected disability pension, amounts received by a veteran from any judgment or settlement of a claim for damages against the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. ENGLISH of Pennsylvania:

H.R. 3516. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for election for Federal office, and for other purposes; to the Committee on House Oversight, and in addition to the Committees on Ways and Means, Commerce, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOX of Pennsylvania:

H.R. 3517. A bill to allow postal patrons to contribute to funding for diabetes research through the voluntary purchase of certain specially issued United States postage stamps; to the Committee on Government Reform and Oversight.

By Mr. FRANKS of New Jersey (for himself, Mr. MEEHAN, and Mr. FOLEY):

H.R. 3518. A bill to provide for a transition to market-based rates for power sold by the Federal Power Marketing Administrations and the Tennessee Valley Authority, and for other purposes; to the Committee on Resources, and in addition to the Committees on Transportation and Infrastructure, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GRANGER (for herself and Mr. ROEMER):

H.R. 3519. A bill to require the Occupational Safety and Health Administration to recognize that electronic forms of providing MSDS's provide the same level of access to information as paper copies; to the Committee on Education and the Workforce.

By Mr. HASTINGS of Washington:

H.R. 3520. A bill to adjust the boundaries of the Lake Chelan National Recreation Area and the adjacent Wenatchee National Forest in the State of Washington; to the Committee on Resources.

By Mr. HOBSON:

H.R. 3521. A bill to provide for the conveyance of the Army Reserve Center in Jamestown, Ohio, to benefit the Greeneview Local School District of Jamestown, Ohio; to the Committee on National Security.

By Mr. KENNEDY of Rhode Island:

H.R. 3522. A bill to amend the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island" to reauthorize assistance for historic, recreational, and environmental education projects related to the Blackstone River Valley National Heritage Corridor; to the Committee on Resources.

By Mr. MCCOLLUM (for himself, Mr. DELAHUNT, Mr. ADERHOLT, Mr. ALLEN, Mr. BACHUS, Mr. BALDACCI, Mr. BARR of Georgia, Mr. BOEHNER, Mr. BOUCHER, Mr. BOYD, Mr. CHAMBLISS, Mr. COLLINS, Mr. COOKSEY, Mr. DIAZ-BALART, Mr. FOLEY, Mrs. FOWLER, Mr. GEKAS, Mr. GOSS, Mr. HASTINGS of Florida, Mr. HOBSON, Mr. INGLIS of South Carolina, Mr. KENNEDY of Massachusetts, Mr. LIVINGSTON, Mr. MCCRERY, Mr. MCGOVERN, Mrs. MEEK of Florida, Mr. MICA, Mr. MILLER of Florida, Mr. MOAKLEY, Mr. NETHERCUTT, Mr. NEAL of Massachusetts, Mr. NEY, Mr. NORWOOD, Mr. OLVER, Mr. PAUL, Mr. PORTER, Mr. REGULA, Mr. ROTHMAN, Mr. SCARBOROUGH, Mr. SHAW, Mr. SPENCE, Mr. STEARNS, Mr. STENHOLM, Mr. TALENT, Mr. THORNBERRY, Mrs. THURMAN, Mr. WELDON of Florida, and Mr. WEXLER):

H.R. 3523. A bill to amend the false claims provisions of title 31, United States Code; to the Committee on the Judiciary.

By Mr. MCDERMOTT (for himself, Mr. KLECZKA, Mr. JEFFERSON, Mr. MATSUI, Mr. NEAL of Massachusetts, and Mrs. KENNELLY of Connecticut):

H.R. 3524. A bill to amend the Internal Revenue Code of 1986 to increase the standard

deduction for joint filers; to the Committee on Ways and Means.

By Mr. MORAN of Virginia:

H.R. 3525. A bill to amend the National Highway System Designation Act of 1995 to specify the number and use of vehicle lanes on any replacement of the Woodrow Wilson Memorial Bridge, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SHAYS (for himself, Mr. MEEHAN, Mrs. ROUKEMA, Mrs. CAPPS, Mr. LEACH, Mr. MORAN of Virginia, Mrs. MORELLA, Mr. LUTHER, Mr. BILBRAY, Mrs. MALONEY of New York, Mr. BLUMENAUER, Mr. MINGE, Mr. WEXLER, Mr. BARRETT of Wisconsin, and Mr. ALLEN):

H.R. 3526. A bill to reform the financing of Federal elections; to the Committee on House Oversight, and in addition to the Committees on Education and the Workforce, Government Reform and Oversight, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SISISKY:

H.R. 3527. A bill to amend the Act entitled "An Act to establish a national military park at the battle fields of the siege of Petersburg, Virginia", approved July 3, 1926, to limit the authority of the Department of the Interior to impose fees for entrance to the City Point Unit of Petersburg National Battlefield; to the Committee on Resources.

By Mr. WATTS of Oklahoma (for himself, Mr. DIAZ-BALART, and Mr. LEWIS of Georgia):

H. Con. Res. 247. Concurrent resolution recognizing the contributions of the Reverend Dr. Martin Luther King, Jr. to the civil society of the United States and the world and to the cause of nonviolent social and political change to advance social justice and equality for all races and calling on the people of the United States to study, reflect on, and celebrate the life of Dr. Martin Luther King, Jr., on the thirtieth anniversary of his death; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 127: Mr. HUTCHINSON and Mr. THUNE.
H.R. 218: Mr. CLEMENT.
H.R. 371: Mr. BLAGOJEVICH.
H.R. 442: Mr. PAUL.
H.R. 453: Mr. RANGEL and Mrs. KELLY.
H.R. 493: Mrs. CAPPS.
H.R. 620: Mr. ENGLISH of Pennsylvania.
H.R. 758: Mr. OXLEY.
H.R. 789: Mr. HASTINGS of Washington.
H.R. 863: Mr. TIERNEY.
H.R. 934: Ms. DANNER.
H.R. 981: Mr. PAYNE, Mr. TORRES, Ms. SÁNCHEZ, Mr. DEUTSCH, Mr. WELDON of Florida, Ms. KAPTUR, Mr. CASTLE, Mr. FAWELL, Mr. HORN, and Mr. RUSH.
H.R. 991: Mr. LEVIN.
H.R. 1054: Mr. HALL of Texas, Mr. WELLER, and Mr. DAVIS of Virginia.
H.R. 1134: Mr. MOAKLEY.
H.R. 1151: Mr. ROGAN and Mr. ENGEL.
H.R. 1241: Ms. HOOLEY of Oregon.
H.R. 1356: Mr. MCGOVERN, Mr. GREEN, Mr. LANTOS, Mr. REDMOND, Mr. GRAHAM, Mr. NADLER, and Mr. BEREUTER.
H.R. 1415: Mr. DIXON and Mr. BASS.
H.R. 1823: Mr. GUTIERREZ.
H.R. 1891: Mr. LEVIN, Mr. KLUG, Ms. DUNN of Washington, Mr. BURTON of Indiana, Mr. BASS, Mr. KNOLLENBERG, and Mr. BLUMENAUER.
H.R. 2124: Mrs. CUBIN and Mr. HILL.
H.R. 2130: Mr. LANTOS, Mr. KENNEDY of Rhode Island, Mr. BROWN of California, Mr. BALDACCI, Mr. WEXLER, and Mr. GEJDENSON.
H.R. 2409: Ms. DELAURO, Mr. HALL of Ohio, and Mr. FOX of Pennsylvania.
H.R. 2499: Mr. WATKINS, Mr. MALONEY of Connecticut, Mr. BECERRA, and Mr. BARCIA of Michigan.
H.R. 2541: Mr. WELDON of Florida.
H.R. 2568: Mr. CLYBURN.
H.R. 2609: Mr. HOEKSTRA and Mr. BLUNT.
H.R. 2708: Mr. DREIER, Mrs. TAUSCHER, Mrs. NORTHUP, and Mr. BRADY.
H.R. 2734: Mr. NETHERCUTT.
H.R. 2758: Mr. ROYCE, Mr. RAHALL, Mr. WELDON of Pennsylvania, Mr. FROST, Ms. WOOLSEY, Mr. SANDLIN, Mr. JOHN. Mr. COBURN, Mr. TIAHRT, Mr. CUNNINGHAM, Mr. FILNER, Mr. LUCAS of Oklahoma, Mr. NEY, Mr. KLUG, Mr. GUTKNECHT, and Mr. CAMP.
H.R. 2774: Mr. SHERMAN.
H.R. 2786: Mr. MALONEY of Connecticut.
H.R. 2798: Mr. RUSH, Mr. JACKSON, Mr. LIPINSKI, Mr. GUTIERREZ, Mr. BLAGOJEVICH, Mr. HYDE, Mr. CRANE, Mr. YATES, Mr. PORTER, Mr. WELLER, Mr. COSTELLO, Mr. FAWELL, Mr. HASTERT, Mr. EWING, Mr. MANZULLO, Mr. EVANS, Mr. LAHOOD, Mr. POSHARD, and Mr. SHIMKUS.
H.R. 2799: Mr. RUSH, Mr. JACKSON, Mr. LIPINSKI, Mr. GUTIERREZ, Mr. BLAGOJEVICH, Mr. HYDE, Mr. CRANE, Mr. YATES, Mr. PORTER, Mr. WELLER, Mr. COSTELLO, Mr. FAWELL, Mr. HASTERT, Mr. EWING, Mr. MANZULLO, Mr. EVANS, Mr. LAHOOD, Mr. POSHARD, and Mr. SHIMKUS.
H.R. 2817: Ms. LOFGREN, Ms. FURSE, and Mrs. KENNELLY of Connecticut.
H.R. 2819: Mr. LEVIN and Mr. BROWN of California.
H.R. 2829: Mr. CLEMENT, Mrs. JOHNSON of Connecticut, Mr. KOLBE, Mr. SHAW, and Mr. SOUDER.
H.R. 2850: Mr. WAXMAN.
H.R. 2884: Mr. RAMSTAD and Mr. KING of New York.
H.R. 2914: Mr. BERRY.
H.R. 2931: Mr. LAMPSON and Mr. GOODLING.
H.R. 2960: Mr. BARCIA of Michigan.
H.R. 3027: Ms. LOFGREN.
H.R. 3028: Ms. LOFGREN.
H.R. 3050: Mr. BARRETT of Wisconsin.
H.R. 3055: Mr. DIAZ-BALART and Mrs. MEEK of Florida.
H.R. 3081: Mr. CLYBURN, Mr. HORN, Mr. LEACH, Mr. FOLEY, and Mr. KLECZKA.
H.R. 3093: Mr. HUTCHINSON.
H.R. 3134: Mr. BORSKI and Mr. VENTO.
H.R. 3149: Mr. KOLBE.
H.R. 3151: Mr. KOLBE.
H.R. 3156: Mr. HOBSON, Ms. MILLENDER-MCDONALD, Mr. FILNER, Mr. HILLIARD, Mr. KILDEE, Mr. HINCHEY, Mr. BONIOR, Mr. HORN, Mr. BLUMENAUER, Mr. FRANK of Massachusetts, Mr. DAVIS of Florida, Mr. KENNEDY of Massachusetts, Mr. COYNE, Mr. KLECZKA, Mr. LANTOS, Mr. BROWN of California, and Mr. LUTHER.
H.R. 3159: Mr. SMITH of New Jersey, Mr. TRAFICANT, Mr. WATTS of Oklahoma, Mr. MILLER of Florida, Ms. LOFGREN, and Mr. SOLOMON.
H.R. 3168: Mrs. CHENOWETH.
H.R. 3206: Mr. WELLER and Mr. CAMPBELL.
H.R. 3217: Mr. KLECZKA and Mr. KLINK.
H.R. 3243: Mr. BILIRAKIS.
H.R. 3248: Mr. BURTON of Indiana, Mr. BALLENGER, Mr. CRAPO, and Mr. SOUDER.
H.R. 3259: Mr. LEWIS of Georgia.
H.R. 3265: Mrs. MORELLA, Mr. BATEMAN, Mr. HASTINGS of Washington, Mr. HINCHEY, Mr. DIAZ-BALART, and Mr. WATKINS.
H.R. 3269: Mr. KENNEDY of Rhode Island.
H.R. 3276: Mr. NETHERCUTT.
H.R. 3290: Mr. NEY, Mr. FRANKS of New Jersey, Mr. EHRLICH, Mr. CAMPBELL, MR. RAMSTAD, and Mrs. MORELLA.
H.R. 3300: Mr. MATSUI and Mr. MANTON.
H.R. 3331: Mr. SANFORD.
H.R. 3335: Mr. CANADY of Florida.
H.R. 3464: Mr. HASTINGS of Florida and Mrs. MALONEY of New York.
H.J. Res. 114: Mr. GANSKE, Mrs. MYRICK, Mr. GOODLATTE, Mr. BARR of Georgia, Mr. TRAFICANT, and Mr. HUNTER.
H. Con. Res. 47: Mr. TIERNEY.
H. Con. Res. 186: Mr. CALVERT.
H. Con. Res. 211: Mrs. MYRICK and Mr. NEY.
H. Con. Res. 219: Mr. KENNEDY of Rhode Island, Mr. COOKSEY, Mr. LEWIS of Georgia, Mr. WAXMAN, Mr. FOLEY, Mr. WATTS of Oklahoma, and Mr. HASTINGS of Florida.
H. Con. Res. 246: Mr. SUNUNU, Ms. JACKSON-LEE, Mr. BONIOR, and Mr. MORAN of Virginia.
H. Res. 37: Mr. HASTINGS of Florida, Ms. RIVERS, and Mr. DAVIS of Florida.
H. Res. 380: Mr. RIGGS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 94: Mr. DELAHUNT.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10

OFFERED BY: MR. LEACH

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 1.

SECTION 1. SHORT TITLE; PURPOSES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Services Act of 1998".

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To enhance competition in the financial services industry, in order to foster innovation and efficiency.

(2) To ensure the continued safety and soundness of depository institutions.

(3) To provide necessary and appropriate protections for investors and ensure fair and honest markets in the delivery of financial services.

(4) To provide for appropriate functional regulation of insurance activities.

(5) To reduce and, to the maximum extent practicable, to eliminate the legal barriers preventing affiliation among depository institutions, securities firms, insurance companies, and other financial service providers and to provide a prudential framework for achieving that result.

(6) To enhance the availability of financial services to citizens of all economic circumstances and in all geographic areas.

(7) To enhance the competitiveness of United States financial service providers internationally.

(8) To ensure compliance by depository institutions with the provisions of the Community Reinvestment Act of 1977 and enhance the ability of depository institutions to meet the capital and credit needs of all citizens

and communities, including underserved communities and populations.

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

Sec. 1. Short title; purposes; table of contents.

TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

Subtitle A—Affiliations

Sec. 101. Glass-Steagall Act reformed.
Sec. 102. Activity restrictions applicable to bank holding companies which are not financial holding companies.
Sec. 103. Financial holding companies.
Sec. 104. Certain State laws preempted.
Sec. 105. Mutual bank holding companies authorized.
Sec. 106. Prohibition on deposit production offices.
Sec. 107. Clarification of branch closure requirements.
Sec. 108. Amendments relating to limited purpose banks.

Subtitle B—Streamlining Supervision of Financial Holding Companies

Sec. 111. Streamlining financial holding company supervision.
Sec. 112. Elimination of application requirement for financial holding companies.
Sec. 113. Authority of State insurance regulator and Securities and Exchange Commission.
Sec. 114. Prudential safeguards.
Sec. 115. Examination of investment companies.
Sec. 116. Limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board.

Subtitle C—Subsidiaries of National Banks

Sec. 121. Permissible activities for subsidiaries of national banks.
Sec. 122. Misrepresentations regarding depository institution liability for obligations of affiliates.
Sec. 123. Repeal of stock loan limit in Federal reserve act.

Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions

CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES

Sec. 131. Wholesale financial holding companies established.
Sec. 132. Authorization to release reports.
Sec. 133. Conforming amendments.

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

Sec. 136. Wholesale financial institutions.

Subtitle E—Streamlining Antitrust Review of Bank Acquisitions and Mergers

Sec. 141. Amendments to the Bank Holding Company Act of 1956.
Sec. 142. Amendments to the Federal Deposit Insurance Act to vest in the Attorney General sole responsibility for antitrust review of depository institution mergers.
Sec. 143. Information filed by depository institutions; interagency data sharing.
Sec. 144. Applicability of antitrust laws.
Sec. 145. Clarification of status of subsidiaries and affiliates.
Sec. 146. Effective date.

Subtitle F—Applying the Principles of National Treatment and Equality of Competitive Opportunity to Foreign Banks and Foreign Financial Institutions

Sec. 151. Applying the principles of national treatment and equality of competitive opportunity to foreign banks that are financial holding companies.
Sec. 152. Applying the principles of national treatment and equality of competitive opportunity to foreign banks and foreign financial institutions that are wholesale financial institutions.

Subtitle G—Federal Home Loan Bank System

Sec. 161. Federal home loan banks–
Sec. 162. Membership and collateral.
Sec. 163. The Office of Finance.
Sec. 164. Management of banks.
Sec. 165. Advances to nonmember borrowers.
Sec. 166. Powers and duties of banks.
Sec. 167. Mergers and consolidations of Federal home loan banks.
Sec. 168. Technical amendments.
Sec. 169. Definitions.
Sec. 170. Resolution funding corporation
Sec. 171. Capital structure of the Federal home loan banks.
Sec. 172. Investments.
Sec. 173. Federal Housing Finance Board.

Subtitle H—Direct Activities of Banks

Sec. 181. Authority of national banks to underwrite certain municipal bonds

Subtitle I—Effective Date of Title

Sec. 191. Effective date.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

Sec. 201. Definition of broker.
Sec. 202. Definition of dealer.
Sec. 203. Registration for sales of private securities offerings.
Sec. 204. Sales practices and complaint procedures.
Sec. 205. Information sharing.
Sec. 206. Definition and treatment of banking products.
Sec. 207. Derivative instrument and qualified investor defined.
Sec. 208. Government securities defined.
Sec. 209. Effective date.

Subtitle B—Bank Investment Company Activities

Sec. 211. Custody of investment company assets by affiliated bank.
Sec. 212. Lending to an affiliated investment company.
Sec. 213. Independent directors.
Sec. 214. Additional SEC disclosure authority.
Sec. 215. Definition of broker under the Investment Company Act of 1940.
Sec. 216. Definition of dealer under the Investment Company Act of 1940.
Sec. 217. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.
Sec. 218. Definition of broker under the Investment Advisers Act of 1940.
Sec. 219. Definition of dealer under the Investment Advisers Act of 1940.
Sec. 220. Interagency consultation.
Sec. 221. Treatment of bank common trust funds.
Sec. 222. Investment advisers prohibited from having controlling interest in registered investment company.
Sec. 223. Conforming change in definition.
Sec. 224. Conforming amendment.
Sec. 225. Effective date.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

Sec. 231. Supervision of investment bank holding companies by the Securities and Exchange Commission.

Subtitle D—Study

Sec. 241. Study of methods to inform investors and consumers of uninsured products.

TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

Sec. 301. State regulation of the business of insurance.
Sec. 302. Mandatory insurance licensing requirements.
Sec. 303. Functional regulation of insurance.
Sec. 304. Insurance underwriting in national banks.
Sec. 305. New bank agency activities only through acquisition of existing licensed agents.
Sec. 306. Title insurance activities of national banks and their affiliates.
Sec. 307. Expedited and equalized dispute resolution for financial regulators.
Sec. 308. Consumer protection regulations.
Sec. 45. Consumer protection regulations.
Sec. 309. Certain State affiliation laws preempted for insurance companies and affiliates.

Subtitle B—Redomestication of Mutual Insurers

Sec. 311. General application.
Sec. 312. Redomestication of mutual insurers.
Sec. 313. Effect on State laws restricting redomestication.
Sec. 314. Other provisions.
Sec. 315. Definitions.
Sec. 316. Effective date.

Subtitle C—National Association of Registered Agents and Brokers

Sec. 321. State flexibility in multistate licensing reforms.
Sec. 322. National Association of Registered Agents and Brokers.
Sec. 323. Purpose.
Sec. 324. Relationship to the Federal Government.
Sec. 325. Membership.
Sec. 326. Board of directors.
Sec. 327. Officers.
Sec. 328. Bylaws, rules, and disciplinary action.
Sec. 329. Assessments.
Sec. 330. Functions of the NAIC.
Sec. 331. Liability of the Association and the directors, officers, and employees of the Association.
Sec. 332. Elimination of NAIC oversight.
Sec. 333. Relationship to State law.
Sec. 334. Coordination with other regulators.
Sec. 335. Judicial review.
Sec. 336. Definitions.

TITLE IV—MERGER OF BANK AND THRIFT HOLDING COMPANIES REGULATORS, AND BANK AND THRIFT INSURANCE FUNDS

Sec. 401. Short title; definitions.

Subtitle A—Facilitating Conversion of Savings Associations to Banks

Sec. 411. Branches of former savings associations.
Sec. 412. Savings and loan holding companies.

Sec. 413. Treatment of references in adjustable rate mortgages.
Sec. 414. Cost of funds indexes.
Subtitle B—Ending Separate Federal Regulation of Savings Associations Branching Rights and Savings and Loan Holding Companies
Sec. 421. State savings associations treated as State banks under Federal banking law.
Sec. 422. Amendments to the Home Owners' Loan Act.
Sec. 423. Conforming amendment relating to merger of deposit insurance funds.
Sec. 424. Conforming amendments to the Federal Home Loan Bank Act.
Subtitle C—Combining OTS and OCC
Sec. 431. Prohibition of merger or consolidation repealed.
Sec. 432. Secretary of the Treasury required to formulate plans for combining Office of Thrift Supervision with Office of the Comptroller of the Currency.
Sec. 433. Office of Thrift Supervision and position of Director of the Office of Thrift Supervision abolished.
Sec. 434. Reconfiguration of board of directors of FDIC as a result of removal of Director of the Office of Thrift Supervision.
Sec. 435. Continuation provisions.
TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS
Subtitle A—Affiliations

SEC. 101. GLASS-STEAGALL ACT REFORMED.

(a) SECTION 20 REPEALED.—Section 20 (12 U.S.C. 377) of the Banking Act of 1933 (commonly referred to as the "Glass-Steagall Act") is repealed.

(b) SECTION 32 REPEALED.—Section 32 (12 U.S.C. 78) of the Banking Act of 1933 is repealed.

SEC. 102. ACTIVITY RESTRICTIONS APPLICABLE TO BANK HOLDING COMPANIES WHICH ARE NOT FINANCIAL HOLDING COMPANIES.

(a) IN GENERAL.—Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended to read as follows:

"(8) shares of any company the activities of which had been determined by the Board by regulation under this paragraph as of the day before the date of the enactment of the Financial Services Act of 1998, to be so closely related to banking as to be a proper incident thereto (subject to such terms and conditions contained in such regulation, unless modified by the Board);".

(b) CONFORMING CHANGES TO OTHER STATUTES.—

(1) AMENDMENT TO THE BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—Section 105 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1850) is amended by striking ", to engage directly or indirectly in a nonbanking activity pursuant to section 4 of such Act,".

(2) AMENDMENT TO THE BANK SERVICE COMPANY ACT.—Section 4(f) of the Bank Service Company Act (12 U.S.C. 1864(f)) is amended by striking the period and adding at the end the following: "as of the day before the date of enactment of the Financial Services Act of 1998.".

SEC. 103. FINANCIAL HOLDING COMPANIES.

(a) IN GENERAL.—The Bank Holding Company Act of 1956 is amended by inserting after section 5 (12 U.S.C. 1844) the following new section:

"SEC. 6. FINANCIAL HOLDING COMPANIES.

"(a) FINANCIAL HOLDING COMPANY DEFINED.—For purposes of this section, the term 'financial holding company' means a bank holding company which meets the requirements of subsection (b).

"(b) ELIGIBILITY REQUIREMENTS FOR FINANCIAL HOLDING COMPANIES.—

"(1) IN GENERAL.—No bank holding company may engage in any activity or directly or indirectly acquire or retain shares of any company under this section unless the bank holding company meets the following requirements:

"(A) All of the subsidiary depository institutions of the bank holding company are well capitalized.

"(B) All of the subsidiary depository institutions of the bank holding company are well managed.

"(C) All of the subsidiary depository institutions of the bank holding company have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution under the Community Reinvestment Act of 1977.

"(D) All of the subsidiary insured depository institutions of the bank holding company (other than any such depository institution which does not, in the ordinary course of the business of the depository institution, offer consumer transaction accounts to the general public) offer and maintain low-cost basic banking accounts.

"(E) The company has filed with the Board a declaration that the company elects to be a financial holding company and certifying that the company meets the requirements of subparagraphs (A) through (D).

"(2) FOREIGN BANKS AND COMPANIES.—For purposes of paragraph (1), the Board shall establish and apply comparable capital standards to a foreign bank that operates a branch or agency or owns or controls a bank or commercial lending company in the United States, and any company that owns or controls such foreign bank, giving due regard to the principle of national treatment and equality of competitive opportunity.

"(3) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—If the requirements of subparagraph (B) are met, any depository institution acquired by a bank holding company during the 24-month period preceding the submission of a declaration under paragraph (1)(E) and any depository institution acquired after the submission of such declaration may be excluded for purposes of paragraph (1)(C) until the later of—

"(i) the end of the 24-month period beginning on the date the acquisition of the depository institution by such company is consummated; or

"(ii) the date of completion of the 1st examination of such depository institution under the Community Reinvestment Act of 1977 which is conducted after the date of the acquisition of the depository institution.

"(B) REQUIREMENTS.—The requirements of this subparagraph are met with respect to any bank holding company referred to in subparagraph (A) if—

"(i) the bank holding company has submitted an affirmative plan to the appropriate Federal banking agency to take such action as may be necessary in order for such institution to achieve a rating of 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution under the Community Reinvestment Act of 1977; and

"(ii) the plan has been approved by such agency.

"(c) ENGAGING IN ACTIVITIES FINANCIAL IN NATURE.—

"(1) IN GENERAL.—Notwithstanding section 4(a), a financial holding company and a wholesale financial holding company may engage in any activity, and acquire and retain the shares of any company engaged in any activity, which the Board has determined (by regulation or order) to be financial in nature or incidental to such financial activities.

"(2) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to financial activities, the Board shall take into account—

"(A) the purposes of this Act and the Financial Services Act of 1998;

"(B) changes or reasonably expected changes in the marketplace in which bank holding companies compete;

"(C) changes or reasonably expected changes in the technology for delivering financial services; and

"(D) whether such activity is necessary or appropriate to allow a bank holding company and the affiliates of a bank holding company to—

"(i) compete effectively with any company seeking to provide financial services in the United States;

"(ii) use any available or emerging technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions, in providing financial services; and

"(iii) offer customers any available or emerging technological means for using financial services.

"(3) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—The following activities shall be considered to be financial in nature:

"(A) Lending, exchanging, transferring, investing for others, or safeguarding money or securities.

"(B) Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing.

"(C) Providing financial, investment, or economic advisory services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).

"(D) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly.

"(E) Underwriting, dealing in, or making a market in securities.

"(F) Engaging in any activity that the Board has determined, by order or regulation that is in effect on the date of enactment of the Financial Services Act of 1998, to be so closely related to banking or managing or controlling banks as to be a proper incident thereto (subject to the same terms and conditions contained in such order or regulation, unless modified by the Board).

"(G) Engaging, in the United States, in any activity that—

"(i) a bank holding company may engage in outside the United States; and

"(ii) the Board has determined, under regulations issued pursuant to section 4(c)(13) of this Act (as in effect on the day before the date of enactment of the Financial Services Act of 1998) to be usual in connection with the transaction of banking or other financial operations abroad.

"(H) Directly or indirectly acquiring or controlling, whether as principal, on behalf

of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

"(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or subsidiary of a depository institution;

"(ii) such shares, assets, or ownership interests are acquired and held by a securities affiliate or an affiliate thereof as part of a bona fide underwriting or merchant banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;

"(iii) such shares, assets, or ownership interests, are held only for such a period of time as will permit the sale or disposition thereof on a reasonable basis consistent with the nature of the activities described in clause (ii); and

"(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not actively participate in the day to day management or operation of such company or entity, except insofar as necessary to achieve the objectives of clause (ii).

"(I) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

"(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or a subsidiary of a depository institution;

"(ii) such shares, assets, or ownership interests are acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property and casualty insurance (other than credit-related insurance);

"(iii) such shares, assets, or ownership interests represent an investment made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments; and

"(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not directly or indirectly participate in the day-to-day management or operation of the company or entity except insofar as necessary to achieve the objectives of clauses (ii) and (iii).

"(4) ACTIONS REQUIRED.—The Board shall, by regulation or order, define, consistent with the purposes of this Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to activities which are financial in nature:

"(A) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

"(B) Providing any device or other instrumentality for transferring money or other financial assets;

"(C) Arranging, effecting, or facilitating financial transactions for the account of third parties.

"(5) POST CONSUMMATION NOTIFICATION.—

"(A) IN GENERAL.—A financial holding company and a wholesale financial holding company that acquires any company, or commences any activity, pursuant to this subsection shall provide written notice to the Board describing the activity commenced or conducted by the company acquired no later than 30 calendar days after commencing the activity or consummating the acquisition.

"(B) APPROVAL NOT REQUIRED FOR CERTAIN FINANCIAL ACTIVITIES.—Except as provided in section 4(j) with regard to the acquisition of a savings association, a financial holding company and a wholesale financial holding company may commence any activity, or acquire any company, pursuant to paragraph (3) or any regulation prescribed or order issued under paragraph (4), without prior approval of the Board.

"(d) PROVISIONS APPLICABLE TO FINANCIAL HOLDING COMPANIES THAT FAIL TO MEET REQUIREMENTS.—

"(1) IN GENERAL.—If the Board finds that a financial holding company is not in compliance with the requirements of subparagraph (A), (B), or (C) of subsection (b)(1), the Board shall give notice of such finding to the company.

"(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—Within 45 days of receipt by a financial holding company of a notice given under paragraph (1) (or such additional period as the Board may permit), the company shall execute an agreement acceptable to the Board to comply with the requirements applicable to a financial holding company.

"(3) BOARD MAY IMPOSE LIMITATIONS.—Until the conditions described in a notice to a financial holding company under paragraph (1) are corrected, the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances.

"(4) FAILURE TO CORRECT.—If, after receiving a notice under paragraph (1), a financial holding company does not—

"(A) execute and implement an agreement in accordance with paragraph (2);

"(B) comply with any limitations imposed under paragraph (3);

"(C) in the case of a notice of failure to comply with subsection (b)(1)(A), restore each depository institution subsidiary to well capitalized status before the end of the 180-day period beginning on the date such notice is received by the company (or such other period permitted by the Board); or

"(D) in the case of a notice of failure to comply with subparagraph (B) or (C) of subsection (b)(1), restore compliance with any such subparagraph by the date the next examination of the depository institution subsidiary is completed or by the end of such other period as the Board determines to be appropriate,

the Board may require such company, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the Board's discretion, to divest control of any depository institution subsidiary or, at the election of the financial holding company, instead to cease to engage in any activity conducted by such company or its subsidiaries pursuant to this section.

"(5) CONSULTATION.—In taking any action under this subsection, the Board shall consult with all relevant Federal and State regulatory agencies.

"(e) SAFEGUARDS FOR BANK SUBSIDIARIES.—A financial holding company shall assure that—

"(1) the procedures of the holding company for identifying and managing financial and operational risks within the company, and the subsidiaries of such company, adequately protect the subsidiaries of such company which are insured depository institutions from such risks;

"(2) the holding company has reasonable policies and procedures to preserve the separate corporate identity and limited liability of such company and the subsidiaries of such company, for the protection of the company's subsidiary insured depository institutions; and

"(3) the holding company complies with this section.

"(f) NONFINANCIAL ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding section 4(a), a financial holding company may engage in activities which are not (or have not been determined to be) financial in nature or incidental to activities which are financial in nature, or acquire and retain ownership and control of the shares of a company engaged in such activities, if—

"(A) the aggregate annual gross revenues derived from all such activities and all such companies does not exceed the lesser of—

"(i) 5 percent of the consolidated annual gross revenues of the financial holding company; or

"(ii) $500,000,000;

"(B) the consolidated total assets of any company the shares of which are acquired by the financial holding company pursuant to this paragraph are less than $750,000,000 at the time the shares are acquired by the holding company; and

"(C) the holding company provides notice to the Board within 30 days of commencing the activity or acquiring the ownership or control.

"(2) INCLUSION OF GRANDFATHERED ACTIVITIES.—For purposes of determining the limits contained in paragraph (1)(A), the gross revenues derived from all activities conducted, and companies the shares of which are held, under subsection (g) shall be considered to be derived or held under this subsection.

"(3) FOREIGN BANKS.—In lieu of the limitation contained in paragraph (1)(A) in the case of a foreign bank or a company that owns or controls a foreign bank which engages in any activity or acquires or retains ownership or control of shares of any company pursuant to paragraph (1), the aggregate annual gross revenues derived from all such activities and all such companies in the United States shall not exceed the lesser of—

"(A) 5 percent of the consolidated annual gross revenues of the foreign bank or company in the United States derived from any branch, agency, commercial lending company, or depository institution controlled by the foreign bank or company and any subsidiary engaged in the United States in activities permissible under section 4 or 6; or

"(B) $500,000,000.

"(4) INDEXING REVENUE TEST.—After December 31, 1998, the Board shall annually adjust the dollar amount contained in paragraphs (1)(A) and (3) by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

"(5) NONAPPLICABILITY OF OTHER EXEMPTION.—Any foreign bank or company that

owns or controls a foreign bank which engages in any activity or acquires or retains ownership or control of shares of any company pursuant to this subsection shall not be eligible for any exception described in section 2(h).

"(g) AUTHORITY TO RETAIN LIMITED NONFINANCIAL ACTIVITIES AND AFFILIATIONS.—

"(1) IN GENERAL.—Notwithstanding subsection (f)(1) and section 4(a), a company that is not a bank holding company or a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) and becomes a financial holding company after the date of the enactment of the Financial Services Act of 1998 may continue to engage in any activity and retain direct or indirect ownership or control of shares of a company engaged in any activity if—

"(A) the holding company lawfully was engaged in the activity or held the shares of such company on September 30, 1997;

"(B) the holding company is predominantly engaged in financial activities as defined in paragraph (2); and

"(C) the company engaged in such activity continues to engage only in the same activities that such company conducted on September 30, 1997, and other activities permissible under this Act.

"(2) PREDOMINANTLY FINANCIAL.—For purposes of this subsection, a company is predominantly engaged in financial activities if, as of the day before the company becomes a financial holding company, the annual gross revenues derived by the holding company and all subsidiaries of the holding company, on a consolidated basis, from engaging in activities that are financial in nature or are incidental to activities that are financial in nature under subsection (c) represent at least 85 percent of the consolidated annual gross revenues of the company.

"(3) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A financial holding company that engages in activities or holds shares pursuant to this subsection, or a subsidiary of such financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the Board has not determined to be financial in nature or incidental to activities that are financial in nature under subsection (c).

"(4) CONTINUING REVENUE LIMITATION ON GRANDFATHERED COMMERCIAL ACTIVITIES.—Notwithstanding any other provision of this subsection, a financial holding company may continue to engage in activities or hold shares in companies pursuant to this subsection only to the extent that the aggregate annual gross revenues derived from all such activities and all such companies does not exceed 15 percent of the consolidated annual gross revenues of the financial holding company.

"(5) CROSS MARKETING RESTRICTIONS APPLICABLE TO COMMERCIAL ACTIVITIES.—A depository institution controlled by a financial holding company shall not—

"(A) offer or market, directly or through any arrangement, any product or service of a company whose activities are conducted or whose shares are owned or controlled by the financial holding company pursuant to this subsection, subsection (f), or subparagraph (H) or (I) of subsection (c)(3); or

"(B) permit any of its products or services to be offered or marketed, directly or through any arrangement, by or through any company described in subparagraph (A).

"(6) TRANSACTIONS WITH NONFINANCIAL AFFILIATES.—An insured depository institution controlled by a financial holding company may not engage in a covered transaction (as defined by section 23A(b)(7) of the Federal Reserve Act) with any affiliate controlled by the company pursuant to this subsection, subsection (f), or subparagraph (H) or (I) of subsection (c)(3).

"(h) DEVELOPING ACTIVITIES.—A financial holding company and a wholesale financial holding company may engage directly or indirectly, or acquire shares of any company engaged, in any activity that the Board has not determined to be financial in nature or incidental to financial activities under subsection (c) if—

"(1) the holding company reasonably concludes that the activity is financial in nature or incidental to financial activities;

"(2) the gross revenues from all activities conducted under this subsection represent less than 5 percent of the consolidated gross revenues of the holding company;

"(3) the aggregate total assets of all companies the shares of which are held under this subsection do not exceed 5 percent of the holding company's consolidated total assets;

"(4) the total capital invested in activities conducted under this subsection represents less than 5 percent of the consolidated total capital of the holding company;

"(5) the Board has not determined that the activity is not financial in nature or incidental to financial activities under subsection (c); and

"(6) the holding company provides written notification to the Board describing the activity commenced or conducted by the company acquired no later than 10 business days after commencing the activity or consummating the acquisition.".

SEC. 104. CERTAIN STATE LAWS PREEMPTED.

(a) AFFILIATIONS.—No State may by statute, regulation, order, interpretation, or otherwise, prevent or restrict an insured depository institution or a wholesale financial institution from being affiliated with an entity (including an entity engaged in insurance activities) as authorized by this Act or any other provision of Federal law.

(b) ACTIVITIES.

(1) Except as provided in paragraphs (2) and (3) and subject to section 18(c) of the Securities Act of 1933, no State may by statute, regulation, order, interpretation, or otherwise, prevent or restrict an insured depository institution or a wholesale financial institution from engaging, directly or indirectly or in conjunction with an affiliate, in any activity authorized under this Act or any other provision of Federal law.

(2) As stated by the United States Supreme Court in *Barnett Bank of Marion County, N.A.* v. *Nelson*, 116 S.Ct. 1103 (1996), no State may, by statute, regulation, order, interpretation, or otherwise, prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution to engage, directly or indirectly, or in conjunction with an affiliate, in any insurance sales or solicitation activity, except that—

(A) State statutes and regulations governing insurance sales and solicitations which are no more restrictive than provisions in the Illinois "Act Authorizing and Regulating the Sale of Insurance by Financial Institutions, Public Act 90–41" (215 ILCS 5/1400–1416), as in effect on October 1, 1997, shall not be deemed to prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution to engage, directly or indirectly, or in conjunction with an affiliate, in any insurance sales or solicitation activity; and

(B) subparagraph (A) shall not create any inference regarding State statutes, and regulations governing insurance sales and solicitations which are more restrictive than any provision in the Illinois "Act Authorizing and Regulating the Sale of Insurance by Financial Institutions", (Public Act 90–41; 215 ILCS 5/1400–1416), as in effect on October 1, 1997.

(3) State statutes, regulations, orders, and interpretations which are applicable to and are applied in the same manner with respect to insurance underwriting activities of an affiliate of an insured depository institution or a wholesale financial institution as they are applicable to and are applied to an insurance underwriter which is not affiliated with an insured depository institution or a wholesale financial institution shall not be preempted under paragraph (1).

SEC. 105. MUTUAL BANK HOLDING COMPANIES AUTHORIZED.

(a) IN GENERAL.—Section 3(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(g)(2)) is amended to read as follows:

"(2) REGULATIONS.—A bank holding company organized as a mutual holding company shall be regulated on terms, and shall be subject to limitations, comparable to those applicable to any other bank holding company.".

SEC. 106. PROHIBITION ON DEPOSIT PRODUCTION OFFICES.

(a) IN GENERAL.—Section 109(d) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(d)) is amended—

(1) by inserting ", the Financial Services Act of 1998," after "pursuant to this title"; and

(2) by inserting "or such Act" after "made by this title".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 109(e)(4) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(e)(4)) is amended by inserting "and any branch of a bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)" before the period.

SEC. 107. CLARIFICATION OF BRANCH CLOSURE REQUIREMENTS.

Section 42(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1831r–1(d)(4)(A)) is amended by inserting "and any bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)" before the period.

SEC. 108. AMENDMENTS RELATING TO LIMITED PURPOSE BANKS.

Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking "and" at the end of subclause (IX);

(B) by inserting "and" after the semicolon at the end of subclause (X); and

(C) by inserting after subclause (X) the following new subclause:

"(XI) assets that are derived from, or are incidental to, activities in which institutions described in section 2(c)(2)(F) are permitted to engage,";

(2) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) any bank subsidiary of such company engages in any activity in which the bank was not lawfully engaged as of March 5, 1987, unless the bank is well managed and well capitalized;

"(C) any bank subsidiary of such company both—

"(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties; and

"(ii) engages in the business of making commercial loans (and, for purposes of this clause, loans made in the ordinary course of a credit card operation shall not be treated as commercial loans); or

"(D) after the date of the enactment of the Competitive Equality Amendments of 1987, any bank subsidiary of such company permits any overdraft (including any intraday overdraft), or incurs any such overdraft in such bank's account at a Federal reserve bank, on behalf of an affiliate, other than an overdraft described in paragraph (3).''; and

(3) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

"(3) PERMISSIBLE OVERDRAFTS DESCRIBED.—For purposes of paragraph (2)(D), an overdraft is described in this paragraph if—

"(A) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate; or

"(B) such overdraft—

"(i) is permitted or incurred on behalf of an affiliate which is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

"(ii) is fully secured, as required by the Board, by bonds, notes, or other obligations which are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system.

"(4) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—If any company described in paragraph (1) fails to qualify for the exemption provided under such paragraph by operation of paragraph (2), such exemption shall cease to apply to such company and such company shall divest control of each bank it controls before the end of the 180-day period beginning on the date that the company receives notice from the Board that the company has failed to continue to qualify for such exemption, unless before the end of such 180-day period, the company has—

"(A) corrected the condition or ceased the activity that caused the company to fail to continue to qualify for the exemption; and

"(B) implemented procedures that are reasonably adapted to avoid the reoccurrence of such condition or activity.''.

Subtitle B—Streamlining Supervision of Financial Holding Companies

SEC. 111. STREAMLINING FINANCIAL HOLDING COMPANY SUPERVISION.

Section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended to read as follows:

"(c) REPORTS AND EXAMINATIONS.—

"(1) REPORTS.—

"(A) IN GENERAL.—The Board from time to time may require any bank holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

"(i) its financial condition, systems for monitoring and controlling financial and operating risks, and transactions with depository institution subsidiaries of the holding company; and

"(ii) compliance by the company or subsidiary with applicable provisions of this Act.

"(B) USE OF EXISTING REPORTS.—

"(i) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that a bank holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

"(ii) AVAILABILITY.—A bank holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

"(iii) REQUIRED USE OF PUBLICLY REPORTED INFORMATION.—The Board shall, to the fullest extent possible, accept in fulfillment of any reporting or recordkeeping requirements under this Act information that is otherwise required to be reported publicly and externally audited financial statements.

"(iv) REPORTS FILED WITH OTHER AGENCIES.—In the event the Board requires a report from a functionally regulated nondepository institution subsidiary of a bank holding company of a kind that is not required by another Federal or State regulator or appropriate self-regulatory organization, the Board shall request that the appropriate regulator or self-regulatory organization obtain such report. If the report is not made available to the Board, and the report is necessary to assess a material risk to the bank holding company or its subsidiary depository institution or compliance with this Act, the Board may require such subsidiary to provide such a report to the Board.

"(C) DEFINITION.—For purposes of this subsection, the term 'functionally regulated nondepository institution' means—

"(i) a broker or dealer registered under the Securities Exchange Act of 1934;

"(ii) an investment adviser registered under the Investment Advisers Act of 1940, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

"(iii) an insurance company subject to supervision by a State insurance commission, agency, or similar authority; and

"(iv) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.

"(2) EXAMINATIONS.—

"(A) EXAMINATION AUTHORITY.—

"(i) IN GENERAL.—The Board may make examinations of each bank holding company and each subsidiary of a bank holding company.

"(ii) FUNCTIONALLY REGULATED NONDEPOSITORY INSTITUTION SUBSIDIARIES.—Notwithstanding clause (i), the Board may make examinations of a functionally regulated nondepository institution subsidiary of a bank holding company only if—

"(I) the Board has reasonable cause to believe that such subsidiary is engaged in activities that pose a material risk to an affiliated depository institution, or

"(II) based on reports and other available information, the Board has reasonable cause to believe that a subsidiary is not in compliance with this Act or with provisions relating to transactions with an affiliated depository institution and the Board cannot make such determination through examination of the affiliated depository institution or bank holding company.

"(B) LIMITATIONS ON EXAMINATION AUTHORITY FOR BANK HOLDING COMPANIES AND SUBSIDIARIES.—Subject to subparagraph (A)(ii), the Board may make examinations under subparagraph (A)(i) of each bank holding company and each subsidiary of such holding company in order to—

"(i) inform the Board of the nature of the operations and financial condition of the holding company and such subsidiaries;

"(ii) inform the Board of—

"(I) the financial and operational risks within the holding company system that may pose a threat to the safety and soundness of any subsidiary depository institution of such holding company; and

"(II) the systems for monitoring and controlling such risks; and

"(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any subsidiary depository institution and its affiliates.

"(C) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a bank holding company to—

"(i) the bank holding company; and

"(ii) any subsidiary of the holding company that, because of—

"(I) the size, condition, or activities of the subsidiary;

"(II) the nature or size of transactions between such subsidiary and any depository institution which is also a subsidiary of such holding company; or

"(III) the centralization of functions within the holding company system,

could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

"(D) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use, for the purposes of this paragraph, the reports of examinations of depository institutions made by the appropriate Federal and State depository institution supervisory authority.

"(E) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and instead reviewing the reports of examination made of—

"(i) any registered broker or dealer or registered investment adviser by or on behalf of the Securities and Exchange Commission;

"(ii) any licensed insurance company by or on behalf of any state regulatory authority responsible for the supervision of insurance companies; and

"(iii) any other subsidiary that the Board finds to be comprehensively supervised by a Federal or State authority.

"(3) CAPITAL.—

"(A) IN GENERAL.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, guidelines, standards, or requirements on any subsidiary of a financial holding company that is not a depository institution and—

"(i) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority; or

"(ii) is registered as an investment adviser under the Investment Advisers Act of 1940.

"(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities.

"(4) TRANSFER OF BOARD AUTHORITY TO APPROPRIATE FEDERAL BANKING AGENCY.—

"(A) IN GENERAL.—In the case of any bank holding company which is not significantly engaged in nonbanking activities, the Board, in consultation with the appropriate Federal banking agency, may designate the appropriate Federal banking agency of the lead insured depository institution subsidiary of such holding company as the appropriate Federal banking agency for the bank holding company.

"(B) AUTHORITY TRANSFERRED.—An agency designated by the Board under subparagraph (A) shall have the same authority as the Board under this Act to—

"(i) examine and require reports from the bank holding company and any affiliate of such company (other than a depository institution) under section 5;

"(ii) approve or disapprove applications or transactions under section 3;

"(iii) take actions and impose penalties under subsections (e) and (f) of section 5 and section 8; and

"(iv) take actions regarding the holding company, any affiliate of the holding company (other than a depository institution), or any institution-affiliated party of such company or affiliate under the Federal Deposit Insurance Act and any other statute which the Board may designate.

"(C) AGENCY ORDERS.—Section 9 (of this Act) and section 105 of the Bank Holding Company Act Amendments of 1970 shall apply to orders issued by an agency designated under subparagraph (A) in the same manner such sections apply to orders issued by the Board.

"(5) FUNCTIONAL REGULATION OF SECURITIES AND INSURANCE ACTIVITIES.—The Board shall defer to—

"(A) the Securities and Exchange Commission with regard to all interpretations of, and the enforcement of, applicable Federal securities laws relating to the activities, conduct, and operations of registered brokers, dealers, investment advisers, and investment companies; and

"(B) the relevant State insurance authorities with regard to all interpretations of, and the enforcement of, applicable State insurance laws relating to the activities, conduct, and operations of insurance companies and insurance agents.".

SEC. 112. ELIMINATION OF APPLICATION REQUIREMENT FOR FINANCIAL HOLDING COMPANIES.

(a) PREVENTION OF DUPLICATIVE FILINGS.—Section 5(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(a)) is amended by adding the following new sentence at the end: "A declaration filed in accordance with section 6(b)(1)(E) shall satisfy the requirements of this subsection with regard to the registration of a bank holding company but not any requirement to file an application to acquire a bank pursuant to section 3.".

(b) DIVESTITURE PROCEDURES.—Section 5(e)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(e)(1)) is amended—

(1) by striking "Financial Institutions Supervisory Act of 1966, order" and inserting "Financial Institutions Supervisory Act of 1966, at the election of the bank holding company—

"(A) order"; and

(2) by striking "shareholders of the bank holding company. Such distribution" and inserting "shareholders of the bank holding company; or

"(B) order the bank holding company, after due notice and opportunity for hearing, and after consultation with the bank's primary supervisor, which shall be the Comptroller of the Currency in the case of a national bank, and the Federal Deposit Insurance Corporation and the appropriate State supervisor in the case of an insured nonmember bank, to terminate (within 120 days or such longer period as the Board may direct) the ownership or control of any such bank by such company.

"The distribution referred to in subparagraph (A)".

SEC. 113. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following new subsection:

"(g) AUTHORITY OF STATE INSURANCE REGULATOR AND THE SECURITIES AND EXCHANGE COMMISSION.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any regulation, order, or other action of the Board which requires a bank holding company to provide funds or other assets to a subsidiary insured depository institution shall not be effective nor enforceable if—

"(A) such funds or assets are to be provided by—

"(i) a bank holding company that is an insurance company or is a broker or dealer registered under the Securities Exchange Act of 1934; or

"(ii) an affiliate of the depository institution which is an insurance company or a broker or dealer registered under such Act; and

"(B) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker or dealer, as the case may be, determines in writing sent to the holding company and the Board that the holding company shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker or dealer, as the case may be.

"(2) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the Board requires a bank holding company, or an affiliate of a bank holding company, which is an insurance company or a broker or dealer described in paragraph (1)(A) to provide funds or assets to an insured depository institution subsidiary of the holding company pursuant to any regulation, order, or other action of the Board referred to in paragraph (1), the Board shall promptly notify the State insurance authority for the insurance company or the Securities and Exchange Commission, as the case may be, of such requirement.

"(3) DIVESTITURE IN LIEU OF OTHER ACTION.—If the Board receives a notice described in paragraph (1)(B) from a State insurance authority or the Securities and Exchange Commission with regard to a bank holding company or affiliate referred to in such paragraph, the Board may order the bank holding company to divest the insured depository institution within 180 days of receiving notice or such longer period as the Board determines consistent with the safe and sound operation of the insured depository institution.

"(4) CONDITIONS BEFORE DIVESTITURE.—During the period beginning on the date an order to divest is issued by the Board under paragraph (3) to a bank holding company and ending on the date the divestiture is completed, the Board may impose any conditions or restrictions on the holding company's ownership or operation of the insured depository institution, including restricting or prohibiting transactions between the insured depository institution and any affiliate of the institution, as are appropriate under the circumstances.".

SEC. 114. PRUDENTIAL SAFEGUARDS.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by inserting after subsection (g) (as added by section 113 of this subtitle) the following new subsection:

"(h) PRUDENTIAL SAFEGUARDS.—

"(1) IN GENERAL.—The Board may, by regulation or order, impose restrictions or requirements on relationships or transactions between a depository institution subsidiary of a bank holding company and any affiliate of such depository institution (other than a subsidiary of such institution) which the Board finds is consistent with the public interest, the purposes of this Act, the Financial Services Act of 1998, the Federal Reserve Act, and other Federal law applicable to depository institution subsidiaries of bank holding companies and the standards in paragraph (2).

"(2) STANDARDS.—The Board may exercise authority under paragraph (1) if the Board finds that such action will have any of the following effects:

"(A) Avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund.

"(B) Enhance the financial stability of bank holding companies.

"(C) Avoid conflicts of interest or other abuses.

"(D) Enhance the privacy of customers of depository institutions.

"(E) Promote the application of national treatment and equality of competitive opportunity between nonbank affiliates owned or controlled by domestic bank holding companies and nonbank affiliates owned or controlled by foreign banks operating in the United States.

"(3) REVIEW.—The Board shall regularly—

"(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

"(B) modify or eliminate any restriction or requirement the Board finds is no longer required for such purposes.".

SEC. 115. EXAMINATION OF INVESTMENT COMPANIES.

(a) EXCLUSIVE COMMISSION AUTHORITY.—

(1) IN GENERAL.—The Commission shall be the sole Federal agency with authority to inspect and examine any registered investment company that is not a bank holding company.

(2) PROHIBITION ON BANKING AGENCIES.—A Federal banking agency may not inspect or examine any registered investment company that is not a bank holding company.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—The Commission shall provide to any Federal banking agency, upon request, the results of any examination, reports, records, or other information with respect to any registered investment company to the extent necessary for the agency to carry out its statutory responsibilities.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BANK HOLDING COMPANY.—The term "bank holding company" has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

(2) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(3) FEDERAL BANKING AGENCY.—The term "Federal banking agency" has the meaning

given to such term in section 3(z) of the Federal Deposit Insurance Act.

(4) REGISTERED INVESTMENT COMPANY.—The term "registered investment company" means an investment company which is registered with the Commission under the Investment Company Act of 1940.

SEC. 116. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by inserting after section 10 the following new section:

"SEC. 10A. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

"(a) LIMITATION ON DIRECT ACTION.—

"(1) IN GENERAL.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a regulated subsidiary of a bank holding company unless the action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by such subsidiary that poses a material risk to—

"(A) the financial safety, soundness, or stability of an affiliated depository institution; or

"(B) the domestic or international payment system.

"(2) CRITERIA FOR BOARD ACTION.—The Board shall not take action otherwise permitted under paragraph (1) unless the Board finds that it is not reasonably possible to effectively protect against the material risk at issue through action directed at or against the affiliated depository institution or against depository institutions generally.

"(b) LIMITATION ON INDIRECT ACTION.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a financial holding company or a wholesale financial holding company where the purpose or effect of doing so would be to take action indirectly against or with respect to a regulated subsidiary that may not be taken directly against or with respect to such subsidiary in accordance with subsection (a).

"(c) ACTIONS SPECIFICALLY AUTHORIZED.—Notwithstanding subsection (a), the Board may take action under this Act or section 8 of the Federal Deposit Insurance Act to enforce compliance by a regulated subsidiary with Federal law that the Board has specific jurisdiction to enforce against such subsidiary.

"(d) REGULATED SUBSIDIARY DEFINED.—For purposes of this section, the term 'regulated subsidiary' means any company that is not a bank holding company and is—

"(1) a broker or dealer registered under the Securities Exchange Act of 1934;

"(2) an investment adviser registered under the Investment Advisers Act of 1940, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

"(3) an investment company registered under the Investment Company Act of 1940;

"(4) an insurance company or an insurance agency subject to supervision by a State insurance commission, agency, or similar authority; or

"(5) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.".

Subtitle C—Subsidiaries of National Banks

SEC. 121. PERMISSIBLE ACTIVITIES FOR SUBSIDIARIES OF NATIONAL BANKS.

(a) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.—Chapter one of title LXII of the Revised Statutes of United States (12 U.S.C. 21 et seq.) is amended—

(1) by redesignating section 5136A as section 5136C; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

"SEC. 5136A. SUBSIDIARIES OF NATIONAL BANKS.

"(a) SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.—

"(1) EXCLUSIVE AUTHORITY.—No provision of section 5136 or any other provision of this title LXII of the Revised Statutes shall be construed as authorizing a subsidiary of a national bank to engage in, or own any share of or any other interest in any company engaged in, any activity that—

"(A) is not permissible for a national bank to engage in directly; or

"(B) is conducted under terms or conditions other than those that would govern the conduct of such activity by a national bank,

unless a national bank is specifically authorized by the express terms of a Federal statute and not by implication or interpretation to acquire shares of or an interest in, or to control, such subsidiary, such as by paragraph (2) of this subsection and section 25A of the Federal Reserve Act.

"(2) SPECIFIC AUTHORIZATION TO CONDUCT AGENCY ACTIVITIES WHICH ARE FINANCIAL IN NATURE.—A national bank may control a company that engages in agency activities that have been determined to be financial in nature or incidental to such financial activities pursuant to and in accordance with section 6(c) of the Bank Holding Company Act of 1956 if—

"(A) the company engages in such activities solely as agent and not directly or indirectly as principal,

"(B) the national bank is well capitalized and well managed, and has achieved a rating of satisfactory or better at the most recent examination of the bank under the Community Reinvestment Act of 1977;

"(C) all depository institution affiliates of the national bank are well capitalized and well managed, and have achieved a rating of satisfactory or better at the most recent examination of each such depository institution under the Community Reinvestment Act of 1977; and

"(D) the bank has received the approval of the Comptroller of the Currency.

"(3) DEFINITIONS.—

"(A) COMPANY; CONTROL; SUBSIDIARY.—The terms 'company', 'control', and 'subsidiary' have the meanings given to such terms in section 2 of the Bank Holding Company Act of 1956.

"(B) WELL CAPITALIZED.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act and, for purposes of this section, the Comptroller shall have exclusive jurisdiction to determine whether a national bank is well capitalized.

"(C) WELL MANAGED.—The term 'well managed' means—

"(i) in the case of a bank that has been examined, unless otherwise determined in writing by the Comptroller—

"(I) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the bank; and

"(II) at least a rating of 2 for management, if that rating is given; or

"(ii) in the case of any national bank that has not been examined, the existence and use of managerial resources that the Comptroller determines are satisfactory.

"(b) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes affiliated with a national bank during the 24-month period preceding the submission of an application to acquire a subsidiary under subsection (a)(2), and any depository institution which becomes so affiliated after the approval of such application, may be excluded for purposes of subsection (a)(2)(B) during the 24-month period beginning on the date of such acquisition if—

"(1) the depository institution has submitted an affirmative plan to the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) to take such action as may be necessary in order for such institution to achieve a 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution under the Community Reinvestment Act of 1977; and

"(2) the plan has been approved by the appropriate Federal banking agency.".

(b) LIMITATION ON CERTAIN ACTIVITIES IN SUBSIDIARIES.—Section 21(a)(1) of the Banking Act of 1933 (12 U.S.C. 378(a)(1)) is amended—

(1) by inserting ", or to be a subsidiary of any person, firm, corporation, association, business trust, or similar organization engaged (unless such subsidiary (A) was engaged in such securities activities as of September 15, 1997, or (B) is a nondepository subsidiary of a foreign bank and is not also a subsidiary of a domestic depository institution)," after "to engage at the same time"; and

(2) by inserting "or any subsidiary of such bank, company, or institution" after "or private bankers".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) ANTITYING.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 is amended by adding at the end the following new sentence: "For purposes of this section, a subsidiary of a national bank which engages in activities as an agent pursuant to section 5136A(a)(2) shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.".

(2) SECTION 23B.—Section 23B(a) of the Federal Reserve Act (12 U.S.C. 371c-1(a)) is amended by adding at the end the following new paragraph:

"(4) SUBSIDIARY OF NATIONAL BANK.—For purposes of this section, a subsidiary of a national bank which engages in activities as an agent pursuant to section 5136A(a)(2) shall be deemed to be an affiliate of the national bank and not a subsidiary of the bank."

(d) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended—

(1) by redesignating the item relating to section 5136A as section 5136C; and

(2) by inserting after the item relating to section 5136 the following new item:

"5136A. Financial subsidiaries of national banks.".

SEC. 122. MISREPRESENTATIONS REGARDING DEPOSITORY INSTITUTION LIABILITY FOR OBLIGATIONS OF AFFILIATES.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1007 the following new section:

"§ 1008. Misrepresentations regarding financial institution liability for obligations of affiliates

"(a) IN GENERAL.—No institution-affiliated party of an insured depository institution or institution-affiliated party of a subsidiary or affiliate of an insured depository institution shall fraudulently represent that the institution is or will be liable for any obligation of a subsidiary or other affiliate of the institution.

"(b) CRIMINAL PENALTY.—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.

"(c) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this section, the term 'institution-affiliated party' with respect to a subsidiary or affiliate has the same meaning as in section 3 except references to an insured depository institution shall be deemed to be references to a subsidiary or affiliate of an insured depository institution.

"(d) OTHER DEFINITIONS.—For purposes of this section, the terms 'affiliate', 'insured depository institution', and 'subsidiary' have same meanings as in section 3 of the Federal Deposit Insurance Act.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1007 the following new item:

"1008. Misrepresentations regarding financial institution liability for obligations of affiliates.".

SEC. 123. REPEAL OF STOCK LOAN LIMIT IN FEDERAL RESERVE ACT.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by striking the paragraph designated as "(m)" and inserting "(m) [Repealed]".

Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions

CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES

SEC. 131. WHOLESALE FINANCIAL HOLDING COMPANIES ESTABLISHED.

(a) DEFINITION AND SUPERVISION.—Section 10 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended to read as follows:

"SEC. 10. WHOLESALE FINANCIAL HOLDING COMPANIES.

"(a) COMPANIES THAT CONTROL WHOLESALE FINANCIAL INSTITUTIONS.—

"(1) WHOLESALE FINANCIAL HOLDING COMPANY DEFINED.—The term 'wholesale financial holding company' means any company that—

"(A) is registered as a bank holding company;

"(B) is predominantly engaged in financial activities as defined in section 6(g)(2);

"(C) controls 1 or more wholesale financial institutions;

"(D) does not control—

"(i) a bank other than a wholesale financial institution;

"(ii) an insured bank other than an institution permitted under subparagraph (D), (F), or (G) of section 2(c)(2); or

"(iii) a savings association; and

"(E) is not a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978).

"(2) SAVINGS ASSOCIATION TRANSITION PERIOD.—Notwithstanding paragraph (1)(C)(iii), the Board may permit a company that controls a savings association and that otherwise meets the requirements of paragraph (1) to become supervised under paragraph (1), if the company divests control of any such savings association within such period not to exceed 5 years after becoming supervised under paragraph (1) as permitted by the Board.

"(b) SUPERVISION BY THE BOARD.—

"(1) IN GENERAL.—The provisions of this section shall govern the reporting, examination, and capital requirements of wholesale financial holding companies.

"(2) REPORTS.—

"(A) IN GENERAL.—The Board from time to time may require any wholesale financial holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

"(i) the company's or subsidiary's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions with depository institution subsidiaries of the holding company; and

"(ii) the extent to which the company or subsidiary has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

"(B) USE OF EXISTING REPORTS.—

"(i) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that the wholesale financial holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

"(ii) AVAILABILITY.—A wholesale financial holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

"(C) EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(i) IN GENERAL.—The Board may, by regulation or order, exempt any company or class of companies, under such terms and conditions and for such periods as the Board shall provide in such regulation or order, from the provisions of this paragraph and any regulation prescribed under this paragraph.

"(ii) CRITERIA FOR CONSIDERATION.—In making any determination under clause (i) with regard to any exemption under such clause, the Board shall consider, among such other factors as the Board may determine to be appropriate, the following factors:

"(I) Whether information of the type required under this paragraph is available from a supervisory agency (as defined in section 1101(7) of the Right to Financial Privacy Act of 1978) or a foreign regulatory authority of a similar type.

"(II) The primary business of the company.

"(III) The nature and extent of the domestic and foreign regulation of the activities of the company.

"(3) EXAMINATIONS.—

"(A) LIMITED USE OF EXAMINATION AUTHORITY.—The Board may make examinations of each wholesale financial holding company and each subsidiary of such company in order to—

"(i) inform the Board regarding the nature of the operations and financial condition of the wholesale financial holding company and its subsidiaries;

"(ii) inform the Board regarding—

"(I) the financial and operational risks within the wholesale financial holding company system that may affect any depository institution owned by such holding company; and

"(II) the systems of the holding company and its subsidiaries for monitoring and controlling those risks; and

"(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any depository institution controlled by the wholesale financial holding company and any of the company's other subsidiaries.

"(B) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a wholesale financial holding company under this paragraph to—

"(i) the holding company; and

"(ii) any subsidiary (other than an insured depository institution subsidiary) of the holding company that, because of the size, condition, or activities of the subsidiary, the nature or size of transactions between such subsidiary and any affiliated depository institution, or the centralization of functions within the holding company system, could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

"(C) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use the reports of examination of depository institutions made by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision or the appropriate State depository institution supervisory authority for the purposes of this section.

"(D) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and by instead reviewing the reports of examination made of—

"(i) any registered broker or dealer or any registered investment adviser by or on behalf of the Commission; and

"(ii) any licensed insurance company by or on behalf of any State government insurance agency responsible for the supervision of the insurance company.

"(E) CONFIDENTIALITY OF REPORTED INFORMATION.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, the Board shall not be compelled to disclose any nonpublic information required to be reported under this paragraph, or any information supplied to the Board by any domestic or foreign regulatory agency, that relates to the financial or operational condition of any wholesale financial holding company or any subsidiary of such company.

"(ii) COMPLIANCE WITH REQUESTS FOR INFORMATION.—No provision of this subparagraph shall be construed as authorizing the Board to withhold information from the Congress, or preventing the Board from complying with a request for information from any other Federal department or agency for purposes within the scope of such department's or agency's jurisdiction, or from complying with any order of a court of competent jurisdiction in an action brought by the United States or the Board.

"(iii) COORDINATION WITH OTHER LAW.—For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered to be a statute described in subsection (b)(3)(B) of such section.

"(iv) DESIGNATION OF CONFIDENTIAL INFORMATION.—In prescribing regulations to carry out the requirements of this subsection, the

Board shall designate information described in or obtained pursuant to this paragraph as confidential information.

"(F) COSTS.—The cost of any examination conducted by the Board under this section may be assessed against, and made payable by, the wholesale financial holding company.

"(4) CAPITAL ADEQUACY GUIDELINES.—

"(A) CAPITAL ADEQUACY PROVISIONS.—Subject to the requirements of, and solely in accordance with, the terms of this paragraph, the Board may adopt capital adequacy rules or guidelines for wholesale financial holding companies.

"(B) METHOD OF CALCULATION.—In developing rules or guidelines under this paragraph, the following provisions shall apply:

"(i) FOCUS ON DOUBLE LEVERAGE.—The Board shall focus on the use by wholesale financial holding companies of debt and other liabilities to fund capital investments in subsidiaries.

"(ii) NO UNWEIGHTED CAPITAL RATIO.—The Board shall not, by regulation, guideline, order, or otherwise, impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

"(iii) NO CAPITAL REQUIREMENT ON REGULATED ENTITIES.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that—

"(I) is not a depository institution; and

"(II) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority.

"(iv) LIMITATION.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that is not a depository institution and that is registered as an investment adviser under the Investment Advisers Act of 1940, except that this clause shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities.

"(v) APPROPRIATE EXCLUSIONS.—The Board shall take full account of—

"(I) the capital requirements made applicable to any subsidiary that is not a depository institution by another Federal regulatory authority or State insurance authority; and

"(II) industry norms for capitalization of a company's unregulated subsidiaries and activities.

"(vi) INTERNAL RISK MANAGEMENT MODELS.—The Board may incorporate internal risk management models of wholesale financial holding companies into its capital adequacy guidelines or rules and may take account of the extent to which resources of a subsidiary depository institution may be used to service the debt or other liabilities of the wholesale financial holding company.

"(c) NONFINANCIAL ACTIVITIES AND INVESTMENTS.—

"(1) AUTHORITY FOR LIMITED AMOUNTS OF NEW ACTIVITIES AND INVESTMENTS.—

"(A) IN GENERAL.—Notwithstanding section 4(a), a wholesale financial holding company may engage in activities which are not (or have not been determined to be) financial in nature or incidental to activities which are financial in nature, or acquire and retain ownership and control of the shares of a company engaged in such activities if—

"(i) the aggregate annual gross revenues derived from all such activities and of all such companies does not exceed 5 percent of the consolidated annual gross revenues of the wholesale financial holding company or, in the case of a foreign bank or any company that owns or controls a foreign bank, the aggregate annual gross revenues derived from any such activities in the United States does not exceed 5 percent of the consolidated annual gross revenues of the foreign bank or company in the United States derived from any branch, agency, commercial lending company, or depository institution controlled by the foreign bank or company and any subsidiary engaged in the United States in activities permissible under section 4 or 6 or this subsection;

"(ii) the consolidated total assets of any company the shares of which are acquired pursuant to this subsection are less than $750,000,000 at the time the shares are acquired by the wholesale financial holding company; and

"(iii) such company provides notice to the Board within 30 days of commencing the activity or acquiring the ownership or control.

"(B) INCLUSION OF GRANDFATHERED ACTIVITIES.—For purposes of determining compliance with the limits contained in subparagraph (A), the gross revenues derived from all activities conducted and companies the shares of which are held under paragraph (2) shall be considered to be derived or held under this paragraph.

"(C) REPORT.—No later than 5 years after the date of enactment of the Financial Services Act of 1998, the Board shall submit to the Congress a report regarding the activities conducted and companies held pursuant to this paragraph and the effect, if any, that affiliations permitted under this paragraph have had on affiliated depository institutions. The report shall include recommendations regarding the appropriateness of retaining, increasing, or decreasing the limits contained in those provisions.

"(2) GRANDFATHERED ACTIVITIES.—

"(A) IN GENERAL.—Notwithstanding paragraph (1)(A) and section 4(a), a company that becomes a wholesale financial holding company may continue to engage, directly or indirectly, in any activity and may retain ownership and control of shares of a company engaged in any activity if—

"(i) on the date of the enactment of the Financial Services Act of 1998, such wholesale financial holding company was lawfully engaged in that nonfinancial activity, held the shares of such company, or had entered into a contract to acquire shares of any company engaged in such activity; and

"(ii) the company engaged in such activity continues to engage only in the same activities that such company conducted on the date of the enactment of the Financial Services Act of 1998, and other activities permissible under this Act.

"(B) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A wholesale financial holding company that engages in activities or holds shares pursuant to this paragraph, or a subsidiary of such wholesale financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the Board has not determined to be financial in nature or incidental to activities that are financial in nature under section 6(c).

"(C) LIMITATION TO SINGLE EXEMPTION.—No company that engages in any activity or controls any shares under subsection (f) or (g) of section 6 may engage in any activity or own any shares pursuant to this paragraph or paragraph (1).

"(3) COMMODITIES.—

"(A) IN GENERAL.—Notwithstanding section 4(a), a wholesale financial holding company which was predominately engaged as of January 1, 1997, in financial activities in the United States (or any successor to any such company) may engage in, or directly or indirectly own or control shares of a company engaged in, activities related to the trading, sale, or investment in commodities and underlying physical properties that were not permissible for bank holding companies to conduct in the United States as of January 1, 1997, if such wholesale financial holding company, or any subsidiary of such holding company, was engaged directly, indirectly, or through any such company in any of such activities as of January 1, 1997, in the United States.

"(B) LIMITATION.—Notwithstanding paragraph (1)(A)(i), the attributed aggregate consolidated assets of a wholesale financial holding company held under the authority granted under this paragraph and not otherwise permitted to be held by all wholesale financial holding companies under this section may not exceed 5 percent of the total consolidated assets of the wholesale financial holding company, except that the Board may increase such percentage of total consolidated assets by such amounts and under such circumstances as the Board considers appropriate, consistent with the purposes of this Act.

"(4) CROSS MARKETING RESTRICTIONS.—A wholesale financial holding company shall not permit—

"(A) any company whose shares it owns or controls pursuant to paragraph (1), (2), or (3) to offer or market any product or service of an affiliated wholesale financial institution; or

"(B) any affiliated wholesale financial institution to offer or market any product or service of any company whose shares are owned or controlled by such wholesale financial holding company pursuant to such paragraphs.

"(d) QUALIFICATION OF FOREIGN BANK AS WHOLESALE FINANCIAL HOLDING COMPANY.—

"(1) IN GENERAL.—Any foreign bank, or any company that owns or controls a foreign bank, that—

"(A) operates a branch, agency, or commercial lending company in the United States, including a foreign bank or company that owns or controls a wholesale financial institution; and

"(B) owns, controls, or is affiliated with a security affiliate that engages in underwriting corporate equity securities,

may request a determination from the Board that such bank or company be treated as a wholesale financial holding company for purposes of subsection (c).

"(2) CONDITIONS FOR TREATMENT AS A WHOLESALE FINANCIAL HOLDING COMPANY.—A foreign bank and a company that owns or controls a foreign bank may not be treated as a wholesale financial holding company unless the bank and company meet and continue to meet the following criteria:

"(A) NO INSURED DEPOSITS.—No deposits held directly by a foreign bank or through an affiliate (other than an institution described in subparagraph (D) or (F) of section 2(c)(2)) are insured under the Federal Deposit Insurance Act.

"(B) CAPITAL STANDARDS.—The foreign bank meets risk-based capital standards comparable to the capital standards required

for a wholesale financial institution, giving due regard to the principle of national treatment and equality of competitive opportunity.

"(C) TRANSACTION WITH AFFILIATES.—Transactions between a branch, agency, or commercial lending company subsidiary of the foreign bank in the United States, and any securities affiliate or company in which the foreign bank (or any company that owns or controls such foreign bank) has invested pursuant to subsection (d) comply with the provisions of sections 23A and 23B of the Federal Reserve Act in the same manner and to the same extent as such transactions would be required to comply with such sections if the bank were a member bank.

"(3) TREATMENT AS A WHOLESALE FINANCIAL INSTITUTION.—Any foreign bank which is, or is affiliated with a company which is, treated as a wholesale financial holding company under this subsection shall be treated as a wholesale financial institution for purposes of subsection (c)(4) of this section and subsections (c)(1)(C) and (c)(3) of section 9B of the Federal Reserve Act, and any such foreign bank or company shall be subject to paragraphs (3), (4), and (5) of section 9B(d) of the Federal Reserve Act, except that the Board may adopt such modifications, conditions, or exemptions as the Board deems appropriate, giving due regard to the principle of national treatment and equality of competitive opportunity.

"(4) NONAPPLICABILITY OF OTHER EXEMPTION.—Any foreign bank or company which is treated as a wholesale financial holding company under this subsection shall not be eligible for any exception described in section 2(h).

"(5) SUPERVISION OF FOREIGN BANK WHICH MAINTAINS NO BANKING PRESENCE OTHER THAN CONTROL OF A WHOLESALE FINANCIAL INSTITUTION.—A foreign bank that owns or controls a wholesale financial institution but does not operate a branch, agency, or commercial lending company in the United States (and any company that owns or controls such foreign bank) may request a determination from the Board that such bank or company be treated as a wholesale financial holding company for purposes of subsection (c), except that such bank or company shall be subject to the restrictions of paragraphs (2)(A), (3), and (4) of this subsection.

"(6) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed as limiting the authority of the Board under the International Banking Act of 1978 with respect to the regulation, supervision, or examination of foreign banks and their offices and affiliates in the United States.

"(7) APPLICABILITY OF COMMUNITY REINVESTMENT ACT OF 1977.—The branches in the United States of a foreign bank that is, or is affiliated with a company that is, treated as a wholesale financial holding company shall be subject to section 9B(b)(11) of the Federal Reserve Act as if the foreign bank were a wholesale financial institution under such section. The Board and the Comptroller of the Currency shall apply the provisions of sections 803(2), 804, and 807(1) of the Community Reinvestment Act of 1977 to branches of foreign banks which receive only such deposits as are permissible for receipt by a corporation organized under section 25A of the Federal Reserve Act, in the same manner and to the same extent such sections apply to such a corporation.".

(b) UNINSURED STATE BANKS.—Section 9 of the Federal Reserve Act (U.S.C. 321 et seq.) is amended by adding at the end the following new paragraph:

"(24) ENFORCEMENT AUTHORITY OVER UNINSURED STATE MEMBER BANKS.—Section 3(u) of the Federal Deposit Insurance Act, subsections (j) and (k) of section 7 of such Act, and subsections (b) through (n), (s), (u), and (v) of section 8 of such Act shall apply to an uninsured State member bank in the same manner and to the same extent such provisions apply to an insured State member bank and any reference in any such provision to 'insured depository institution' shall be deemed to be a reference to 'uninsured State member bank' for purposes of this paragraph.".

SEC. 132. AUTHORIZATION TO RELEASE REPORTS.

(a) FEDERAL RESERVE ACT.—The last sentence of the 8th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 326) is amended to read as follows: "The Board of Governors of the Federal Reserve System, at its discretion, may furnish reports of examination or other confidential supervisory information concerning State member banks or any other entities examined under any other authority of the Board to any Federal or State authorities with supervisory or regulatory authority over the examined entity, to officers, directors, or receivers of the examined entity, and to any other person that the Board determines to be proper.".

(b) COMMODITY FUTURES TRADING COMMISSION.—

(1) Section 1101(7) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(7)) is amended—

(A) by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I), respectively; and

(B) by inserting after subparagraph (F) the following new subparagraph:

"(G) the Commodity Futures Trading Commission; or" and

(2) Section 1112(e) of the Right to Financial Privacy Act (12 U.S.C. 3412(e)) is amended by striking "and the Securities and Exchange Commission" and inserting ", the Securities and Exchange Commission, and the Commodity Futures Trading Commission".

SEC. 133. CONFORMING AMENDMENTS.

(a) BANK HOLDING COMPANY ACT OF 1956.—

(1) DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsections:

"(p) WHOLESALE FINANCIAL INSTITUTION.—The term 'wholesale financial institution' means a wholesale financial institution subject to section 9B of the Federal Reserve Act.

"(q) COMMISSION.—The term 'Commission' means the Securities and Exchange Commission.

"(r) DEPOSITORY INSTITUTION.—The term 'depository institution'—

"(1) has the meaning given to such term in section 3 of the Federal Deposit Insurance Act; and

"(2) includes a wholesale financial institution.".

(2) DEFINITION OF BANK INCLUDES WHOLESALE FINANCIAL INSTITUTION.—Section 2(c)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(1)) is amended by adding at the end the following new subparagraph:

"(C) A wholesale financial institution.".

(3) INCORPORATED DEFINITIONS.—Section 2(n) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(n)) is amended by inserting "'insured bank'," after "'in danger of default',".

(4) EXCEPTION TO DEPOSIT INSURANCE REQUIREMENT.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by adding at the end the following: "This subsection shall not apply to a wholesale financial institution."

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(q)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(2)(A)) is amended to read as follows:

"(A) any State member insured bank (except a District bank) and any wholesale financial institution as authorized pursuant to section 9B of the Federal Reserve Act;".

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

SEC. 136. WHOLESALE FINANCIAL INSTITUTIONS.

(a) NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136A (as added by section 121(a) of this title) the following new section:

"SEC. 5136B. NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.

"(a) AUTHORIZATION OF THE COMPTROLLER REQUIRED.—A national bank may apply to the Comptroller on such forms and in accordance with such regulations as the Comptroller may prescribe, for permission to operate as a national wholesale financial institution.

"(b) REGULATION.—A national wholesale financial institution may exercise, in accordance with such institution's articles of incorporation and regulations issued by the Comptroller, all the powers and privileges of a national bank formed in accordance with section 5133 of the Revised Statutes of the United States, subject to section 9B of the Federal Reserve Act and the limitations and restrictions contained therein.

"(c) COMMUNITY REINVESTMENT ACT OF 1977.—A national wholesale financial institution shall be subject to the Community Reinvestment Act of 1977.

"(d) EXAMINATION REPORTS.—The Comptroller of the Currency shall, to the fullest extent possible, use the report of examinations made by the Board of Governors of the Federal Reserve System of a wholesale financial institution.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136A (as added by section 121(d) of this title) the following new item:

"5136B. National wholesale financial institutions.".

(b) STATE WHOLESALE FINANCIAL INSTITUTIONS.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 9A the following new section:

"SEC. 9B. WHOLESALE FINANCIAL INSTITUTIONS.

"(a) APPLICATION FOR MEMBERSHIP AS WHOLESALE FINANCIAL INSTITUTION.—

"(1) APPLICATION REQUIRED.—

"(A) IN GENERAL.—Any bank may apply to the Board of Governors of the Federal Reserve System to become a wholesale financial institution and, as a wholesale financial institution, to subscribe to the stock of the Federal reserve bank organized within the district where the applying bank is located.

"(B) TREATMENT AS MEMBER BANK.—Any application under subparagraph (A) shall be treated as an application under, and shall be subject to the provisions of, section 9.

"(2) INSURANCE TERMINATION.—No bank the deposits of which are insured under the Federal Deposit Insurance Act may become a wholesale financial institution unless it has met all requirements under that Act for voluntary termination of deposit insurance.

"(b) GENERAL REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—

"(1) FEDERAL RESERVE ACT.—Except as otherwise provided in this section, wholesale financial institutions shall be member banks and shall be subject to the provisions of this Act that apply to member banks to the same extent and in the same manner as State member insured banks, except that a wholesale financial institution may terminate membership under this Act only with the prior written approval of the Board and on terms and conditions that the Board determines are appropriate to carry out the purposes of this Act.

"(2) PROMPT CORRECTIVE ACTION.—A wholesale financial institution shall be deemed to be an insured depository institution for purposes of section 38 of the Federal Deposit Insurance Act except that—

"(A) the relevant capital levels and capital measures for each capital category shall be the levels specified by the Board for wholesale financial institutions; and

"(B) all references to the appropriate Federal banking agency or to the Corporation in that section shall be deemed to be references to the Board.

"(3) ENFORCEMENT AUTHORITY.—Subsections (j) and (k) of section 7, subsections (b) through (n), (s), and (v) of section 8, and section 19 of the Federal Deposit Insurance Act shall apply to a wholesale financial institution in the same manner and to the same extent as such provisions apply to State member insured banks and any reference in such sections to an insured depository institution shall be deemed to include a reference to a wholesale financial institution.

"(4) CERTAIN OTHER STATUTES APPLICABLE.—A wholesale financial institution shall be deemed to be a banking institution, and the Board shall be the appropriate Federal banking agency for such bank and all such bank's affiliates, for purposes of the International Lending Supervision Act.

"(5) BANK MERGER ACT.—A wholesale financial institution shall be subject to sections 18(c) and 44 of the Federal Deposit Insurance Act in the same manner and to the same extent the wholesale financial institution would be subject to such sections if the institution were a State member insured bank.

"(6) BRANCHING.—Notwithstanding any other provision of law, a wholesale financial institution may establish and operate a branch at any location on such terms and conditions as established by the Board and, in the case of a State-chartered wholesale financial institution, with the approval of the Board, and, in the case of a national bank wholesale financial institution, with the approval of the Comptroller of the Currency.

"(7) ACTIVITIES OF OUT-OF-STATE BRANCHES OF WHOLESALE FINANCIAL INSTITUTIONS.—

"(A) GENERAL.—A State-chartered wholesale financial institution shall be deemed a State bank and an insured State bank and a national wholesale financial institution shall be deemed a national bank for purposes of paragraphs (1), (2), and (3) of section 24(j) of the Federal Deposit Insurance Act.

"(B) DEFINITIONS.—The following definitions shall apply solely for purposes of applying paragraph (1):

"(i) HOME STATE.—The term 'home State' means—

"(I) with respect to a national wholesale financial institution, the State in which the main office of the institution is located; and

"(II) with respect to a State-chartered wholesale financial institution, the State by which the institution is chartered.

"(ii) HOST STATE.—The term 'host State' means a State, other than the home State of the wholesale financial institution, in which the institution maintains, or seeks to establish and maintain, a branch.

"(iii) OUT-OF-STATE BANK.—The term 'out-of-State bank' means, with respect to any State, a wholesale financial institution whose home State is another State.

"(8) DISCRIMINATION REGARDING INTEREST RATES.—Section 27 of the Federal Deposit Insurance Act shall apply to State-chartered wholesale financial institutions in the same manner and to the same extent as such provisions apply to State member insured banks and any reference in such section to a State-chartered insured depository institution shall be deemed to include a reference to a State-chartered wholesale financial institution.

"(9) PREEMPTION OF STATE LAWS REQUIRING DEPOSIT INSURANCE FOR WHOLESALE FINANCIAL INSTITUTIONS.—The appropriate State banking authority may grant a charter to a wholesale financial institution notwithstanding any State constitution or statute requiring that the institution obtain insurance of its deposits and any such State constitution or statute is hereby preempted solely for purposes of this paragraph.

"(10) PARITY FOR WHOLESALE FINANCIAL INSTITUTIONS.—A State bank that is a wholesale financial institution under this section shall have all of the rights, powers, privileges, and immunities (including those derived from status as a federally chartered institution) of and as if it were a national bank, subject to such terms and conditions as established by the Board.

"(11) COMMUNITY REINVESTMENT ACT OF 1977.—A State wholesale financial institution shall be subject to the Community Reinvestment Act of 1977.

"(c) SPECIFIC REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—

"(1) LIMITATIONS ON DEPOSITS.—

"(A) MINIMUM AMOUNT.—

"(i) IN GENERAL.—No wholesale financial institution may receive initial deposits of $100,000 or less, other than on an incidental and occasional basis.

"(ii) LIMITATION ON DEPOSITS OF LESS THAN $100,000.—No wholesale financial institution may receive initial deposits of $100,000 or less if such deposits constitute more than 5 percent of the institution's total deposits.

"(B) NO DEPOSIT INSURANCE.—No deposits held by a wholesale financial institution shall be insured deposits under the Federal Deposit Insurance Act.

"(C) ADVERTISING AND DISCLOSURE.—The Board shall prescribe regulations pertaining to advertising and disclosure by wholesale financial institutions to ensure that each depositor is notified that deposits at the wholesale financial institution are not federally insured or otherwise guaranteed by the United States Government.

"(2) MINIMUM CAPITAL LEVELS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—The Board shall, by regulation, adopt capital requirements for wholesale financial institutions—

"(A) to account for the status of wholesale financial institutions as institutions that accept deposits that are not insured under the Federal Deposit Insurance Act; and

"(B) to provide for the safe and sound operation of the wholesale financial institution without undue risk to creditors or other persons, including Federal reserve banks, engaged in transactions with the bank.

"(3) ADDITIONAL REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—In addition to any requirement otherwise applicable to State member insured banks or applicable, under this section, to wholesale financial institutions, the Board may impose, by regulation or order, upon wholesale financial institutions—

"(A) limitations on transactions, direct or indirect, with affiliates to prevent—

"(i) the transfer of risk to the deposit insurance funds; or

"(ii) an affiliate from gaining access to, or the benefits of, credit from a Federal reserve bank, including overdrafts at a Federal reserve bank;

"(B) special clearing balance requirements; and

"(C) any additional requirements that the Board determines to be appropriate or necessary to—

"(i) promote the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

"(ii) prevent the transfer of risk to the deposit insurance funds; or

"(iii) protect creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

"(4) EXEMPTIONS FOR WHOLESALE FINANCIAL INSTITUTIONS.—The Board may, by regulation or order, exempt any wholesale financial institution from any provision applicable to a member bank that is not a wholesale financial institution, if the Board finds that such exemption is not inconsistent with—

"(A) the promotion of the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

"(B) the protection of the deposit insurance funds; and

"(C) the protection of creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

"(5) LIMITATION ON TRANSACTIONS BETWEEN A WHOLESALE FINANCIAL INSTITUTION AND AN INSURED BANK.—For purposes of section 23A(d)(1) of the Federal Reserve Act, a wholesale financial institution that is affiliated with an insured bank shall not be a bank.

"(6) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed as limiting the Board's authority over member banks under any other provision of law, or to create any obligation for any Federal reserve bank to make, increase, renew, or extend any advance or discount under this Act to any member bank or other depository institution.

"(d) CAPITAL AND MANAGERIAL REQUIREMENTS.—

"(1) IN GENERAL.—A wholesale financial institution shall be well capitalized and well managed.

"(2) NOTICE TO COMPANY.—The Board shall promptly provide notice to a company that controls a wholesale financial institution whenever such wholesale financial institution is not well capitalized or well managed.

"(3) AGREEMENT TO RESTORE INSTITUTION.—Within 45 days of receipt of a notice under paragraph (2) (or such additional period not to exceed 90 days as the Board may permit), the company shall execute an agreement acceptable to the Board to restore the wholesale financial institution to compliance with all of the requirements of paragraph (1).

"(4) LIMITATIONS UNTIL INSTITUTION RESTORED.—Until the wholesale financial institution is restored to compliance with all of the requirements of paragraph (1), the Board

may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances.

"(5) FAILURE TO RESTORE.—If the company does not execute and implement an agreement in accordance with paragraph (3), comply with any limitation imposed under paragraph (4), restore the wholesale financial institution to well capitalized status within 180 days after receipt by the company of the notice described in paragraph (2), or restore the wholesale financial institution to well managed status within such period as the Board may permit, the company shall, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the Board's discretion, divest control of its subsidiary depository institutions.

"(6) WELL MANAGED DEFINED.—For purposes of this subsection, the term 'well managed' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(e) CONSERVATORSHIP AUTHORITY.—

"(1) IN GENERAL.—The Board may appoint a conservator to take possession and control of a wholesale financial institution to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator for a national bank under section 203 of the Bank Conservation Act, and the conservator shall exercise the same powers, functions, and duties, subject to the same limitations, as are provided under such Act for conservators of national banks.

"(2) BOARD AUTHORITY.—The Board shall have the same authority with respect to any conservator appointed under paragraph (1) and the wholesale financial institution for which such conservator has been appointed as the Comptroller of the Currency has under the Bank Conservation Act with respect to a conservator appointed under such Act and a national bank for which the conservator has been appointed.

"(f) EXCLUSIVE JURISDICTION.—Subsections (c) and (e) of section 43 of the Federal Deposit Insurance Act shall not apply to any wholesale financial institution.".

(c) VOLUNTARY TERMINATION OF INSURED STATUS BY CERTAIN INSTITUTIONS.—

(1) SECTION 8 DESIGNATIONS.—Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (10) as paragraphs (1) through (9), respectively.

(2) VOLUNTARY TERMINATION OF INSURED STATUS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 8 the following new section:

"SEC. 8A. VOLUNTARY TERMINATION OF STATUS AS INSURED DEPOSITORY INSTITUTION.

"(a) IN GENERAL.—Except as provided in subsection (b), an insured State bank or a national bank may voluntarily terminate such bank's status as an insured depository institution in accordance with regulations of the Corporation if—

"(1) the bank provides written notice of the bank's intent to terminate such insured status—

"(A) to the Corporation and the Board of Governors of the Federal Reserve System not less than 6 months before the effective date of such termination; and

"(B) to all depositors at such bank, not less than 6 months before the effective date of the termination of such status; and

"(2) either—

"(A) the deposit insurance fund of which such bank is a member equals or exceeds the fund's designated reserve ratio as of the date the bank provides a written notice under paragraph (1) and the Corporation determines that the fund will equal or exceed the applicable designated reserve ratio for the 2 semiannual assessment periods immediately following such date; or

"(B) the Corporation and the Board of Governors of the Federal Reserve System approved the termination of the bank's insured status and the bank pays an exit fee in accordance with subsection (e).

"(b) EXCEPTION.—Subsection (a) shall not apply with respect to—

"(1) an insured savings association; or

"(2) an insured branch that is required to be insured under subsection (a) or (b) of section 6 of the International Banking Act of 1978.

"(c) ELIGIBILITY FOR INSURANCE TERMINATED.—Any bank that voluntarily elects to terminate the bank's insured status under subsection (a) shall not be eligible for insurance on any deposits or any assistance authorized under this Act after the period specified in subsection (f)(1).

"(d) INSTITUTION MUST BECOME WHOLESALE FINANCIAL INSTITUTION OR TERMINATE DEPOSIT-TAKING ACTIVITIES.—Any depository institution which voluntarily terminates such institution's status as an insured depository institution under this section may not, upon termination of insurance, accept any deposits unless the institution is a wholesale financial institution subject to section 9B of the Federal Reserve Act.

"(e) EXIT FEES.—

"(1) IN GENERAL.—Any bank that voluntarily terminates such bank's status as an insured depository institution under this section shall pay an exit fee in an amount that the Corporation determines is sufficient to account for the institution's pro rata share of the amount (if any) which would be required to restore the relevant deposit insurance fund to the fund's designated reserve ratio as of the date the bank provides a written notice under subsection (a)(1).

"(2) PROCEDURES.—The Corporation shall prescribe, by regulation, procedures for assessing any exit fee under this subsection.

"(f) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—

"(1) TRANSITION PERIOD.—The insured deposits of each depositor in a State bank or a national bank on the effective date of the voluntary termination of the bank's insured status, less all subsequent withdrawals from any deposits of such depositor, shall continue to be insured for a period of not less than 6 months and not more than 2 years, as determined by the Corporation. During such period, no additions to any such deposits, and no new deposits in the depository institution made after the effective date of such termination shall be insured by the Corporation.

"(2) TEMPORARY ASSESSMENTS; OBLIGATIONS AND DUTIES.—During the period specified in paragraph (1) with respect to any bank, the bank shall continue to pay assessments under section 7 as if the bank were an insured depository institution. The bank shall, in all other respects, be subject to the authority of the Corporation and the duties and obligations of an insured depository institution under this Act during such period, and in the event that the bank is closed due to an inability to meet the demands of the bank's depositors during such period, the Corporation shall have the same powers and rights with respect to such bank as in the case of an insured depository institution.

"(g) ADVERTISEMENTS.—

"(1) IN GENERAL.—A bank that voluntarily terminates the bank's insured status under this section shall not advertise or hold itself out as having insured deposits, except that the bank may advertise the temporary insurance of deposits under subsection (f) if, in connection with any such advertisement, the advertisement also states with equal prominence that additions to deposits and new deposits made after the effective date of the termination are not insured.

"(2) CERTIFICATES OF DEPOSIT, OBLIGATIONS, AND SECURITIES.—Any certificate of deposit or other obligation or security issued by a State bank or a national bank after the effective date of the voluntary termination of the bank's insured status under this section shall be accompanied by a conspicuous, prominently displayed notice that such certificate of deposit or other obligation or security is not insured under this Act.

"(h) NOTICE REQUIREMENTS.—

"(1) NOTICE TO THE CORPORATION.—The notice required under subsection (a)(1)(A) shall be in such form as the Corporation may require.

"(2) NOTICE TO DEPOSITORS.—The notice required under subsection (a)(1)(B) shall be—

"(A) sent to each depositor's last address of record with the bank; and

"(B) in such manner and form as the Corporation finds to be necessary and appropriate for the protection of depositors.".

(3) DEFINITION.—Section 19(b)(1)(A)(i) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)) is amended by inserting ", or any wholesale financial institution subject to section 9B of this Act" after "such Act".

Subtitle E—Streamlining Antitrust Review of Bank Acquisitions and Mergers

SEC. 141. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.

(a) AMENDMENTS TO SECTION 3 TO REQUIRE FILING OF APPLICATION COPIES WITH ANTITRUST AGENCIES.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended—

(1) in subsection (b) by inserting after paragraph (2) the following new paragraph:

"(3) REQUIREMENT TO FILE INFORMATION WITH ANTITRUST AGENCIES.—Any applicant seeking prior approval of the Board to engage in an acquisition transaction under this section must file simultaneously with the Attorney General and, if the transaction also involves an acquisition under section 4 or 6, the Federal Trade Commission copies of any documents regarding the proposed transaction required by the Board."; and

(2) in subsection (c)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(b) AMENDMENTS TO SECTION 11 TO MODIFY JUSTICE DEPARTMENT NOTIFICATION AND POST-APPROVAL WAITING PERIOD FOR SECTION 3 TRANSACTIONS.—Section 11 of the Bank Holding Company Act of 1956 (12 U.S.C. 1849) is amended—

(1) in subsection (b)(1)—

(A) by striking ", if the Board has not received any adverse comment from the Attorney General of the United States relating to competitive factors,";

(B) by striking "as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval." and inserting "as may be prescribed by the appropriate antitrust agency."; and

(C) by striking the 3d to last sentence and the penultimate sentence; and

(2) by striking subsections (c) and (e) and redesignating subsections (d) and (f) as subsections (c) and (d), respectively.

(c) DEFINITIONS.—Section 2(o) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(o)) is amended by adding at the end the following new paragraphs:

"(8) ANTITRUST AGENCIES.—The term 'antitrust agencies' means the Attorney General and the Federal Trade Commission.

"(9) APPROPRIATE ANTITRUST AGENCY.—With respect to a particular transaction, the term 'appropriate antitrust agency' means the antitrust agency engaged in reviewing the competitive effects of such transaction.".

SEC. 142. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT TO VEST IN THE ATTORNEY GENERAL SOLE RESPONSIBILITY FOR ANTITRUST REVIEW OF DEPOSITORY INSTITUTION MERGERS.

Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(1) in paragraph (3)(C) by striking "during a period at least as long as the period allowed for furnishing reports under paragraph (4) of this subsection";

(2) by striking paragraph (4) and inserting the following new paragraph:

"(4) FACTORS TO BE CONSIDERED.—In determining whether to approve a transaction, the responsible agency shall in every case take into consideration the financial and managerial resources and future prospects of the existing and proposed institutions, and the convenience and needs of the community to be served.";

(3) by striking paragraph (5) and inserting the following new paragraph:

"(5) NOTICE TO ATTORNEY GENERAL.—The responsible agency shall immediately notify the Attorney General of any approval by it pursuant to this subsection of a proposed merger transaction. If the responsible agency has found that it must act immediately in order to prevent the probable failure of one of the banks involved, the transaction may be consummated immediately upon approval by the agency. If the responsible agency has notified the other Federal banking agencies referred to in this section of the existence of an emergency requiring expeditious action and has required the submission of views and recommendations within 10 days, the transaction may not be consummated before the 5th calendar day after the date of approval of the responsible agency. In all other cases, the transaction may not be consummated before the 30th calendar day after the date of approval by the agency, or such shorter period of time as may be prescribed by the Attorney General.";

(4) by striking paragraph (6) and redesignating paragraphs (7) through (11) as paragraphs (6) through (10), respectively;

(5) in subparagraph (A) of paragraph (6) (as so redesignated by paragraph (4) of this section)—

(A) by striking "(5)" and inserting "(4)"; and

(B) by striking "(6)" and inserting "(5)";

(C) by striking "In any such action, the court shall review de novo the issues presented.";

(6) in paragraph (6) (as so redesignated by paragraph (4) of this section)—

(A) by striking subparagraphs (B) and (D); and

(B) by redesignating subparagraph (C) as subparagraph (B);

(7) in paragraph (8) (as so redesignated by paragraph (4) of this section)—

(A) by inserting "and" after the semicolon at the end of subparagraph (A):

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B); and

(8) by inserting after paragraph (10) (as so redesignated by paragraph (4) of this section) the following new paragraph:

"(11) REQUIREMENT TO FILE INFORMATION WITH ATTORNEY GENERAL.—Any applicant seeking prior written approval of the responsible Federal banking agency to engage in a merger transaction under this subsection shall file simultaneously with the Attorney General copies of any documents regarding the proposed transaction required by the Federal banking agency.".

SEC. 143. INFORMATION FILED BY DEPOSITORY INSTITUTIONS; INTERAGENCY DATA SHARING.

(a) FORMAT OF NOTICE.—

(1) IN GENERAL.—Notice of any proposed transaction for which approval is required under section 3 of the Bank Holding Company Act of 1956 or section 18(c) of the Federal Deposit Insurance Act shall be in a format designated and required by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) and shall contain a section on the likely competitive effects of the proposed transaction.

(2) DESIGNATION BY AGENCY.—The appropriate Federal banking agency, with the concurrence of the antitrust agencies, shall designate and require the form and content of the competitive effects section.

(3) NOTICE OF SUSPENSION.—Upon notification by the appropriate antitrust agency that the competitive effects section of an application is incomplete, the appropriate Federal banking agency shall notify the applicant that the agency will suspend processing of the application until the appropriate antitrust agency notifies the agency that the application is complete.

(4) EMERGENCY ACTION.—This provision shall not affect the appropriate Federal banking agency's authority to act immediately—

(A) to prevent the probable failure of 1 of the banks involved; or

(B) to reduce or eliminate a post approval waiting period in case of an emergency requiring expeditious action.

(5) EXEMPTION FOR CERTAIN FILINGS.—With the concurrence of the antitrust agencies, the appropriate Federal banking agency may exempt classes of persons, acquisitions, or transactions that are not likely to violate the antitrust laws from the requirement that applicants file a competitive effects section.

(b) INTERAGENCY DATA SHARING REQUIREMENT.—

(1) IN GENERAL.—To the extent not prohibited by other law, the Federal banking agencies shall make available to the antitrust agencies any data in their possession that the antitrust agencies deem necessary for antitrust reviews of transactions requiring approval under section 3 of the Bank Holding Company Act of 1956 or section 18(c) of the Federal Deposit Insurance Act.

(2) CONTINUATION OF DATA COLLECTION AND ANALYSIS.—The Federal banking agencies shall continue to provide market analysis, deposit share information, and other relevant information for determining market competition as needed by the Attorney General in the same manner such agencies provided analysis and information under section 18(c) of the Federal Deposit Insurance Act and 3(c) of the Bank Holding Company Act of 1956 (as such sections were in effect on the day before the date of the enactment of this Act) and shall continue to collect information necessary or useful for such analysis.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ANTITRUST AGENCIES.—The term "antitrust agencies" means the Attorney General and the Federal Trade Commission.

(2) APPROPRIATE ANTITRUST AGENCY.—With respect to a particular transaction, the term "appropriate antitrust agency" means the antitrust agency engaged in reviewing the competitive effects of such transaction.

SEC. 144. APPLICABILITY OF ANTITRUST LAWS.

No provision of this subtitle shall be construed as affecting—

(1) the applicability of antitrust laws (as defined in section 11(d) of the Bank Holding Company Act of 1956; as so redesignated pursuant to this subtitle); or

(2) the applicability, if any, of any State law which is similar to the antitrust laws.

SEC. 145. CLARIFICATION OF STATUS OF SUBSIDIARIES AND AFFILIATES.

(a) CLARIFICATION OF FEDERAL TRADE COMMISSION JURISDICTION.—Any person which directly or indirectly controls, is controlled directly or indirectly by, or is directly or indirectly under common control with, any bank or savings association (as such terms are defined in section 3 of the Federal Deposit Insurance Act) and is not itself a bank or savings association shall not be deemed to be a bank or savings association for purposes of the Federal Trade Commission Act or any other law enforced by the Federal Trade Commission.

(b) SAVINGS PROVISION.—No provision of this section shall be construed as restricting the authority of any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) under any Federal banking law, including section 8 of the Federal Deposit Insurance Act.

SEC. 146. EFFECTIVE DATE.

This subtitle shall take effect 6 months after the date of enactment of this Act.

Subtitle F—Applying the Principles of National Treatment and Equality of Competitive Opportunity to Foreign Banks and Foreign Financial Institutions

SEC. 151. APPLYING THE PRINCIPLES OF NATIONAL TREATMENT AND EQUALITY OF COMPETITIVE OPPORTUNITY TO FOREIGN BANKS THAT ARE FINANCIAL HOLDING COMPANIES.

Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by adding at the end the following new paragraph:

"(3) TERMINATION OF GRANDFATHERED RIGHTS.—

"(A) IN GENERAL.—If any foreign bank or foreign company files a declaration under section 6(b)(1)(E) or which receives a determination under section 10(d)(1) of the Bank Holding Company Act of 1956, any authority conferred by this subsection on any foreign bank or company to engage in any activity which the Board has determined to be permissible for financial holding companies under section 6 of such Act shall terminate immediately.

"(B) RESTRICTIONS AND REQUIREMENTS AUTHORIZED.—If a foreign bank or company that engages, directly or through an affiliate pursuant to paragraph (1), in an activity which the Board has determined to be permissible for financial holding companies under section 6 of the Bank Holding Company Act of 1956 has not filed a declaration with the Board of its status as a financial holding company under such section or received a determination under section 10(d)(1) by the end of the 2-year period beginning on the date of enactment of the Financial Services Act of 1998, the Board, giving due regard

to the principle of national treatment and equality of competitive opportunity, may impose such restrictions and requirements on the conduct of such activities by such foreign bank or company as are comparable to those imposed on a financial holding company organized under the laws of the United States, including a requirement to conduct such activities in compliance with any prudential safeguards established under section 5(h) of the Bank Holding Company Act of 1956.".

SEC. 152. APPLYING THE PRINCIPLES OF NATIONAL TREATMENT AND EQUALITY OF COMPETITIVE OPPORTUNITY TO FOREIGN BANKS AND FOREIGN FINANCIAL INSTITUTIONS THAT ARE WHOLESALE FINANCIAL INSTITUTIONS.

Section 8A of the Federal Deposit Insurance Act (as added by section 136(c)(2) of this Act) is amended by adding at the end the following new subsection:

"(i) VOLUNTARY TERMINATION OF DEPOSIT INSURANCE.—The provisions on voluntary termination of insurance in this section shall apply to an insured branch of a foreign bank (including a Federal branch) in the same manner and to the same extent as they apply to an insured State bank or a national bank.".

Subtitle G—Federal Home Loan Bank System

SEC. 161. FEDERAL HOME LOAN BANKS–

The 1st sentence of section 3 of the Federal Home Loan Bank Act (12 U.S.C. 1423) is amended—

(1) by striking "the continental United States" and all that follows through the "eight"; and

(2) by inserting "the States into not less than 1" before "nor".

SEC. 162. MEMBERSHIP AND COLLATERAL.

(a) Subsection (f) of section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended to read as follows:

"(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—A Federal savings association may become a member, of the Federal Home Loan Bank System, and shall qualify for such membership in the manner provided by the Federal Home Loan Bank Act, beginning January 1, 1999.".

(b) Section 10(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)(5)) is amended—

(1) in the 2d sentence, by striking "and the Board"; and

(2) in the 3d sentence, by striking "Board" and inserting "Bank".

(c) Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) in the 2d sentence, by striking "All long-term advances" and inserting "Except as provided in the succeeding sentence, all long-term advances";

(2) by inserting after the 2d sentence, the following sentence: "Notwithstanding the preceding sentence, long-term advances may be made to members insured by the Federal Deposit Insurance Corporation which have less than $500,000,000 in total assets for the purpose of funding small businesses, agriculture, rural development, or low-income community development (as defined by the Board).."; and

(3) by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) In the case of any member insured by the Federal Deposit Insurance Corporation which has total assets of less than $500,000,000, secured loans for small business, agriculture, rural development, or low-income community development, or securities representing a whole interest in such secured loans.".

(d) Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended by adding at the end the following new paragraph:

"(3) ELIGIBILITY REQUIREMENTS FOR COMMUNITY FINANCIAL INSTITUTIONS.—The requirements of paragraph (2) (other than subparagraph (B) of such paragraph) shall not apply to any insured depository institution which has total assets of less than $500,000,000.

(e) Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by striking the 1st of the 2 subsections designated as subsection (e) (relating to qualified thrift lender status).

SEC. 163. THE OFFICE OF FINANCE.

The Federal Home Loan Bank Act (12 U.S.C. 1421) is amended by inserting after section 4 the following new section:

"SEC. 5. THE OFFICE OF FINANCE.

"(a) OPERATION.—The Federal home loan banks shall operate jointly an office of finance (hereafter in this section referred to as the 'Office') to issue the notes, bonds, and debentures of the Federal home loan banks in accordance with this Act.

"(b) POWERS.—Subject to the other provisions of this Act and such safety and soundness regulations as the Finance Board may prescribe, the Office shall be authorized by the Federal home loan banks to act as the agent of such banks to issue Federal home loan bank notes, bonds and debentures pursuant to section 11 of this Act on behalf of the banks.

"(c) CENTRAL BOARD OF DIRECTORS.—

"(1) ESTABLISHMENT.—The Federal home loan banks shall establish a central board of directors of the Office to administer the affairs of the Office in accordance with the provisions of this Act.

"(2) COMPOSITION OF BOARD.—Each Federal home loan bank shall annually select 1 individual who, as of the time of the election, is an officer or director of such bank to serve as a member of the central board of directors of the Office.

"(d) STATUS.—Except to the extent expressly provided in this Act, the Office shall be treated as a Federal home loan bank for purposes of any law.".

SEC. 164. MANAGEMENT OF BANKS.

(a) Subsections (a) and (b) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(a) and (b)) are amended to read as follows:

"(a) The management of each Federal home loan bank shall be vested in a board of 15 directors, 9 of whom shall be elected by the members in accordance with this section, 6 of whom shall be appointed by the Board referred to in section 2A, and all of whom shall be citizens of the United States and bona fide residents of the district in which such bank is located. At least 2 of the Federal home loan bank directors who are appointed by the Board shall be representatives chosen from organizations with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections. No Federal home loan bank director who is appointed pursuant to this subsection may, during such bank director's term of office, serve as an officer of any Federal home loan bank or a director or officer of any member of a bank, or hold shares, or any other financial interest in, any member of a bank.

"(b) The elective directors shall be divided into three classes, designated as classes A, B, and C, as nearly equal in number as possible. Each directorship shall be filled by a person who is an officer or director of a member located in that bank's district. Each class shall represent members of similar asset size, and the Board shall, to the maximum extent possible, seek to achieve geographic diversity. The Finance Board shall establish the minimum and maximum asset size for each class. Any member shall be entitled to nominate and elect eligible persons for its class of directorship; such offices shall be filled from such nominees by a plurality of the votes which members of each class may cast for nominees in their corresponding class of directors in an election held for the purpose of filling such offices. Each member shall be permitted to cast one vote for each share of Federal home loan bank stock owned by that member. No person who is an officer or director of a member that fails to meet any applicable capital requirement is eligible to hold the office of Federal Home Loan Bank director. As used in this subsection, the term "member" means a member of a Federal home loan bank which was a member of such Bank as of a record date established by the Bank.".

(b) Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended—

(1) by striking subsections (c) and (h); and

(2) by redesignating subsections (d), (e), (f), (g), (i), (j), and (k) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively.

(c) Subsection (c) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) (as so redesignated by subsection (b) of this section) is amended by striking the 1st and 2d sentences and inserting the following 2 new sentences: "The term of each position of director shall be 3 years. No director serving for 3 consecutive terms, nor any other officer, director or that member or any affiliated depository institution, shall be eligible for another term earlier than 3 years after the expiration of the last expiring of said 3-year terms. 3 elected directors of different classes as specified by the Finance Board shall be elected by ballot annually.".

(d) Subsection (d) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(e)) (as so redesignated by subsection (b) of this section) is amended to read as follows:

"(d) TRANSITION PROVISION.—In the 1st election after the date of the enactment of the Financial Services Act of 1998, 3 directors shall be elected in each of the 3 classes of elective directorship. The Finance Board may, in the 1st election after such date of enactment, designate the terms of each elected director in each class, not to exceed 3 years, to assure that, in each subsequent election, 3 directors from different classes of elective directorships are elected each year.".

(e) Subsection (g) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) (as so redesignated by subsection (b) of this section) is amended by striking "subject to the approval of the board".

SEC. 165. ADVANCES TO NONMEMBER BORROWERS.

Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in subsection (a), by striking "(a) IN GENERAL.—";

(2) by striking the 4th sentence of subsection (a), and inserting "Notwithstanding the preceding sentence, if an advance is made for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of the Internal Revenue Code of 1986, the advance may be collateralized as provided in section 10(a) of this Act."; and

(3) by striking subsection (b).

SEC. 166. POWERS AND DUTIES OF BANKS.

(a) Subsection (a) of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431(a)) is amended—

(1) by inserting "through the Office of Finance" after "to issue";

(2) by striking "Board" after "upon such terms and conditions as the" and inserting "board of directors of the bank".

(b) Subsection (b) of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431(b)) is amended to read as follows:

"(b) ISSUANCE OF FEDERAL HOME LOAN BANK CONSOLIDATED BONDS.—

"(1) IN GENERAL.— The Office of Finance may issue consolidated Federal home loan bank bonds and other consolidated obligations on behalf of the banks.

"(2) JOINT AND SEVERAL OBLIGATION; TERMS AND CONDITIONS.—Consolidated obligations issued by the Office of Finance under paragraph (1) shall—

"(A) be the joint and several obligations of all the Federal home loan banks; and

"(B) shall be issued upon such terms and conditions as shall be established by the Office of Finance subject to such rules and regulations as the Finance Board may prescribe.".

(c) Section 11(f) of the Federal Home Loan Bank Act (12 U.S.C. 1430(f) (as designated before the redesignation by subsection (e) of this section) is amended by striking both commas immediately following "permit" and inserting "or".

(d) Subsection (i) of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431(i)) is amended by striking the 2d undesignated paragraph.

(e) Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) through (k) as subsections (c) through (j), respectively.

SEC. 167. MERGERS AND CONSOLIDATIONS OF FEDERAL HOME LOAN BANKS.

Section 26 of the Federal Home Loan Bank Act (12 U.S.C. 1446) is amended by designating the current paragraph as "(a)" and adding the following new sections:

"(b) Nothing in this section shall preclude voluntary mergers, combinations or consolidation by or among the Federal home loan banks pursuant to such regulations as the Finance Board may prescribe.

"(c) NUMBER OF ELECTED DIRECTORS OF RESULTING BANK.— Subject to section 7 of this Act, any bank resulting from a merger, combination, or consolidation pursuant to this section may have a number of elected directors equal to or less than the total number of elected directors of all the banks which participated in such transaction (as determined immediately before such transaction).

"(d) NUMBER OF APPOINTED DIRECTORS OF RESULTING BANK.—The number of appointed directors of any bank resulting from a merger, combination, or consolidation pursuant to this section shall be a number that is three less than the number of elected directors.

"(e) ADJUSTMENT OF DISTRICT BOUNDARIES.—After consummation of any merger, combination, or consolidation of 2 or more Federal home loan banks, the Finance Board shall adjust the districts established in section 3 of this Act to reflect such merger, combination, or consolidation.".

SEC. 168. TECHNICAL AMENDMENTS.

(a) REPEAL OF SECTIONS 22A AND 27.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by striking sections 22A (12 U.S.C. 1442a) and 27 (12 U.S.C. 1447).

(b) SECTION 12.—

(1) Section 12(a) of the Federal Home Loan Bank Act (12 U.S.C. 1432(a)) is amended—

(A) by striking "subject to the approval of the Board" immediately following "transaction of its business"; and

(B) by striking "and, by its Board of directors, to prescribe, amend, and repeal by-laws, rules, and regulations governing the manner in which its affairs may be administered; and the powers granted to it by law may be exercised and enjoyed subject to the approval of the Board. The president of a Federal Home Loan Bank may also be a member of the Board of directors thereof, but no other officer, employee, attorney, or agent of such bank," and inserting "and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable statute and regulation, as administered by the Finance Board. No officer, employee, attorney, or agent of a Federal home loan bank".

(2) Section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432) is amended by inserting after subsection (b) the following new subsection:

"(c) PROHIBITION ON EXCESSIVE COMPENSATION.—

"(1) IN GENERAL.—The Finance Board shall prohibit the Federal home loan banks from providing compensation to any officer, director, or employee that is not reasonable and comparable with the compensation for employment in other similar businesses involving similar duties and responsibilities. However, the Finance Board may not prescribe or set a specific level or range of compensation for any officer, director, or employee.

"(2) REGULATIONS.—The Finance Board, by regulation, may provide for the requirements of paragraph (1) to be phased-in over a period not to exceed 3 years.

"(3) EXCEPTION FOR EXISTING CONTRACTS.— Paragraph (1) shall not apply to any contract entered into before June 1, 1997.".

(c) POWERS AND DUTIES OF FEDERAL HOUSING FINANCE BOARD.—

(1) Subsection (a)(1) of section 2B of the Federal Home Loan Bank Act (12 U.S.C. 1422b(a)(1)) is amended by striking the period at the end of the sentence and inserting "; and to have the same powers, rights, and duties to enforce this Act with respect to the Federal home loan banks and the senior officers and directors of such banks as the Office of Federal Housing Enterprise Oversight has over the Federal housing enterprises and the senior officers and directors of such enterprises under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(2) Subsection (b) of section 2B of the Federal Home Loan Bank Act (12 U.S.C. 1422b(b)) is amended—

(A) by striking "(1) BOARD STAFF.—";

(B) by striking "function to any employee, administrative unit" and inserting "function to any employee or administrative unit";

(C) by striking the 2d sentence in paragraph (1); and

(D) by striking paragraph (2).

(3) Section 111 of Public Law 93-495 (12 U.S.C. 250) is amended by striking "Federal Home Loan Bank Board" and inserting "Federal Housing Finance Board".

(d) ELIGIBILITY TO SECURE ADVANCES.—

(1) SECTION 9.—Section 9 of the Federal Home Loan Bank Act (12 U.S.C. 1429) is amended—

(A) in the second sentence, by striking "with the approval of the Board"; and

(B) in the third sentence, by striking ", subject to the approval of the Board,".

(2) SECTION 10.—

(A) Subsection (a) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended in paragraph (3), by striking "Deposits" and inserting "Cash or deposits".

(B) Subsection (c) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(c)) is amended—

(i) in the 1st sentence by striking "Board" and inserting "Federal home loan bank"; and

(ii) by striking the 2d sentence.

(C) Subsection (d) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(d)) is amended—

(i) in the 1st sentence, by striking "and the approval of the Board";

(ii) in the last sentence, by striking "Subject to the approval of the Board, any" and inserting "Any".

(D) Section 10(j) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)) is amended—

(i) in the 1st sentence of paragraph (1) by striking "to subsidize the interest rate on advances" and inserting "to provide subsidies, including subsidized interest rates on advances";

(ii) in paragraphs (2), (3), (4), (5), (9), (11), and (12) by striking "advances" and "subsidized advances" each place such terms appear and inserting "subsidies, including subsidized advances";

(iii) in paragraph (1), by inserting "(A)" before the 1st sentence, and inserting the following at the end of the paragraph:

"(B) Subject to such regulations as the Finance Board may prescribe, the board of directors of each Federal home loan bank may approve or disapprove requests from members for Affordable Housing Program subsidies, and may not delegate such authority.";

(iv) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraph:

"(B) finance the purchase, construction or rehabilitation of rental housing if, for a period of at least 15 years, either 20 percent or more of the units in such housing are occupied by and affordable for households whose income is 50 percent or less of area median income (as determined by the Secretary of Housing and Urban Development, and as adjusted for family size); or 40 percent or more of the units in such housing are occupied by and affordable for households whose income is 60 percent or less of area median income (as determined by the Secretary of Housing and Urban Development, and as adjusted for family size).";

(v) in paragraph (5)—

(I) by striking the colon after "Affordable Housing Program";

(II) by striking subparagraphs (A) and (B); and

(III) by striking "(C) In 1995, and subsequent years,";

(vi) in paragraph (11)—

(I) by inserting ", pursuant to a nomination process that is as broad and as participatory as possible, and giving consideration to the size of the District and the diversity of low- and moderate-income housing needs and activities within the District," after "Advisory Council of 7 to 15 persons";

(II) by inserting "a diverse range of" before "community and nonprofit organizations"; and

(III) by inserting after the 1st sentence, the following new sentence: "Representatives of no one group shall constitute an undue proportion of the membership of the Advisory Council."; and

(vii) in paragraph (13), by striking subparagraph (D) and inserting the following new subparagraph:

"(D) AFFORDABLE.—For purposes of paragraph (2)(B), the term "affordable" means that the rent with respect to a unit shall not exceed 30 percent of the income limitation under paragraph (2)(B) applicable to occupants of such unit.".

(e) SECTION 16.—Subsection (a) of section 16 of the Federal Home Loan Bank Act (12 U.S.C. 1436) is amended in the 3d sentence by striking "net earnings" and inserting "previously retained earnings or current net earnings"; by striking ", and then only with the approval of the Federal Housing Finance Board"; and by striking the 4th sentence.

(f) SECTION 18.—Subsection (b) of section 18 of the Federal Home Loan Bank Act (12 U.S.C. 1438) is amended by striking paragraph (4).

(g) SECTION 11.—Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended by inserting after subsection (j) (as so redesignated by section 166(e) of this subtitle) the following subsection:

"(k) PROHIBITION ON OTHER ACTIVITIES.—

"(1) A Federal home loan bank may not engage in any activity other than the activities authorized under this Act and activities incidental to such authorized activities.

"(2) All activities specified in paragraph (1) are subject to Finance Board approval.".

SEC. 169. DEFINITIONS.

Paragraph (3) of section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(3)) is amended to read as follows:

"(3) The term "State" in addition to the states of the United States, includes the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands."

SEC. 170. RESOLUTION FUNDING CORPORATION

(a) IN GENERAL.—Section 21B(f)(2)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)) is amended to read as follows:

"(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—To the extent the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation each calendar year 20.75 percent of the net earnings of such bank (after deducting expenses relating to subsection (j) of section 10 and operating expenses).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1999.

SEC. 171. CAPITAL STRUCTURE OF THE FEDERAL HOME LOAN BANKS.

(a) IN GENERAL.—Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended to read as follows:

"SEC. 6. CAPITAL STRUCTURE OF FEDERAL HOME LOAN BANKS.

"(a) CAPITAL STRUCTURE PLAN.—On or before January 1, 1999, the board of directors of each Federal home loan bank shall submit for Finance Board approval a plan establishing and implementing a capital structure for such bank which—

"(1) the board of directors determines is the best suited for the condition and operation of the bank and the interests of the shareholders of the bank;

"(2) meets the requirements of subsection (b); and

"(3) meets the minimum capital standards and requirements established under subsection (c) and any regulations prescribed by the Finance Board pursuant to such subsection.

"(b) CONTENTS OF PLAN.—The capital structure plan of each Federal home loan bank shall meet the following requirements:

"(1) STOCK PURCHASE REQUIREMENTS.—

"(A) IN GENERAL.—Each capital structure plan of a Federal home loan bank shall require the shareholders of the bank to maintain an investment in the stock of the bank in amount not less than—

"(i) a minimum percentage of the total assets of the shareholder; and

"(ii) a minimum percentage of the outstanding advances from the bank to the shareholder.

"(B) MINIMUM PERCENTAGE LEVELS.—The minimum percentages established pursuant to subparagraph (A) shall be set at levels sufficient to meet the bank's minimum capital requirements established by the Finance Board under subsection (c).

"(C) MAXIMUM ASSET BASED CAPITAL REQUIREMENT.—The asset-based capital requirement applicable to any shareholder of a Federal home loan bank in any year shall not exceed the lesser of—

"(i) 0.6 percent of a shareholder's total assets at the close of the preceding year; or

"(ii) $300,000,000.

"(D) MAXIMUM ADVANCE-BASED REQUIREMENT.—The advance-based capital requirement applicable to any shareholder of a Federal home loan bank shall not exceed 6 percent of the total outstanding advances from the bank to the shareholder.

"(E) MINIMUM STOCK PURCHASE REQUIREMENT AUTHORIZED.—A capital structure plan may establish a minimum dollar amount of stock of a Federal home loan bank in which a shareholder shall be required to invest.

"(2) ADJUSTMENTS TO STOCK PURCHASE REQUIREMENTS.—The capital structure plan adopted by each Federal home loan bank shall impose a continuing obligation on the board of directors of the bank to review and adjust as necessary member stock purchase requirements in order to ensure that the bank remains in compliance with applicable minimum capital levels established by the Finance Board.

"(3) TRANSITION RULE FOR STOCK PURCHASE REQUIREMENTS.—

"(A) IN GENERAL.—A capital structure plan may allow shareholders who were members of a Federal home loan bank on the date of the enactment of the Financial Services Act of 1998 to come into compliance with the asset-based stock purchase requirement established under paragraph (1) during a transition period established under the plan of not more than 3 years, if such requirement exceeds the asset-based stock purchase requirement in effect on such date of enactment.

"(B) INTERIM PURCHASE REQUIREMENTS.—A capital structure plan may establish interim asset-based stock purchase requirements applicable to members referred to in subparagraph (A) during a transition period established under subparagraph (A).

"(4) CLASSES OF STOCK.—

"(A) IN GENERAL.—Each capital structure plan shall afford each shareholder of a Federal home loan bank the option of meeting the shareholder's stock purchase requirements through the purchase of any combination of Class A or Class B stock.

"(B) CLASS A STOCK.—Class A stock shall be stock of a Federal home loan bank that shall be redeemed in cash and at par by the bank no later than 12 months following submission of a written notice by a shareholder of the shareholder's intention to divest all shares of stock in the bank.

"(C) CLASS B STOCK.—Class B stock shall be stock of a Federal home loan bank that shall be redeemed in cash and at par by the bank no later than 5 years following submission of a written notice by a shareholder of the shareholder's intention to divest all shares of stock in the bank.

"(D) RIGHTS REQUIREMENT.—The Class B stock of a Federal home loan bank may receive a dividend premium over that paid on Class A stock, and may have preferential voting rights in the election of Federal home loan bank directors.

"(E) LOWER STOCK PURCHASE REQUIREMENTS FOR CLASS B STOCK.—A capital structure plan may provide for lower stock purchase requirements with respect to those shareholder's that elect to purchase Class B stock in a manner that is consistent with meeting the bank's own minimum capital requirements as established by the Finance Board.

"(F) NO OTHER CLASSES OF STOCK PERMITTED.—No class of stock other than the Class A and Class B stock described in subparagraphs (B) and (C) may be issued by a Federal home loan bank.

"(5) LIMITED TRANSFERABILITY OF STOCK.—Each capital structure plan shall provide that any equity securities issued by the bank shall be available only to, held only by, and tradable only among shareholders of the bank.

"(c) CAPITAL STANDARDS.—

"(1) IN GENERAL.—The Finance Board shall prescribe, by regulation, uniform capital standards applicable to each Federal home loan bank which shall include—

"(A) a leverage limit in accordance with paragraph (2); and

"(B) a risk-based capital requirement in accordance with paragraph (3).

"(2) MINIMUM LEVERAGE LIMIT.—The leverage limit established by the Finance Board shall require each Federal home loan bank to maintain total capital in an amount not less than 5 percent of the total assets of the bank. In determining compliance with the minimum leverage ratio, the amount of retained earnings and the paid-in value of Class B stock, if any, shall be multiplied by 1.5 and such higher amount shall be deemed to be capital for purposes of meeting the 5 percent minimum leverage ratio.

"(3) RISK-BASED CAPITAL STANDARD.—The risk-based capital requirement shall be composed of the following components:

"(A) Capital sufficient to meet the credit risk to which a Federal home loan bank is subject, based on an amount which is not less than the amount of tier 1, risk-based capital required by regulations prescribed, or guidelines issued under section 38 of the Federal Deposit Insurance Act for a well capitalized insured depository institution.

"(B) Capital sufficient to meet the interest rate risk to which a Federal home loan bank is subject, based on an interest rate stress test applied by the Finance Board that rigorously tests for changes in interest rates, rate volatility, and changes in the shape of the yield curve.

"(d) REDEMPTION OF CAPITAL.—

"(1) IN GENERAL.—Any shareholder of a Federal home loan bank shall have the right to withdraw the shareholder's membership from a Federal home loan bank and to redeem the shareholder's stock in accordance with the redemption rights associated with the class of stock the shareholder holds, if—

"(A) such shareholder has filed a written notice of an intention to redeem all such shares; and

"(B) the shareholder has no outstanding advances from any Federal home loan bank at the time of such redemption.

"(2) PARTIAL REDEMPTION.—A shareholder who files notice of intention to redeem all

shares of stock in a Federal home loan bank may redeem not more than ½ of all such shares, in cash and at par, 6 months before the date by which the bank is required to redeem such stock pursuant to subparagraph (B) or (C) of subsection (b)(4).

"(3) DIVESTITURE.—The board of directors of any Federal home loan bank may, after a hearing, order the divestiture by any shareholder of all ownership interests of such shareholder in the bank, if—

"(A) in the opinion of the board of directors, such shareholder has failed to comply with a provision of this Act or any regulation prescribed under this Act; or

"(B) the shareholder has been determined to be insolvent, or otherwise subject to the appointment of a conservator, receiver, or other legal custodian, by a State or Federal authority with regulatory and supervisory responsibility for such shareholder.

"(4) RETIREMENT OF EXCESS STOCK.—Any shareholder may—

"(A) retire shares of Class A stock or, at the option of the shareholder, shares of Class B stock, or any combination of Class A and Class B stock, that are excess to the minimum stock purchase requirements applicable to the shareholder; and

"(B) receive from the Federal home loan bank a prompt payment in cash equal to the par value of such stock.

"(5) IMPAIRMENT OF CAPITAL.—If the Finance Board or the board of directors of a Federal home loan bank determines that the paid-in capital of the bank is, or is likely to be, impaired as a result of losses in or depreciation of the assets of the bank, the Federal home loan bank shall withhold that portion of the amount due any shareholder with respect to any redemption or retirement of any class of stock which bears the same ratio to the total of such amount as the amount of the impaired capital bears to the total amount of capital allocable to such class of stock.

"(6) POLICIES.—Subject to the requirements of this section, the board of directors of each Federal home loan bank shall promptly establish policies, consistent with this Act, governing the capital stock of such bank and other provisions of this section.".

SEC. 172. INVESTMENTS.

Subsection (j) of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) (as so redesignated by section 166(e) of this subtitle) is amended to read as follows:

"(j) INVESTMENTS.—Each bank shall reduce its investments to those necessary for liquidity purposes, for safe and sound operation of the banks, or for housing finance, as administered by the Finance Board.".

SEC. 173. FEDERAL HOUSING FINANCE BOARD.

Section 2A(b)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1422(b)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(2) by inserting before subparagraph (B) (as so redesignated by paragraph (1) of this section) the following new subparagraph:

"(A) The Secretary of the Treasury (or the Secretary of the Treasury's designee), who shall serve without additional compensation."; and

(3) in subparagraph (C) (as so redesignated by paragraph (1) of this section) by striking "Four" and inserting "3".

Subtitle H—Direct Activities of Banks

SEC. 181. AUTHORITY OF NATIONAL BANKS TO UNDERWRITE CERTAIN MUNICIPAL BONDS.

The paragraph designated the Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24(7)) is amended by adding at the end the following new sentence: "In addition to the provisions in this paragraph for dealing in, underwriting or purchasing securities, the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing investment securities for the national bank's own account shall not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of the Internal Revenue Code of 1986) issued by or on behalf of any state or political subdivision of a state, including any municipal corporate instrumentality of 1 or more states, or any public agency or authority of any state or political subdivision of a state, if the national banking association is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act).".

Subtitle I—Effective Date of Title

SEC. 191. EFFECTIVE DATE.

Except with regard to any subtitle or other provision of this title for which a specific effective date is provided, this title and the amendments made by this title shall take effect at the end of the 270-day period beginning on the date of the enactment of this Act.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

SEC. 201. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

"(4) BROKER.—

"(A) IN GENERAL.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

"(B) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a broker because the bank engages in any of the following activities under the conditions described:

"(i) THIRD PARTY BROKERAGE ARRANGEMENTS.—The bank enters into a contractual or other arrangement with a broker or dealer registered under this title under which the broker or dealer offers brokerage services on or off the premises of the bank if—

"(I) such broker or dealer is clearly identified as the person performing the brokerage services;

"(II) the broker or dealer performs brokerage services in an area that is clearly marked and, to the extent practicable, physically separate from the routine deposit-taking activities of the bank;

"(III) any materials used by the bank to advertise or promote generally the availability of brokerage services under the contractual or other arrangement clearly indicate that the brokerage services are being provided by the broker or dealer and not by the bank;

"(IV) any materials used by the bank to advertise or promote generally the availability of brokerage services under the contractual or other arrangement are in compliance with the Federal securities laws before distribution;

"(V) bank employees (other than associated persons of a broker or dealer who are qualified pursuant to the rules of a self-regulatory organization) perform only clerical or ministerial functions in connection with brokerage transactions including scheduling appointments with the associated persons of a broker or dealer, except that bank employees may forward customer funds or securities and may describe in general terms the range of investment vehicles available from the bank and the broker or dealer under the contractual or other arrangement;

"(VI) bank employees do not directly receive incentive compensation for any brokerage transaction unless such employees are associated persons of a broker or dealer and are qualified pursuant to the rules of a self-regulatory organization, except that the bank employees may receive compensation for the referral of any customer if the compensation is a nominal one-time cash fee of a fixed dollar amount and the payment of the fee is not contingent on whether the referral results in a transaction;

"(VII) such services are provided by the broker or dealer on a basis in which all customers which receive any services are fully disclosed to the broker or dealer;

"(VIII) the bank does not carry a securities account of the customer except in a customary custodian or trustee capacity; and

"(IX) the bank, broker, or dealer informs each customer that the brokerage services are provided by the broker or dealer and not by the bank and that the securities are not deposits or other obligations of the bank, are not guaranteed by the bank, and are not insured by the Federal Deposit Insurance Corporation.

"(ii) TRUST ACTIVITIES.—The bank—

"(I) effects transactions in a trustee capacity and is primarily compensated based on an annual fee (payable on a monthly, quarterly, or other basis) or percentage of assets under management, or both; or

"(II) effects transactions in a fiduciary capacity in its trust department or other department that is regularly examined by bank examiners for compliance with fiduciary principles and standards and—

"(aa) is primarily compensated on the basis of either an annual fee (payable on a monthly, quarterly, or other basis), a percentage of assets under management, or both, and does not receive brokerage commissions or other similar remuneration based on effecting transactions in securities, other than the cost incurred by the bank in connection with executing securities transactions for fiduciary customers; and

"(bb) does not publicly solicit brokerage business, other than by advertising that it effects transactions in securities in conjunction with advertising its other trust activities.

"(iii) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank effects transactions in—

"(I) commercial paper, bankers acceptances, or commercial bills;

"(II) exempted securities;

"(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

"(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

"(iv) CERTAIN STOCK PURCHASE PLANS.—

"(I) IN GENERAL.—The bank effects transactions, as part of its transfer agency activities, in—

"(aa) the securities of an issuer as part of any pension, retirement, profit-sharing, bonus, thrift, savings, incentive, or other similar benefit plan for the employees of that issuer or its subsidiaries, if the bank does not solicit transactions or provide investment advice with respect to the purchase

or sale of securities in connection with the plan;

"(bb) the securities of an issuer as part of that issuer's dividend reinvestment plan, if the bank does not—

"(AA) solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan;

"(BB) net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; or

"(cc) the securities of an issuer as part of a plan or program for the purchase or sale of that issuer's shares, if—

"(AA) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan or program;

"(BB) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

"(CC) the bank's compensation for such plan or program consists of administration fees, or flat or capped per order processing fees, or both, plus the cost incurred by the bank in connection with executing securities transactions resulting from such plan or program.

"(II) PERMISSIBLE DELIVERY OF MATERIALS.—The exception to being considered a broker for a bank engaged in activities described in subclause (I) will not be affected by a bank's delivery of written or electronic plan materials to employees of the issuer, shareholders of the issuer, or members of affinity groups of the issuer, so long as such materials are—

"(aa) comparable in scope or nature to that permitted by the Commission as of the date of the enactment of the Financial Services Act of 1998; or

"(bb) otherwise permitted by the Commission.

"(v) SWEEP ACCOUNTS.—The bank effects transactions as part of a program for the investment or reinvestment of bank deposit funds into any no-load, open-end management investment company registered under the Investment Company Act of 1940 that holds itself out as a money market fund.

"(vi) AFFILIATE TRANSACTIONS.—The bank effects transactions for the account of any affiliate of the bank (as defined in section 2 of the Bank Holding Company Act of 1956) other than—

"(I) a registered broker or dealer; or

"(II) an affiliate that is engaged in merchant banking, as described in section 6(c)(3)(H) of the Bank Holding company Act of 1956.

"(vii) PRIVATE SECURITIES OFFERINGS.—The bank—

"(I) effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 or the rules and regulations issued thereunder;

"(II) at any time after one year after the date of enactment of the Financial Services Act of 1998, is not affiliated with a broker or dealer that has been registered for more than one year; and

"(III) effects transactions exclusively with qualified investors.

"(viii) SAFEKEEPING AND CUSTODY ACTIVITIES.—

"(I) IN GENERAL.—The bank, as part of customary banking activities—

"(aa) provides safekeeping or custody services with respect to securities, including the exercise of warrants and other rights on behalf of customers;

"(bb) facilitates the transfer of funds or securities, as a custodian or a clearing agency, in connection with the clearance and settlement of its customers' transactions in securities;

"(cc) effects securities lending or borrowing transactions with or on behalf of customers as part of services provided to customers pursuant to division (aa) or (bb) or invests cash collateral pledged in connection with such transactions; or

"(dd) holds securities pledged by a customer to another person or securities subject to purchase or resale agreements involving a customer, or facilitates the pledging or transfer of such securities by book entry or as otherwise provided under applicable law.

"(II) EXCEPTION FOR CARRYING BROKER ACTIVITIES.—The exception to being considered a broker for a bank engaged in activities described in subclause (I) shall not apply if the bank, in connection with such activities, acts in the United States as a carrying broker (as such term, and different formulations thereof, are used in section 15(c)(3) and the rules and regulations thereunder) for any broker or dealer, unless such carrying broker activities are engaged in with respect to government securities (as defined in paragraph (42) of this subsection).

"(ix) BANKING PRODUCTS.—The bank effects transactions in traditional banking products, as defined in section 206(a) of the Financial Services Act of 1998.

"(x) DE MINIMIS EXCEPTION.—The bank effects, other than in transactions referred to in clauses (i) through (ix), not more than 500 transactions in securities in any calendar year, and such transactions are not effected by an employee of the bank who is also an employee of a broker or dealer.

"(C) BROKER DEALER EXECUTION.—The exception to being considered a broker for a bank engaged in activities described in clauses (ii), (iv), and (viii) of subparagraph (B) shall not apply if the activities described in such provisions result in the trade in the United States of any security that is a publicly traded security in the United States, unless—

"(i) the bank directs such trade to a registered or broker dealer for execution;

"(ii) the trade is a cross trade or other substantially similar trade of a security that—

"(I) is made by the bank or between the bank and an affiliated fiduciary; and

"(II) is not in contravention of fiduciary principles established under applicable Federal or State law; or

"(iii) the trade is conducted in some other manner permitted under rules, regulations, or orders as the Commission may prescribe or issue.

"(D) NO EFFECT OF BANK EXEMPTIONS ON OTHER COMMISSION AUTHORITY.—The exception to being considered a broker for a bank engaged in activities described in subparagraphs (B) and (C) shall not affect the commission's authority under any other provision of this Act or any other securities law.

"(E) FIDUCIARY CAPACITY.—For purposes of subparagraph (B)(ii), the term 'fiduciary capacity' means—

"(i) in the capacity as trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gift to minor act, or as an investment adviser if the bank receives a fee for its investment advice;

"(ii) in any capacity in which the bank possesses investment discretion on behalf of another; or

"(iii) in any other similar capacity.

"(F) EXCEPTION FOR ENTITIES SUBJECT TO SECTION 15(e).—The term 'broker' does not include a bank that—

"(i) was, immediately prior to the enactment of the Financial Services Act of 1998, subject to section 15(e); and

"(ii) is subject to such restrictions and requirements as the Commission considers appropriate.".

SEC. 202. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

"(5) DEALER.—

"(A) IN GENERAL.—The term 'dealer' means any person engaged in the business of buying and selling securities for such person's own account through a broker or otherwise.

"(B) EXCEPTION FOR PERSON NOT ENGAGED IN THE BUSINESS OF DEALING.—The term 'dealer' does not include a person that buys or sells securities for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

"(C) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a dealer because the bank engages in any of the following activities under the conditions described:

"(i) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank buys or sells—

"(I) commercial paper, bankers acceptances, or commercial bills;

"(II) exempted securities;

"(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes of the United States, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

"(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

"(ii) INVESTMENT, TRUSTEE, AND FIDUCIARY TRANSACTIONS.—The bank buys or sells securities for investment purposes—

"(I) for the bank; or

"(II) for accounts for which the bank acts as a trustee or fiduciary.

"(iii) ASSET-BACKED TRANSACTIONS.—The bank engages in the issuance or sale to qualified investors, through a grantor trust or otherwise, of securities backed by or representing an interest in notes, drafts, acceptances, loans, leases, receivables, other obligations, or pools of any such obligations predominantly originated by the bank, or a syndicate of banks of which the bank is a member, or an affiliate of any such bank other than a broker or dealer.

"(iv) BANKING PRODUCTS.—The bank buys or sells traditional banking products, as defined in section 206(a) of the Financial Services Act of 1998.

"(v) DERIVATIVE INSTRUMENTS.—The bank issues, buys, or sells any derivative instrument to which the bank is a party—

"(I) to or from a corporation, limited liability company, or partnership that owns and invests on a discretionary basis, not less than $10,000,000 in investments, or to or from a qualified investor, except that if the instrument provides for the delivery of one or more securities (other than a derivative instrument or government security), the transaction shall be effected with or through a registered broker or dealer; or

"(II) to or from other persons, except that if the derivative instrument provides for the delivery of one or more securities (other

than a derivative instrument or government security), or is a security (other than a government security), the transaction shall be effected with or through a registered broker or dealer; or

"(III) to or from any person if the instrument is neither a security nor provides for the delivery of one or more securities (other than a derivative instrument).".

SEC. 203. REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.

Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by inserting after subsection (i) the following new subsection:

"(j) REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.—A registered securities association shall create a limited qualification category for any associated person of a member who effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, and shall deem qualified in such limited qualification category, without testing, any bank employee who, in the six month period preceding the date of enactment of this Act, engaged in effecting such sales.".

SEC. 204. SALES PRACTICES AND COMPLAINT PROCEDURES.

Section 18 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

"(s) SALES PRACTICES AND COMPLAINT PROCEDURES WITH RESPECT TO BANK SECURITIES ACTIVITIES.—

"(1) REGULATIONS REQUIRED.—Each Federal banking agency shall prescribe and publish in final form, not later than 6 months after the date of enactment of the Financial Services Act of 1998, regulations which apply to retail transactions, solicitations, advertising, or offers of any security by any insured depository institution or any affiliate thereof other than a registered broker or dealer or an individual acting on behalf of such a broker or dealer who is an associated person of such broker or dealer. Such regulations shall include—

"(A) requirements that sales practices comply with just and equitable principles of trade that are substantially similar to the Rules of Fair Practice of the National Association of Securities Dealers; and

"(B) requirements prohibiting (i) conditioning an extension of credit on the purchase or sale of a security; and (ii) any conduct leading a customer to believe that an extension of credit is conditioned upon the purchase or sale of a security.

"(2) PROCEDURES REQUIRED.—The appropriate Federal banking agencies shall jointly establish procedures and facilities for receiving and expeditiously processing complaints against any bank or employee of a bank arising in connection with the purchase or sale of a security by a customer, including a complaint alleging a violation of the regulations prescribed under paragraph (1), but excluding a complaint involving an individual acting on behalf of such a broker or dealer who is an associated person of such broker or dealer. The use of any such procedures and facilities by such a customer shall be at the election of the customer. Such procedures shall include provisions to refer a complaint alleging fraud to the Securities and Exchange Commission and appropriate State securities commissions.

"(3) REQUIRED ACTIONS.—The actions required by the Federal banking agencies under paragraph (2) shall include the following:

"(A) establishing a group, unit, or bureau within each such agency to receive such complaints;

"(B) developing and establishing procedures for investigating, and permitting customers to investigate, such complaints;

"(C) developing and establishing procedures for informing customers of the rights they may have in connection with such complaints;

"(D) developing and establishing procedures that allow customers a period of at least 6 years to make complaints and that do not require customers to pay the costs of the proceeding; and

"(E) developing and establishing procedures for resolving such complaints, including procedures for the recovery of losses to the extent appropriate.

"(4) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraphs (1) and (2), after consultation with the Securities and Exchange Commission.

"(5) PROCEDURES IN ADDITION TO OTHER REMEDIES.—The procedures and remedies provided under this subsection shall be in addition to, and not in lieu of, any other remedies available under law.

"(6) DEFINITION.—As used in this subsection—

"(A) the term 'security' has the meaning provided in section 3(a)(10) of the Securities Exchange Act of 1934;

"(B) the term 'registered broker or dealer' has the meaning provided in section 3(a)(48) of such Act; and

"(C) the term 'associated person' has the meaning provided in section 3(a)(18) of such Act.".

SEC. 205. INFORMATION SHARING.

Section 18 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

"(t) RECORDKEEPING REQUIREMENTS.—

"(1) REQUIREMENTS.—Each appropriate Federal banking agency, after consultation with and consideration of the views of the Commission, shall establish recordkeeping requirements for banks relying on exceptions contained in paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934. Such recordkeeping requirements shall be sufficient to demonstrate compliance with the terms of such exceptions and be designed to facilitate compliance with such exceptions. Each appropriate Federal banking agency shall make any such information available to the Commission upon request.

"(2) DEFINITIONS.—As used in this subsection the term 'Commission' means the Securities and Exchange Commission.".

SEC. 206. DEFINITION AND TREATMENT OF BANKING PRODUCTS.

(a) DEFINITION OF TRADITIONAL BANKING PRODUCT.—

(1) IN GENERAL.—For purposes of paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5)), the term 'traditional banking product' means—

(A) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank;

(B) a banker's acceptance;

(C) a letter of credit issued or loan made by a bank;

(D) a debit account at a bank arising from a credit card or similar arrangement;

(E) a participation in a loan which the bank or an affiliate of the bank (other than a broker or dealer) funds, participates in, or owns that is sold—

(i) to qualified investors; or

(ii) to other persons that—

"(I) have the opportunity to review and assess any material information, including information regarding the borrower's creditworthiness; and

"(II) based on such factors as financial sophistication, net worth, and knowledge and experience in financial matters, have the capability to evaluate the information available, as determined under generally applicable banking standards or guidelines; or

(F) any derivative instrument, whether or not individually negotiated, involving or relating to—

(i) foreign currencies, except options on foreign currencies that trade on a national securities exchange;

(ii) interest rates, except interest rate derivative instruments (I) that are based on a security; or (II) that provide for the delivery of one or more securities; or

(iii) commodities, other rates, indices, or other assets, except derivative instruments that are securities or that provide for the delivery of one or more securities.

(2) CLASSIFICATION LIMITED.—Classification of a particular product as a traditional banking product pursuant to this subsection shall not be construed as finding or implying that such product is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

(3) DEFINITIONS.—For purposes of this subsection—

(A) the term "bank" has the meaning provided in section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6);

(B) the term "qualified investor" has the meaning provided in section 3(a)(55) of such Act; and

(C) the term "Federal banking agency" has the meaning provided in section 3(z) of the Federal Deposit Insurance Act (12 U.S.C. 1813(z)).

(b) TREATMENT OF NEW BANKING PRODUCTS FOR PURPOSES OF BROKER/DEALER REQUIREMENTS.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsection:

"(i) RULEMAKING TO EXTEND REQUIREMENTS TO NEW BANKING PRODUCTS.—

"(1) LIMITATION.—The Commission shall not—

"(A) require a bank to register as a broker or dealer under this section because the bank engages in any transaction in, or buys or sells, a new banking product; or

"(B) bring an action against a bank for a failure to comply with a requirement described in subparagraph (A);

unless the Commission has imposed such requirement by rule or regulation issued in accordance with this section.

"(2) CRITERIA FOR RULEMAKING.—The Commission shall not impose a requirement under paragraph (1) of this subsection with respect to any new banking product unless the Commission determines that—

"(A) the new banking product is a security; and

"(B) imposing such requirement is necessary or appropriate in the public interest and for the protection of investors, consistent with the requirements of section 3(f).

"(3) NEW BANKING PRODUCT.—For purposes of this subsection, the term 'new banking product' means a product that—

"(A) was not subjected to regulation by the Commission as a security prior to the date of enactment of this subsection; and

"(B) is not a traditional banking product, as such term is defined in section 206(a) of the Financial Services Act of 1998.

"(4) CONSULTATION.—In promulgating rules under this subsection, the Commission shall consult with and consider the views of the appropriate regulatory agencies concerning the proposed rule and the impact on the banking industry.".

SEC. 207. DERIVATIVE INSTRUMENT AND QUALIFIED INVESTOR DEFINED.

Section 3(a) of the Securities Exchange Act of 1934 is amended by adding at the end the following new paragraphs:

"(54) DERIVATIVE INSTRUMENT.—

"(A) DEFINITION.—The term 'derivative instrument' means any individually negotiated contract, agreement, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets, but does not include a traditional banking product, as defined in section 206(a) of the Financial Services Act of 1998.

"(B) CLASSIFICATION LIMITED.— Classification of a particular contract as a derivative instrument pursuant to this paragraph shall not be construed as finding or implying that such instrument is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

"(55) QUALIFIED INVESTOR.—

"(A) DEFINITION.—For purposes of this title and section 206(a)(1)(E) of the Financial Services Act of 1998, the term 'qualified investor' means—

"(i) any investment company registered with the Commission under section 8 of the Investment Company Act of 1940;

"(ii) any issuer eligible for an exclusion from the definition of investment company pursuant to section 3(c)(7) of the Investment Company Act of 1940;

"(iii) any bank (as defined in paragraph (6) of this subsection), savings and loan association (as defined in section 3(b) of the Federal Deposit Insurance Act), broker, dealer, insurance company (as defined in section 2(a)(13) of the Securities Act of 1933), or business development company (as defined in section 2(a)(48) of the Investment Company Act of 1940);

"(iv) any small business investment company licensed by the United States Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958;

"(v) any State sponsored employee benefit plan, or any other employee benefit plan, within the meaning of the Employee Retirement Income Security Act of 1974, other than an individual retirement account, if the investment decisions are made by a plan fiduciary, as defined in section 3(21) of that Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser;

"(vi) any trust whose purchases of securities are directed by a person described in clauses (i) through (v) of this subparagraph;

"(vii) any market intermediary exempt under section 3(c)(2) of the Investment Company Act of 1940;

"(viii) any associated person of a broker or dealer other than a natural person; or

"(ix) any foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978).

"(B) ADDITIONAL QUALIFICATIONS DEFINED.—For purposes of paragraphs (4)(B)(vii) and (5)(C)(iii) of this subsection, and section 206(a)(1)(E) of the Financial Services Act of 1998, the term 'qualified investor' also means—

"(i) any corporation, company, or partnership that owns and invests on a discretionary basis, not less than $10,000,000 in investments;

"(ii) any natural person who owns and invests on a discretionary basis, not less than $10,000,000 in investments;

"(iii) any government or political subdivision, agency, or instrumentality of a government who owns and invests on a discretionary basis not less than $50,000,000 in investments; or

"(iv) any multinational or supranational entity or any agency or instrumentality thereof.

"(C) ADDITIONAL AUTHORITY.—The Commission may, by rule or order, define a 'qualified investor' as any other person, other than a natural person, taking into consideration such factors as the person's financial sophistication, net worth, and knowledge and experience in financial matters.".

SEC. 208. GOVERNMENT SECURITIES DEFINED.

Section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; or"; and

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

"(E) for purposes of section 15C as applied to a bank, a qualified Canadian government obligation as defined in section 5136 of the Revised Statutes.".

SEC. 209. EFFECTIVE DATE.

This subtitle shall take effect at the end of the 270-day period beginning on the date of the enactment of this Act.

Subtitle B—Bank Investment Company Activities

SEC. 211. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANK.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(f)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by striking "(f) Every registered" and inserting the following:

"(f) CUSTODY OF SECURITIES.—

"(1) Every registered";

(3) by redesignating the 2d, 3d, 4th, and 5th sentences of such subsection as paragraphs (2) through (5), respectively, and indenting the left margin of such paragraphs appropriately; and

(4) by adding at the end the following new paragraph:

"(6) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person, promoter, organizer, or sponsor of, or principal underwriter for, a registered management company may serve as custodian of that registered management company.".

(b) UNIT INVESTMENT TRUSTS.—Section 26 of the Investment Company Act of 1940 (15 U.S.C. 80a-26) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person of a principal underwriter for, or depositor of, a registered unit investment trust, may serve as trustee or custodian under subsection (a)(1).".

(c) FIDUCIARY DUTY OF CUSTODIAN.—Section 36(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-35(a)) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (2) the following:

"(3) as custodian.".

SEC. 212. LENDING TO AN AFFILIATED INVESTMENT COMPANY.

Section 17(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(a)) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(4) to loan money or other property to such registered company, or to any company controlled by such registered company, in contravention of such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.".

SEC. 213. INDEPENDENT DIRECTORS.

(a) IN GENERAL.—Section 2(a)(19)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)(A)) is amended—

(1) by striking clause (v) and inserting the following new clause:

"(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

"(I) the investment company,

"(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services, or

"(III) any account over which the investment company's investment adviser has brokerage placement discretion,";

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

"(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

"(I) the investment company,

"(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services, or

"(III) any account for which the investment company's investment adviser has borrowing authority,".

(b) CONFORMING AMENDMENT.—Section 2(a)(19)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)(B)) is amended—

(1) by striking clause (v) and inserting the following new clause:

"(v) any person or any affiliated person of a person (other than a registered investment

company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

"(I) any investment company for which the investment adviser or principal underwriter serves as such,

"(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such, or

"(III) any account over which the investment adviser has brokerage placement discretion,";

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

"(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

"(I) any investment company for which the investment adviser or principal underwriter serves as such,

"(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such, or

"(III) any account for which the investment adviser has borrowing authority,".

(c) AFFILIATION OF DIRECTORS.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)) is amended by striking "bank, except" and inserting "bank (together with its affiliates and subsidiaries) or any one bank holding company (together with its affiliates and subsidiaries) (as such terms are defined in section 2 of the Bank Holding Company Act of 1956), except".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 1-year period beginning on the date of enactment of this subtitle.

SEC. 214. ADDITIONAL SEC DISCLOSURE AUTHORITY.

Section 35(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–34(a)) is amended to read as follows:

"(a) MISREPRESENTATION OF GUARANTEES.—

"(1) IN GENERAL.—It shall be unlawful for any person, issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company—

"(A) has been guaranteed, sponsored, recommended, or approved by the United States, or any agency, instrumentality or officer of the United States;

"(B) has been insured by the Federal Deposit Insurance Corporation; or

"(C) is guaranteed by or is otherwise an obligation of any bank or insured depository institution.

"(2) DISCLOSURES.—Any person issuing or selling the securities of a registered investment company that is advised by, or sold through, a bank shall prominently disclose that an investment in the company is not insured by the Federal Deposit Insurance Corporation or any other government agency. The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the manner in which the disclosure under this paragraph shall be provided.

"(3) DEFINITIONS.—The terms 'insured depository institution' and 'appropriate Federal banking agency' have the meaning given to such terms in section 3 of the Federal Deposit Insurance Act.".

SEC. 215. DEFINITION OF BROKER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(6)) is amended to read as follows:

"(6) The term 'broker' has the same meaning as in the Securities Exchange Act of 1934, except that such term does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.".

SEC. 216. DEFINITION OF DEALER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(11)) is amended to read as follows:

"(11) The term 'dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 217. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

(a) INVESTMENT ADVISER.—Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)) is amended in subparagraph (A), by striking "investment company" and inserting "investment company, except that the term 'investment adviser' includes any bank or bank holding company to the extent that such bank or bank holding company serves or acts as an investment adviser to a registered investment company, but if, in the case of a bank, such services or actions are performed through a separately identifiable department or division, the department or division, and not the bank itself, shall be deemed to be the investment adviser".

(b) SEPARATELY IDENTIFIABLE DEPARTMENT OR DIVISION.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) is amended by adding at the end the following:

"(26) The term 'separately identifiable department or division' of a bank means a unit—

"(A) that is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

"(B) for which all of the records relating to its investment adviser activities are separately maintained in or extractable from such unit's own facilities or the facilities of the bank, and such records are so maintained or otherwise accessible as to permit independent examination and enforcement by the Commission of this Act or the Investment Company Act of 1940 and rules and regulations promulgated under this Act or the Investment Company Act of 1940.".

SEC. 218. DEFINITION OF BROKER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(3)) is amended to read as follows:

"(3) The term 'broker' has the same meaning as in the Securities Exchange Act of 1934.".

SEC. 219. DEFINITION OF DEALER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(7)) is amended to read as follows:

"(7) The term 'dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 220. INTERAGENCY CONSULTATION.

The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 210 the following new section:

"SEC. 210A. CONSULTATION.

"(a) EXAMINATION RESULTS AND OTHER INFORMATION.—

"(1) The appropriate Federal banking agency shall provide the Commission upon request the results of any examination, reports, records, or other information to which such agency may have access with respect to the investment advisory activities—

"(A) of any—

"(i) bank holding company,

"(ii) bank, or

"(iii) separately identifiable department or division of a bank,

that is registered under section 203 of this title; and

"(B) in the case of a bank holding company or bank that has a subsidiary or a separately identifiable department or division registered under that section, of such bank or bank holding company.

"(2) The Commission shall provide to the appropriate Federal banking agency upon request the results of any examination, reports, records, or other information with respect to the investment advisory activities of any bank holding company, bank, or separately identifiable department or division of a bank, any of which is registered under section 203 of this title.

"(b) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to such bank holding company, bank, or department or division under any provision of law.

"(c) DEFINITION.—For purposes of this section, the term 'appropriate Federal banking agency' shall have the same meaning as in section 3 of the Federal Deposit Insurance Act.".

SEC. 221. TREATMENT OF BANK COMMON TRUST FUNDS.

(a) SECURITIES ACT OF 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking "or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian" and inserting "or any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940".

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)(iii)) is amended to read as follows:

"(iii) any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940;".

(c) INVESTMENT COMPANY ACT OF 1940.—Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(3)) is amended by inserting before the period the following: ", if—

"(A) such fund is employed by the bank solely as an aid to the administration of trusts, estates, or other accounts created and maintained for a fiduciary purpose;

"(B) except in connection with the ordinary advertising of the bank's fiduciary services, interests in such fund are not—

"(i) advertised; or

"(ii) offered for sale to the general public; and

"(C) fees and expenses charged by such fund are not in contravention of fiduciary principles established under applicable Federal or State law".

SEC. 222. INVESTMENT ADVISERS PROHIBITED FROM HAVING CONTROLLING INTEREST IN REGISTERED INVESTMENT COMPANY.

Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a–15) is amended by adding at the end the following new subsection:

"(g) CONTROLLING INTEREST IN INVESTMENT COMPANY PROHIBITED.—

"(1) IN GENERAL.—If an investment adviser to a registered investment company, or an affiliated person of that investment adviser, holds a controlling interest in that registered investment company in a trustee or fiduciary capacity, such person shall—

"(A) if it holds the shares in a trustee or fiduciary capacity with respect to any employee benefit plan subject to the Employee Retirement Income Security Act of 1974, transfer the power to vote the shares of the investment company through to another person acting in a fiduciary capacity with respect to the plan who is not an affiliated person of that investment adviser or any affiliated person thereof; or

"(B) if it holds the shares in a trustee or fiduciary capacity with respect to any person or entity other than an employee benefit plan subject to the Employee Retirement Income Security Act of 1974—

"(i) transfer the power to vote the shares of the investment company through to—

"(I) the beneficial owners of the shares;

"(II) another person acting in a fiduciary capacity who is not an affiliated person of that investment adviser or any affiliated person thereof; or

"(III) any person authorized to receive statements and information with respect to the trust who is not an affiliated person of that investment adviser or any affiliated person thereof;

"(ii) vote the shares of the investment company held by it in the same proportion as shares held by all other shareholders of the investment company; or

"(iii) vote the shares of the investment company as otherwise permitted under such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.

"(2) EXEMPTION.—Paragraph (1) shall not apply to any investment adviser to a registered investment company, or any affiliated person of that investment adviser, that holds shares of the investment company in a trustee or fiduciary capacity if that registered investment company consists solely of assets held in such capacities.

"(3) SAFE HARBOR.—No investment adviser to a registered investment company or any affiliated person of such investment adviser shall be deemed to have acted unlawfully or to have breached a fiduciary duty under State or Federal law solely by reason of acting in accordance with clause (i), (ii), or (iii) of paragraph (1)(B).".

SEC. 223. CONFORMING CHANGE IN DEFINITION.

Section 2(a)(5) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(5)) is amended by striking "(A) a banking institution organized under the laws of the United States" and inserting "(A) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or a branch or agency of a foreign bank (as such terms are defined in section 1(b) of the International Banking Act of 1978)".

SEC. 224. CONFORMING AMENDMENT.

Section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2) is amended by adding at the end the following new subsection:

"(c) CONSIDERATION OF PROMOTION OF EFFICIENCY, COMPETITION, AND CAPITAL FORMATION.—Whenever pursuant to this title the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.".

SEC. 225. EFFECTIVE DATE.

This subtitle shall take effect 90 days after the date of the enactment of this Act.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

SEC. 231. SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES BY THE SECURITIES AND EXCHANGE COMMISSION.

(a) AMENDMENT.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by redesignating subsection (i) as subsection (l); and

(2) by inserting after subsection (h) the following new subsections:

"(i) INVESTMENT BANK HOLDING COMPANIES.—

"(1) ELECTIVE SUPERVISION OF AN INVESTMENT BANK HOLDING COMPANY NOT HAVING A BANK OR SAVINGS ASSOCIATION AFFILIATE.—

"(A) IN GENERAL.—An investment bank holding company that is not—

"(i) an affiliate of a wholesale financial institution, an insured bank (other than an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956), or a savings association,

"(ii) a foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978, or

"(iii) a foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act,

may elect to become supervised by filing with the Commission a notice of intention to become supervised, pursuant to subparagraph (B) of this paragraph. Any investment bank holding company filing such a notice shall be supervised in accordance with this section and comply with the rules promulgated by the Commission applicable to supervised investment bank holding companies.

"(B) NOTIFICATION OF STATUS AS A SUPERVISED INVESTMENT BANK HOLDING COMPANY.—An investment bank holding company that elects under subparagraph (A) to become supervised by the Commission shall file with the Commission a written notice of intention to become supervised by the Commission in such form and containing such information and documents concerning such investment bank holding company as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this section. Unless the Commission finds that such supervision is not necessary or appropriate in furtherance of the purposes of this section, such supervision shall become effective 45 days after receipt of such written notice by the Commission or within such shorter time period as the Commission, by rule or order, may determine.

"(2) ELECTION NOT TO BE SUPERVISED BY THE COMMISSION AS AN INVESTMENT BANK HOLDING COMPANY.—

"(A) VOLUNTARY WITHDRAWAL.—A supervised investment bank holding company that is supervised pursuant to paragraph (1) may, upon such terms and conditions as the Commission deems necessary or appropriate, elect not to be supervised by the Commission by filing a written notice of withdrawal from Commission supervision. Such notice shall not become effective until one year after receipt by the Commission, or such shorter or longer period as the Commission deems necessary or appropriate to ensure effective supervision of the material risks to the supervised investment bank holding company and to the affiliated broker or dealer, or to prevent evasion of the purposes of this section.

"(B) DISCONTINUATION OF COMMISSION SUPERVISION.—If the Commission finds that any supervised investment bank holding company that is supervised pursuant to paragraph (1) is no longer in existence or has ceased to be an investment bank holding company, or if the Commission finds that continued supervision of such a supervised investment bank holding company is not consistent with the purposes of this section, the Commission may discontinue the supervision pursuant to a rule or order, if any, promulgated by the Commission under this section.

"(3) SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES.—

"(A) RECORDKEEPING AND REPORTING.—

"(i) IN GENERAL.—Every supervised investment bank holding company and each affiliate thereof shall make and keep for prescribed periods such records, furnish copies thereof, and make such reports, as the Commission may require by rule, in order to keep the Commission informed as to—

"(I) the company's or affiliate's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions and relationships between any broker or dealer affiliate of the supervised investment bank holding company; and

"(II) the extent to which the company or affiliate has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

"(ii) FORM AND CONTENTS.—Such records and reports shall be prepared in such form and according to such specifications (including certification by an independent public accountant), as the Commission may require and shall be provided promptly at any time upon request by the Commission. Such records and reports may include—

"(I) a balance sheet and income statement;

"(II) an assessment of the consolidated capital of the supervised investment bank holding company;

"(III) an independent auditor's report attesting to the supervised investment bank holding company's compliance with its internal risk management and internal control objectives; and

"(IV) reports concerning the extent to which the company or affiliate has complied with the provisions of this title and any regulations prescribed and orders issued under this title.

"(B) USE OF EXISTING REPORTS.—

"(i) IN GENERAL.—The Commission shall, to the fullest extent possible, accept reports in

fulfillment of the requirements under this paragraph that the supervised investment bank holding company or its affiliates have been required to provide to another appropriate regulatory agency or self-regulatory organization.

"(ii) AVAILABILITY.—A supervised investment bank holding company or an affiliate of such company shall provide to the Commission, at the request of the Commission, any report referred to in clause (i).

"(C) EXAMINATION AUTHORITY.—

"(i) FOCUS OF EXAMINATION AUTHORITY.—The Commission may make examinations of any supervised investment bank holding company and any affiliate of such company in order to—

"(I) inform the Commission regarding—

"(aa) the nature of the operations and financial condition of the supervised investment bank holding company and its affiliates;

"(bb) the financial and operational risks within the supervised investment bank holding company that may affect any broker or dealer controlled by such supervised investment bank holding company; and

"(cc) the systems of the supervised investment bank holding company and its affiliates for monitoring and controlling those risks; and

"(II) monitor compliance with the provisions of this subsection, provisions governing transactions and relationships between any broker or dealer affiliated with the supervised investment bank holding company and any of the company's other affiliates, and applicable provisions of subchapter II of chapter 53, title 31, United States Code (commonly referred to as the 'Bank Secrecy Act') and regulations thereunder.

"(ii) RESTRICTED FOCUS OF EXAMINATIONS.—The Commission shall limit the focus and scope of any examination of a supervised investment bank holding company to—

"(I) the company; and

"(II) any affiliate of the company that, because of its size, condition, or activities, the nature or size of the transactions between such affiliate and any affiliated broker or dealer, or the centralization of functions within the holding company system, could, in the discretion of the Commission, have a materially adverse effect on the operational or financial condition of the broker or dealer.

"(iii) DEFERENCE TO OTHER EXAMINATIONS.—For purposes of this subparagraph, the Commission shall, to the fullest extent possible, use the reports of examination of an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956 made by the appropriate regulatory agency, or of a licensed insurance company made by the appropriate State insurance regulator.

"(4) HOLDING COMPANY CAPITAL.—

"(A) AUTHORITY.—If the Commission finds that it is necessary to adequately supervise investment bank holding companies and their broker or dealer affiliates consistent with the purposes of this subsection, the Commission may adopt capital adequacy rules for supervised investment bank holding companies.

"(B) METHOD OF CALCULATION.—In developing rules under this paragraph:

"(i) DOUBLE LEVERAGE.—The Commission shall consider the use by the supervised investment bank holding company of debt and other liabilities to fund capital investments in affiliates.

"(ii) NO UNWEIGHTED CAPITAL RATIO.—The Commission shall not impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

"(iii) NO CAPITAL REQUIREMENT ON REGULATED ENTITIES.—The Commission shall not, by rule, regulation, guideline, order or otherwise, impose any capital adequacy provision on a nonbanking affiliate (other than a broker or dealer) that is in compliance with applicable capital requirements of another Federal regulatory authority or State insurance authority.

"(iv) APPROPRIATE EXCLUSIONS.—The Commission shall take full account of the applicable capital requirements of another Federal regulatory authority or State insurance regulator.

"(C) INTERNAL RISK MANAGEMENT MODELS.—The Commission may incorporate internal risk management models into its capital adequacy rules for supervised investment bank holding companies.

"(5) FUNCTIONAL REGULATION OF BANKING AND INSURANCE ACTIVITIES OF SUPERVISED INVESTMENT BANK HOLDING COMPANIES.—The Commission shall defer to—

"(A) the appropriate regulatory agency with regard to all interpretations of, and the enforcement of, applicable banking laws relating to the activities, conduct, ownership, and operations of banks, and institutions described in subparagraph (D), (F), and (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956; and

"(B) the appropriate State insurance regulators with regard to all interpretations of, and the enforcement of, applicable State insurance laws relating to the activities, conduct, and operations of insurance companies and insurance agents.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'investment bank holding company' means—

"(i) any person other than a natural person that owns or controls one or more brokers or dealers; and

"(ii) the associated persons of the investment bank holding company.

"(B) The term 'supervised investment bank holding company' means any investment bank holding company that is supervised by the Commission pursuant to this subsection.

"(C) The terms 'affiliate', 'bank', 'bank holding company', 'company', 'control', and 'savings association' have the meanings given to those terms in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

"(D) The term 'insured bank' has the meaning given to that term in section 3 of the Federal Deposit Insurance Act.

"(E) The term 'foreign bank' has the meaning given to that term in section 1(b)(7) of the International Banking Act of 1978.

"(F) The terms "person associated with an investment bank holding company' and "associated person of an investment bank holding company' means any person directly or indirectly controlling, controlled by, or under common control with, an investment bank holding company.

"(j) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under subsection (h) or (i) or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a broker or dealer, investment bank holding company, or any affiliate of an investment bank holding company. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraphs (A), (B), and (C) of subsection (i)(5) as confidential information for purposes of section 24(b)(2) of this title.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended by adding at the end the following new subparagraphs:

"(H) When used with respect to an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956—

"(i) the Comptroller of the Currency, in the case of a national bank or a bank in the District of Columbia examined by the Comptroller of the Currency;

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System or any corporation chartered under section 25A of the Federal Reserve Act;

"(iii) the Federal Deposit Insurance Corporation, in the case of any other bank the deposits of which are insured in accordance with the Federal Deposit Insurance Act; or

"(iv) the Commission in the case of all other such institutions.".

(2) Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended—

(A) by striking "this title" and inserting "law"; and

(B) by inserting ", examination reports" after "financial records".

Subtitle D—Study

SEC. 241. STUDY OF METHODS TO INFORM INVESTORS AND CONSUMERS OF UNINSURED PRODUCTS.

Within one year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the efficacy, costs, and benefits of requiring that any depository institution that accepts federally insured deposits and that, directly or through a contractual or other arrangement with a broker, dealer, or agent, buys from, sells to, or effects transactions for retail investors in securities or consumers of insurance to inform such investors and consumers through the use of a logo or seal that the security or insurance is not insured by the Federal Deposit Insurance Corporation.

TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

SEC. 301. STATE REGULATION OF THE BUSINESS OF INSURANCE.

The Act entitled "An Act to express the intent of the Congress with reference to the regulation of the business of insurance" and approved March 9, 1945 (15 U.S.C. 1011 et seq.), commonly referred to as the "McCarran—Ferguson Act") remains the law of the United States.

SEC. 302. MANDATORY INSURANCE LICENSING REQUIREMENTS.

No person or entity shall provide insurance in a State as principal or agent unless such

person or entity is licensed as required by the appropriate insurance regulator of such State in accordance with the relevant State insurance law, subject to section 104 of this Act.

SEC. 303. FUNCTIONAL REGULATION OF INSURANCE.

The insurance sales activity of any person or entity shall be functionally regulated by the States, subject to section 104 of this Act.

SEC. 304. INSURANCE UNDERWRITING IN NATIONAL BANKS.

(a) IN GENERAL.—Except as provided in section 306, a national bank and the subsidiaries of a national bank may not provide insurance in a State as principal except that this prohibition shall not apply to authorized products.

(b) AUTHORIZED PRODUCTS.—For the purposes of this section, a product is authorized if—

(1) as of January 1, 1997, the Comptroller of the Currency had determined in writing that national banks may provide such product as principal, or national banks were in fact lawfully providing such product as principal;

(2) no court of relevant jurisdiction had, by final judgment, overturned a determination of the Comptroller of the Currency that national banks may provide such product as principal; and

(3) the product is not title insurance, or an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

(c) DEFINITION.—For purposes of this section, the term "insurance" means—

(1) any product regulated as insurance as of January 1, 1997, in accordance with the relevant State insurance law, in the State in which the product is provided;

(2) any product first offered after January 1, 1997, which—

(A) a State insurance regulator determines shall be regulated as insurance in the State in which the product is provided because the product insures, guarantees, or indemnifies against liability, loss of life, loss of health, or loss through damage to or destruction of property, including, but not limited to, surety bonds, life insurance, health insurance, title insurance, and property and casualty insurance (such as private passenger or commercial automobile, homeowners, mortgage, commercial multiperil, general liability, professional liability, workers' compensation, fire and allied lines, farm owners multiperil, aircraft, fidelity, surety, medical malpractice, ocean marine, inland marine, and boiler and machinery insurance); and

(B) is not a product or service of a bank that is—

(i) a deposit product;

(ii) a loan, discount, letter of credit, or other extension of credit;

(iii) a trust or other fiduciary service;

(iv) a qualified financial contract (as defined in or determined pursuant to section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act); or

(v) a financial guaranty, except that this subparagraph (B) shall not apply to a product that includes an insurance component such that if the product is offered or proposed to be offered by the bank as principal—

(I) it would be treated as a life insurance contract under section 7702 of the Internal Revenue Code of 1986, as amended; or

(II) in the event that the product is not a letter of credit or other similar extension of credit, a qualified financial contract, or a financial guaranty, it would qualify for treatment for losses incurred with respect to such product under section 832(b)(5) of the Internal Revenue Code of 1986, as amended, if the bank were subject to tax as an insurance company under section 831 of such Code; or

(3) any annuity contract the income on which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986, as amended.

SEC. 305. NEW BANK AGENCY ACTIVITIES ONLY THROUGH ACQUISITION OF EXISTING LICENSED AGENTS.

If a national bank or a subsidiary of a national bank is not providing insurance as agent in a State as of the date of the enactment of this Act, the national bank and the subsidiary of the national bank may provide insurance (which such bank or subsidiary is otherwise authorized to provide) as agent in such State after such date only by acquiring a company which has been licensed by the appropriate State regulator to provide insurance as agent in such State for not less than 2 years before such acquisition.

SEC. 306. TITLE INSURANCE ACTIVITIES OF NATIONAL BANKS AND THEIR AFFILIATES.

(a) AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or any other law, no national bank, and no subsidiary of a national bank, may engage in any activity involving the underwriting or sale of title insurance other than title insurance activities in which such national bank or subsidiary was actively and lawfully engaged before the date of the enactment of this Act.

(2) INSURANCE AFFILIATE.—In the case of a national bank which has an affiliate which provides insurance as principal and is not a subsidiary of the bank, the national bank and any subsidiary of the national bank may not engage in any activity involving the underwriting or sale of title insurance pursuant to paragraph (1).

(3) INSURANCE SUBSIDIARY.—In the case of a national bank which has a subsidiary which provides insurance as principal and has no affiliate which provides insurance as principal and is not a subsidiary, the national bank may not engage in any activity involving the underwriting or sale of title insurance pursuant to paragraph (1).

(4) AFFILIATE AND SUBSIDIARY DEFINED.—For purposes of this section, the terms "affiliate" and "subsidiary" have the meaning given such terms in section 2 of the Bank Holding Company Act of 1956.

(b) PARITY EXCEPTION.—Notwithstanding subsection (a), in the case of any State in which banks organized under the laws of such State were authorized to sell title insurance as agent as of January 1, 1997, a national bank and a subsidiary of a national bank may sell title insurance as agent in such State in the same manner and to the same extent such State banks are authorized to sell title insurance as agent in such State.

SEC. 307. EXPEDITED AND EQUALIZED DISPUTE RESOLUTION FOR FINANCIAL REGULATORS.

(a) FILING IN COURT OF APPEAL.—In the case of a regulatory conflict between a State insurance regulator and a Federal regulator as to whether any product is or is not insurance as defined in section 304(c) of this Act, or whether a State statute, regulation, order, or interpretation regarding any insurance sales or solicitation activity is properly treated as preempted under Federal law, either regulator may seek expedited judicial review of such determination by the United States Court of Appeals for the circuit in which the State is located or in the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in such court.

(b) EXPEDITED REVIEW.—The United States court of appeals in which a petition for review is filed in accordance with paragraph (1) shall complete all action on such petition, including rendering a judgment, before the end of the 60-day period beginning on the date such petition is filed, unless all parties to such proceeding agree to any extension of such period.

(c) SUPREME COURT REVIEW.—Any request for certiori to the Supreme Court of the United States of any judgment of a United States court of appeals with respect to a petition for review under this section shall be filed with the United States Supreme Court as soon as practicable after such judgment is issued.

(d) STATUTE OF LIMITATION.—No action may be filed under this section challenging an order, ruling, determination, or other action of a Federal financial regulator or State insurance regulator after the later of—

(1) the end of the 12-month period beginning on the date the first public notice is made of such order, ruling, or determination in its final form; or

(2) the end of the 6-month period beginning on the date such order, ruling, or determination takes effect.

(e) STANDARD OF REVIEW.—The court shall decide an action filed under this section based on its review on the merits of all questions presented under State and Federal law, including the nature of the product or activity and the history and purpose of its regulation under State and Federal law, without unequal deference.

SEC. 308. CONSUMER PROTECTION REGULATIONS.

(a) REGULATIONS REQUIRED.—

(1) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 45. CONSUMER PROTECTION REGULATIONS.

"(a) REGULATIONS REQUIRED.—

"(1) IN GENERAL.—The Federal banking agencies shall prescribe and publish in final form, before the end of the 1-year period beginning on the date of the enactment of this Act, consumer protection regulations (which the agencies jointly determine to be appropriate) that—

"(A) apply to retail sales, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution; and

"(B) are consistent with the requirements of this Act and provide such additional protections for consumers to whom such sales, solicitations, advertising, or offers are directed as the agency determines to be appropriate.

"(2) APPLICABILITY TO SUBSIDIARIES.—The regulations prescribed pursuant to paragraph (1) shall extend such protections to any subsidiaries of an insured depository institution, as deemed appropriate by the regulators referred to in paragraph (3), where such extension is determined to be necessary to ensure the consumer protections provided by this section.

"(3) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraph (1), after consultation with the State insurance regulators, as appropriate.

"(b) SALES PRACTICES.—The regulations prescribed pursuant to subsection (a) shall

include anticoercion rules applicable to the sale of insurance products which prohibit an insured depository institution from engaging in any practice that would lead a consumer to believe an extension of credit, in violation of section 106(b) of the Bank Holding Company Act Amendments of 1970, is conditional upon—

"(1) the purchase of an insurance product from the institution or any of its affiliates or subsidiaries; or

"(2) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

"(c) DISCLOSURES AND ADVERTISING.—The regulations prescribed pursuant to subsection (a) shall include the following provisions relating to disclosures and advertising in connection with the initial purchase of an insurance product:

"(1) DISCLOSURES.—

"(A) IN GENERAL.—Requirements that the following disclosures be made orally and in writing before the completion of the initial sale and, in the case of clause (iv), at the time of application for an extension of credit:

"(i) UNINSURED STATUS.—As appropriate, the product is not insured by the Federal Deposit Insurance Corporation, the United States Government, or the insured depository institution.

"(ii) INVESTMENT RISK.—In the case of a variable annuity or other insurance product which involves an investment risk, that there is an investment risk associated with the product, including possible loss of value.

"(iv) COERCION.—The approval of an extension of credit may not be conditioned on—

"(I) the purchase of an insurance product from the institution in which the application for credit is pending or any of its affiliates or subsidiaries; or

"(II) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

"(B) MAKING DISCLOSURE READILY UNDERSTANDABLE.—Regulations prescribed under subparagraph (A) shall encourage the use of disclosure that is conspicuous, simple, direct, and readily understandable, such as the following:

"(i) 'NOT FDIC-INSURED'.

"(ii) 'NOT GUARANTEED BY THE BANK'.

"(iii) 'MAY GO DOWN IN VALUE'.

"(C) ADJUSTMENTS FOR ALTERNATIVE METHODS OF PURCHASE.—In prescribing the requirements under subparagraphs (A) and (D), necessary adjustments shall be made for purchase in person, by telephone, or by electronic media to provide for the most appropriate and complete form of disclosure and acknowledgments.

"(D) CONSUMER ACKNOWLEDGMENT.—A requirement that an insured depository institution shall require any person selling an insurance product at any office of, or on behalf of, the institution to obtain, at the time a consumer receives the disclosures required under this paragraph or at the time of the initial purchase by the consumer of such product, an acknowledgment by such consumer of the receipt of the disclosure required under this subsection with respect to such product.

"(2) PROHIBITION ON MISREPRESENTATIONS.—A prohibition on any practice, or any advertising, at any office of, or on behalf of, the insured depository institution, or any subsidiary as appropriate, which could mislead any person or otherwise cause a reasonable person to reach an erroneous belief with respect to—

"(A) the uninsured nature of any insurance product sold, or offered for sale, by the institution or any subsidiary of the institution; or

"(B) in the case of a variable annuity or other insurance product that involves an investment risk, the investment risk associated with any such product.

"(d) SEPARATION OF BANKING AND NONBANKING ACTIVITIES.—

"(1) REGULATIONS REQUIRED.—The regulations prescribed pursuant to subsection (a) shall include such provisions as the Federal banking agencies consider appropriate to ensure that the routine acceptance of deposits and the making of loans is kept, to the extent practicable, physically segregated from insurance product activity.

"(2) REQUIREMENTS.—Regulations prescribed pursuant to paragraph (1) shall include the following requirements:

"(A) SEPARATE SETTING.—A clear delineation of the setting in which, and the circumstances under which, transactions involving insurance products should be conducted in a location physically segregated from an area where retail deposits are routinely accepted.

"(B) REFERRALS.—Standards which permit any person accepting deposits from, or making loans to, the public in an area where such transactions are routinely conducted in an insured depository institution to refer a customer who seeks to purchase any insurance product to a qualified person who sells such product, only if the person making the referral receives no more than a one-time nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a transaction.

"(C) QUALIFICATION AND LICENSING REQUIREMENTS.—Standards prohibiting any insured depository institution from permitting any person to sell or offer for sale any insurance product in any part of any office of the institution, or on behalf of the institution, unless such person is appropriately qualified and licensed.

"(e) DOMESTIC VIOLENCE DISCRIMINATION PROHIBITION.—

"(1) IN GENERAL.—In the case of an applicant for, or an insured under, any insurance product described in paragraph (2), the status of the applicant or insured as a victim of domestic violence, or as a provider of services to victims of domestic violence, shall not be considered as a criterion in any decision with regard to insurance underwriting, pricing, renewal, or scope of coverage of insurance policies, or payment of insurance claims, except as required or expressly permitted under State law.

"(2) SCOPE OF APPLICATION.—The prohibition contained in paragraph (1) shall apply to any insurance product which is sold or offered for sale, as principal, agent, or broker, by any insured depository institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution.

"(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that, by the end of the 30-month period beginning on the date of the enactment of this Act, the States should enact prohibitions against discrimination with respect to insurance products that are at least as strict as the prohibitions contained in paragraph (1).

"(4) DOMESTIC VIOLENCE DEFINED.—For purposes of this subsection, the term 'domestic violence' means the occurrence of 1 or more of the following acts by a current or former family member, household member, intimate partner, or caretaker:

"(A) Attempting to cause or causing or threatening another person physical harm, severe emotional distress, psychological trauma, rape, or sexual assault.

"(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances that place the person in reasonable fear of bodily injury or physical harm.

"(C) Subjecting another person to false imprisonment.

"(D) Attempting to cause or cause damage to property so as to intimidate or attempt to control the behavior of another person.

"(f) CONSUMER GRIEVANCE PROCESS.—The Federal banking agencies shall jointly establish a consumer complaint mechanism, for receiving and expeditiously addressing consumer complaints alleging a violation of regulations issued under the section, which shall—

"(1) establish a group within each regulatory agency to receive such complaints;

"(2) develop procedures for investigating such complaints;

"(3) develop procedures for informing consumers of rights they may have in connection with such complaints; and

"(4) develop procedures for addressing concerns raised by such complaints, as appropriate, including procedures for the recovery of losses to the extent appropriate.

"(g) EFFECT ON OTHER AUTHORITY.—

"(1) No provision of this section shall be construed as granting, limiting, or otherwise affecting—

"(A) any authority of the Securities and Exchange Commission, any self-regulatory organization, the Municipal Securities Rulemaking Board, or the Secretary of the Treasury under any Federal securities law; or

"(B) any authority of any State insurance commissioner or other State authority under any State law.

"(2) Regulations prescribed by a Federal banking agency under this section shall not apply to retail sales, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or to any person who is engaged in such activities at an office of such institution or on behalf of the institution, in a State where the State has in effect statutes, regulations, orders, or interpretations, that are inconsistent with or contrary to the regulations prescribed by the Federal banking agencies.

"(h) INSURANCE PRODUCT DEFINED.—For purposes of this section, the term 'insurance product' includes an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.".

SEC. 309. CERTAIN STATE AFFILIATION LAWS PREEMPTED FOR INSURANCE COMPANIES AND AFFILIATES.

No State may, by law, regulation, order, interpretation, or otherwise—

(1) prevent or restrict any insurer, or any affiliate of an insurer (whether such affiliate is organized as a stock company, mutual holding company, or otherwise), from becoming a financial holding company or acquiring control of an insured depository institution;

(2) limit the amount of an insurer's assets that may be invested in the voting securities of an insured depository institution (or any company which controls such institution), except that the laws of an insurer's State of domicile may limit the amount of such investment to an amount that is not less than 5 percent of the insurer's admitted assets; or

(3) prevent, restrict, or have the authority to review, approve, or disapprove a plan of

reorganization by which an insurer proposes to reorganize from mutual form to become a stock insurer (whether as a direct or indirect subsidiary of a mutual holding company or otherwise) unless such State is the State of domicile of the insurer.

Subtitle B—Redomestication of Mutual Insurers

SEC. 311. GENERAL APPLICATION.

This subtitle shall only apply to a mutual insurance company in a State which has not enacted a law which expressly establishes reasonable terms and conditions for a mutual insurance company domiciled in such State to reorganize into a mutual holding company.

SEC. 312. REDOMESTICATION OF MUTUAL INSURERS.

(a) REDOMESTICATION.—A mutual insurer organized under the laws of any State may transfer its domicile to a transferee domicile as a step in a reorganization in which, pursuant to the laws of the transferee domicile and consistent with the standards in subsection (f), the mutual insurer becomes a stock insurer that is a direct or indirect subsidiary of a mutual holding company.

(b) RESULTING DOMICILE.—Upon complying with the applicable law of the transferee domicile governing transfers of domicile and completion of a transfer pursuant to this section, the mutual insurer shall cease to be a domestic insurer in the transferor domicile and, as a continuation of its corporate existence, shall be a domestic insurer of the transferee domicile.

(c) LICENSES PRESERVED.—The certificate of authority, agents' appointments and licenses, rates, approvals and other items that a licensed State allows and that are in existence immediately prior to the date that a redomesticating insurer transfers its domicile pursuant to this subtitle shall continue in full force and effect upon transfer, if the insurer remains duly qualified to transact the business of insurance in such licensed State.

(d) EFFECTIVENESS OF OUTSTANDING POLICIES AND CONTRACTS.—

(1) IN GENERAL.—All outstanding insurance policies and annuities contracts of a redomesticating insurer shall remain in full force and effect and need not be endorsed as to the new domicile of the insurer, unless so ordered by the State insurance regulator of a licensed State, and then only in the case of outstanding policies and contracts whose owners reside in such licensed State.

(2) FORMS.—

(A) Applicable State law may require a redomesticating insurer to file new policy forms with the State insurance regulator of a licensed State on or before the effective date of the transfer.

(B) Notwithstanding subparagraph (A), a redomesticating insurer may use existing policy forms with appropriate endorsements to reflect the new domicile of the redomesticating insurer until the new policy forms are approved for use by the State insurance regulator of such licensed State.

(e) NOTICE.—A redomesticating insurer shall give notice of the proposed transfer to the State insurance regulator of each licensed State and shall file promptly any resulting amendments to corporate documents required to be filed by a foreign licensed mutual insurer with the insurance regulator of each such licensed State.

(f) PROCEDURAL REQUIREMENTS.—No mutual insurer may redomesticate to another State and reorganize into a mutual holding company pursuant to this section unless the State insurance regulator of the transferee domicile determines that the plan of reorganization of the insurer includes the following requirements:

(1) APPROVAL BY BOARD OF DIRECTORS AND POLICYHOLDERS.—The reorganization is approved by at least a majority of the board of directors of the mutual insurer and at least a majority of the policyholders who vote after notice, disclosure of the reorganization and the effects of the transaction on policyholder contractual rights, and reasonable opportunity to vote, in accordance with such notice, disclosure, and voting procedures as are approved by the State insurance regulator of the transferee domicile.

(2) CONTINUED VOTING CONTROL BY POLICYHOLDERS; REVIEW OF PUBLIC STOCK OFFERING.—After the consummation of a reorganization, the policyholders of the reorganized insurer shall have the same voting rights with respect to the mutual holding company as they had before the reorganization with respect to the mutual insurer. With respect to an initial public offering of stock, the offering shall be conducted in compliance with applicable securities laws and in a manner approved by the State insurance regulator of the transferee domicile.

(3) AWARD OF STOCK OR GRANT OF OPTIONS TO OFFICERS AND DIRECTORS.—For a period of 6 months after completion of an initial public offering, neither a stock holding company nor the converted insurer shall award any stock options or stock grants to persons who are elected officers or directors of the mutual holding company, the stock holding company, or the converted insurer, except with respect to any such awards or options to which a person is entitled as a policyholder and as approved by the State insurance regulator of the transferee domicile.

(4) CONTRACTUAL RIGHTS.—Upon reorganization into a mutual holding company, the contractual rights of the policyholders are preserved.

(5) FAIR AND EQUITABLE TREATMENT OF POLICYHOLDERS.—The reorganization is approved as fair and equitable to the policyholders by the insurance regulator of the transferee domicile.

SEC. 313. EFFECT ON STATE LAWS RESTRICTING REDOMESTICATION.

(a) IN GENERAL.—Unless otherwise permitted by this subtitle, State laws of any transferor domicile that conflict with the purposes and intent of this subtitle are preempted, including but not limited to—

(1) any law that has the purpose or effect of impeding the activities of, taking any action against, or applying any provision of law or regulation to, any insurer or an affiliate of such insurer because that insurer or any affiliate plans to redomesticate, or has redomesticated, pursuant to this subtitle;

(2) any law that has the purpose or effect of impeding the activities of, taking action against, or applying any provision of law or regulation to, any insured or any insurance licensee or other intermediary because such person or entity has procured insurance from or placed insurance with any insurer or affiliate of such insurer that plans to redomesticate, or has redomesticated, pursuant to this subtitle, but only to the extent that such law would treat such insured licensee or other intermediary differently than if the person or entity procured insurance from, or placed insurance with, an insured licensee or other intermediary which had not redomesticated;

(3) any law that has the purpose or effect of terminating, because of the redomestication of a mutual insurer pursuant to this subtitle, any certificate of authority, agent appointment or license, rate approval, or other approval, of any State insurance regulator or other State authority in existence immediately prior to the redomestication in any State other than the transferee domicile.

(b) DIFFERENTIAL TREATMENT PROHIBITED.—No State law, regulation, interpretation, or functional equivalent thereof, of a State other than a transferee domicile may treat a redomesticating or redomesticated insurer or any affiliate thereof any differently than an insurer operating in that State that is not a redomesticating or redomesticated insurer.

(c) LAWS PROHIBITING OPERATIONS.—If any licensed State fails to issue, delays the issuance of, or seeks to revoke an original or renewal certificate of authority of a redomesticated insurer immediately following redomestication, except on grounds and in a manner consistent with its past practices regarding the issuance of certificates of authority to foreign insurers that are not redomesticating, then the redomesticating insurer shall be exempt from any State law of the licensed State to the extent that such State law or the operation of such State law would make unlawful, or regulate, directly or indirectly, the operation of the redomesticated insurer, except that such licensed State may require the redomesticated insurer to—

(1) comply with the unfair claim settlement practices law of the licensed State;

(2) pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on licensed insurers or policyholders under the laws of the licensed State;

(3) register with and designate the State insurance regulator as its agent solely for the purpose of receiving service of legal documents or process;

(4) submit to an examination by the State insurance regulator in any licensed state in which the redomesticated insurer is doing business to determine the insurer's financial condition, if—

(A) the State insurance regulator of the transferee domicile has not begun an examination of the redomesticated insurer and has not scheduled such an examination to begin before the end of the 1-year period beginning on the date of the redomestication; and

(B) any such examination is coordinated to avoid unjustified duplication and repetition;

(5) comply with a lawful order issued in—

(A) a delinquency proceeding commenced by the State insurance regulator of any licensed State if there has been a judicial finding of financial impairment under paragraph (7); or

(B) a voluntary dissolution proceeding;

(6) comply with any State law regarding deceptive, false, or fraudulent acts or practices, except that if the licensed State seeks an injunction regarding the conduct described in this paragraph, such injunction must be obtained from a court of competent jurisdiction as provided in section 314(a);

(7) comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance regulator alleging that the redomesticating insurer is in hazardous financial condition or is financially impaired;

(8) participate in any insurance insolvency guaranty association on the same basis as any other insurer licensed in the licensed State; and

(9) require a person acting, or offering to act, as an insurance licensee for a redomesticated insurer in the licensed State to obtain a license from that State, except that

such State may not impose any qualification or requirement that discriminates against a nonresident insurance licensee.

SEC. 314. OTHER PROVISIONS.

(a) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over litigation arising under this section involving any redomesticating or redomesticated insurer.

(b) SEVERABILITY.—If any provision of this section, or the application thereof to any person or circumstances, is held invalid, the remainder of the section, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 315. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) COURT OF COMPETENT JURISDICTION.—The term "court of competent jurisdiction" means a court authorized pursuant to section 314(a) to adjudicate litigation arising under this subtitle.

(2) DOMICILE.—The term "domicile" means the State in which an insurer is incorporated, chartered, or organized.

(3) INSURANCE LICENSEE.—The term "insurance licensee" means any person holding a license under State law to act as insurance agent, subagent, broker, or consultant.

(4) INSTITUTION.—The term "institution" means a corporation, joint stock company, limited liability company, limited liability partnership, association, trust, partnership, or any similar entity.

(5) LICENSED STATE.—The term "licensed State" means any State, the District of Columbia, American Samoa, Guam, Puerto Rico, or the United States Virgin Islands in which the redomesticating insurer has a certificate of authority in effect immediately prior to the redomestication.

(6) MUTUAL INSURER.—The term "mutual insurer" means a mutual insurer organized under the laws of any State.

(7) PERSON.—The term "person" means an individual, institution, government or governmental agency, State or political subdivision of a State, public corporation, board, association, estate, trustee, or fiduciary, or other similar entity.

(8) POLICYHOLDER.—The term "policyholder" means the owner of a policy issued by a mutual insurer, except that, with respect to voting rights, the term means a member of a mutual insurer or mutual holding company granted the right to vote, as determined under applicable State law.

(9) REDOMESTICATED INSURER.—The term "redomesticated insurer" means a mutual insurer that has redomesticated pursuant to this subtitle.

(10) REDOMESTICATING INSURER.—The term "redomesticating insurer" means a mutual insurer that is redomesticating pursuant to this subtitle.

(11) REDOMESTICATION OR TRANSFER.—The terms "redomestication" and "transfer" mean the transfer of the domicile of a mutual insurer from one State to another State pursuant to this subtitle.

(12) STATE INSURANCE REGULATOR.—The term "State insurance regulator" means the principal insurance regulatory authority of a State, the District of Columbia, American Samoa, Guam, Puerto Rico, or the United States Virgin Islands.

(13) STATE LAW.—The term "State law" means the statutes of any State, the District of Columbia, American Samoa, Guam, Puerto Rico, or the United States Virgin Islands and any regulation, order, or requirement prescribed pursuant to any such statute.

(14) TRANSFEREE DOMICILE.—The term "transferee domicile" means the State to which a mutual insurer is redomesticating pursuant to this subtitle.

(15) TRANSFEROR DOMICILE.—The term "transferor domicile" means the State from which a mutual insurer is redomesticating pursuant to this subtitle.

SEC. 316. EFFECTIVE DATE.

This subtitle shall take effect on the date of enactment of this Act.

Subtitle C—National Association of Registered Agents and Brokers

SEC. 321. STATE FLEXIBILITY IN MULTISTATE LICENSING REFORMS.

(a) IN GENERAL.—The provisions of this subtitle shall take effect unless by the end of the 3-year period beginning on the date of the enactment of this Act at least a majority of the States—

(1) have enacted uniform laws and regulations governing the licensure of individuals and entities authorized to sell and solicit the purchase of insurance within the State; or

(2) have enacted reciprocity laws and regulations governing the licensure of nonresident individuals and entities authorized to sell and solicit insurance within those States.

(b) UNIFORMITY REQUIRED.—States shall be deemed to have established the uniformity necessary to satisfy subsection (a)(1) if the States—

(1) establish uniform criteria regarding the integrity, personal qualifications, education, training, and experience of licensed insurance producers, including the qualification and training of sales personnel in ascertaining the appropriateness of a particular insurance product for a prospective customer;

(2) establish uniform continuing education requirements for licensed insurance producers;

(3) establish uniform ethics course requirements for licensed insurance producers in conjunction with the continuing education requirements under paragraph (2);

(4) establish uniform criteria to ensure that an insurance product, including any annuity contract, sold to a consumer is suitable and appropriate for the consumer based on financial information disclosed by the consumer; and

(5) do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that counter-signature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(c) RECIPROCITY REQUIRED.—States shall be deemed to have established the reciprocity required to satisfy subsection (a)(2) if the following conditions are met:

(1) ADMINISTRATIVE LICENSING PROCEDURES.—At least a majority of the States permit a producer that has a resident license for selling or soliciting the purchase of insurance in its home State to receive a license to sell or solicit the purchase of insurance in such majority of States as a nonresident to the same extent such producer is permitted to sell or solicit the purchase of insurance in its State, without satisfying any additional requirements other than submitting—

(A) a request for licensure;

(B) the application for licensure that the producer submitted to its home State;

(C) proof that the producer is licensed and in good standing in its home State; and

(D) the payment of any requisite fee to the appropriate authority,

if the producer's home State also awards such licenses on such a reciprocal basis.

(2) CONTINUING EDUCATION REQUIREMENTS.—A majority of the States accept an insurance producer's satisfaction of its home State's continuing education requirements for licensed insurance producers to satisfy the States' own continuing education requirements if the producer's home State also recognizes the satisfaction of continuing education requirements on such a reciprocal basis.

(3) NO LIMITING NONRESIDENT REQUIREMENTS.—A majority of the States do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(4) RECIPROCAL RECIPROCITY.—Each of the States that satisfies paragraphs (1), (2), and (3) grants reciprocity to residents of all of the other States that satisfy such paragraphs.

(d) DETERMINATION.—

(1) NAIC DETERMINATION.—At the end of the 3-year period beginning on the date of the enactment of this Act, the National Association of Insurance Commissioners shall determine, in consultation with the insurance commissioners or chief insurance regulatory officials of the States, whether the uniformity or reciprocity required by subsections (b) and (c) has been achieved.

(2) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over any challenge to the National Association of Insurance Commissioners' determination under this section and such court shall apply the standards set forth in section 706 of title 5, United States Code, when reviewing any such challenge.

(e) CONTINUED APPLICATION.—If, at any time, the uniformity or reciprocity required by subsections (b) and (c) no longer exists, the provisions of this subtitle shall take effect within 2 years, unless the uniformity or reciprocity required by those provisions is satisfied before the expiration of that 2-year period.

(f) SAVINGS PROVISION.—No provision of this section shall be construed as requiring that any law, regulation, provision, or action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws, be altered or amended in order to satisfy the uniformity or reciprocity required by subsections (b) and (c), unless any such law, regulation, provision, or action is inconsistent with a specific requirement of any such subsection and then only to the extent of such inconsistency.

SEC. 322. NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS.

(a) ESTABLISHMENT.—There is established the National Association of Registered Agents and Brokers (hereafter in this subtitle referred to as the "Association")

(b) STATUS.—The Association shall—

(1) be a nonprofit corporation and be presumed to have the status of an organization described in section 501(c)(6) of the Internal Revenue Code of 1986 unless the Secretary of

the Treasury determines that the Association does not meet the requirements of such section;

(2) have succession until dissolved by an Act of Congress;

(3) not be an agency or establishment of the United States Government; and

(4) except as otherwise provided in this Act, be subject to, and have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29y–1001 et seq.).

SEC. 323. PURPOSE.

The purpose of the Association shall be to provide a mechanism through which uniform licensing, appointment, continuing education, and other insurance producer sales qualification requirements and conditions can be adopted and applied on a multistate basis, while preserving the right of States to license, supervise, and discipline insurance producers and to prescribe and enforce laws and regulations with regard to insurance-related consumer protection and unfair trade practices.

SEC. 324. RELATIONSHIP TO THE FEDERAL GOVERNMENT.

The Association shall be subject to the supervision and oversight of the National Association of Insurance Commissioners (hereafter in this subtitle referred to as the "NAIC") and shall not be an agency or an instrumentality of the United States Government.

SEC. 325. MEMBERSHIP.

(a) ELIGIBILITY.—

(1) IN GENERAL.—Any State-licensed insurance producer shall be eligible to become a member in the Association.

(2) INELIGIBILITY FOR SUSPENSION OR REVOCATION OF LICENSE.—Notwithstanding paragraph (1), a State-licensed insurance producer shall not be eligible to become a member if a State insurance regulator has suspended or revoked such producer's license in that State during the 3-year preceding the date such producer applies for membership.

(3) RESUMPTION OF ELIGIBILITY.—Paragraph (2) shall cease to apply to any insurance producer if—

(A) the State insurance regulator renews the license of such producer in the State in which the license was suspended or revoked; or

(B) the suspension or revocation is subsequently overturned.

(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRITERIA.—The Association shall have the authority to establish membership criteria that—

(1) bear a reasonable relationship to the purposes for which the Association was established; and

(2) do not unfairly limit the access of smaller agencies to the Association membership.

(c) ESTABLISHMENT OF CLASSES AND CATEGORIES.—

(1) CLASSES OF MEMBERSHIP.—The Association may establish separate classes of membership, with separate criteria, if the Association reasonably determines that performance of different duties requires different levels of education, training, or experience.

(2) CATEGORIES.—The Association may establish separate categories of membership for individuals and for other persons. The establishment of any such categories of membership shall be based either on the types of licensing categories that exist under State laws or on the aggregate amount of business handled by an insurance producer. No special categories of membership, and no distinct membership criteria, shall be established for members which are insured depository institutions or wholesale financial institutions or for their employees, agents, or affiliates.

(d) MEMBERSHIP CRITERIA.—

(1) IN GENERAL.—The Association may establish criteria for membership which shall include standards for integrity, personal qualifications, education, training, and experience.

(2) MINIMUM STANDARD.—In establishing criteria under paragraph (1), the Association shall consider the highest levels of insurance producer qualifications established under the licensing laws of the States.

(e) EFFECT OF MEMBERSHIP.—Membership in the Association shall entitle the member to licensure in each State for which the member pays the requisite fees, including licensing fees and, where applicable, bonding requirements, set by such State.

(f) ANNUAL RENEWAL.—Membership in the Association shall be renewed on an annual basis.

(g) CONTINUING EDUCATION.—The Association shall establish, as a condition of membership, continuing education requirements which shall be comparable to or greater than the continuing education requirements under the licensing laws of a majority of the States.

(h) SUSPENSION AND REVOCATION.—The Association may—

(1) inspect and examine the records and offices of the members of the Association to determine compliance with the criteria for membership established by the Association; and

(2) suspend or revoke the membership of an insurance producer if—

(A) the producer fails to meet the applicable membership criteria of the Association: or

(B) the producer has been subject to disciplinary action pursuant to a final adjudicatory proceeding under the jurisdiction of a State insurance regulator, and the Association concludes that retention of membership in the Association would not be in the public interest.

(i) OFFICE OF CONSUMER COMPLAINTS.—

(1) IN GENERAL.—The Association shall establish an office of consumer complaints that shall—

(A) receive and investigate complaints from both consumers and State insurance regulators related to members of the Association; and

(B) recommend to the Association any disciplinary actions that the office considers appropriate, to the extent that any such recommendation is not inconsistent with State law.

(2) RECORDS AND REFERRALS.—The office of consumer complaints of the Association shall—

(A) maintain records of all complaints received in accordance with paragraph (1) and make such records available to the NAIC and to each State insurance regulator for the State of residence of the consumer who filed the complaint; and

(B) refer, when appropriate, any such complaint to any appropriate State insurance regulator.

(3) TELEPHONE AND OTHER ACCESS.—The office of consumer complaints shall maintain a toll-free telephone number for the purpose of this subsection and, as practicable, other alternative means of communication with consumers, such as an Internet home page.

SEC. 326. BOARD OF DIRECTORS.

(a) ESTABLISHMENT.—There is established the board of directors of the Association (hereafter in this subtitle referred to as the "Board") for the purpose of governing and supervising the activities of the Association and the members of the Association.

(b) POWERS.—The Board shall have such powers and authority as may be specified in the bylaws of the Association.

(c) COMPOSITION.—

(1) MEMBERS.—The Board shall be composed of 7 members appointed by the NAIC.

(2) REQUIREMENT.—At least 4 of the members of the Board shall have significant experience with the regulation of commercial lines of insurance in at least 1 of the 20 States in which the greatest total dollar amount of commercial-lines insurance is placed in the United States.

(3) INITIAL BOARD MEMBERSHIP.—

(A) IN GENERAL.—If, by the end of the 2-year period beginning on the date of the enactment of this Act, the NAIC has not appointed the initial 7 members of the Board of the Association, the initial Board shall consist of the 7 State insurance regulators of the 7 States with the greatest total dollar amount of commercial-lines insurance in place as of the end of such period.

(B) ALTERNATE COMPOSITION.—If any of the State insurance regulators described in subparagraph (A) declines to serve on the Board, the State insurance regulator with the next greatest total dollar amount of commercial-lines insurance in place, as determined by the NAIC as of the end of such period, shall serve as a member of the Board.

(C) INOPERABILITY.—If fewer than 7 State insurance regulators accept appointment to the Board, the Association shall be established without NAIC oversight pursuant to section 332.

(d) TERMS.—The term of each director shall, after the initial appointment of the members of the Board, be for 3 years, with ⅓ of the directors to be appointed each year.

(e) BOARD VACANCIES.—A vacancy on the Board shall be filled in the same manner as the original appointment of the initial Board for the remainder of the term of the vacating member.

(f) MEETINGS.—The Board shall meet at the call of the chairperson, or as otherwise provided by the bylaws of the Association.

SEC. 327. OFFICERS.

(a) IN GENERAL.—

(1) POSITIONS.—The officers of the Association shall consist of a chairperson and a vice chairperson of the Board, a president, secretary, and treasurer of the Association, and such other officers and assistant officers as may be deemed necessary.

(2) MANNER OF SELECTION.—Each officer of the Board and the Association shall be elected or appointed at such time and in such manner and for such terms not exceeding 3 years as may be prescribed in the bylaws of the Association.

(b) CRITERIA FOR CHAIRPERSON.— Only individuals who are members of the National Association of Insurance Commissioners shall be eligible to serve as the chairperson of the board of directors.

SEC. 328. BYLAWS, RULES, AND DISCIPLINARY ACTION.

(a) ADOPTION AND AMENDMENT OF BYLAWS.—

(1) COPY REQUIRED TO BE FILED WITH THE NAIC.—The board of directors of the Association shall file with the NAIC a copy of the proposed bylaws or any proposed amendment to the bylaws, accompanied by a concise general statement of the basis and purpose of such proposal.

(2) EFFECTIVE DATE.—Except as provided in paragraph (3), any proposed bylaw or proposed amendment shall take effect—

(A) 30 days after the date of the filing of a copy with the NAIC;

(B) upon such later date as the Association may designate; or

(C) such earlier date as the NAIC may determine.

(3) DISAPPROVAL BY THE NAIC.—Notwithstanding paragraph (2), a proposed bylaw or amendment shall not take effect if, after public notice and opportunity to participate in a public hearing—

(A) the NAIC disapproves such proposal as being contrary to the public interest or contrary to the purposes of this subtitle and provides notice to the Association setting forth the reasons for such disapproval; or

(B) the NAIC finds that such proposal involves a matter of such significant public interest that public comment should be obtained, in which case it may, after notifying the Association in writing of such finding, require that the procedures set forth in subsection (b) be followed with respect to such proposal, in the same manner as if such proposed bylaw change were a proposed rule change within the meaning of such paragraph.

(b) ADOPTION AND AMENDMENT OF RULES.—

(1) FILING PROPOSED REGULATIONS WITH THE NAIC.—

(A) IN GENERAL.—The board of directors of the Association shall file with the NAIC a copy of any proposed rule or any proposed amendment to a rule of the Association which shall be accompanied by a concise general statement of the basis and purpose of such proposal.

(B) OTHER RULES AND AMENDMENTS INEFFECTIVE.—No proposed rule or amendment shall take effect unless approved by the NAIC or otherwise permitted in accordance with this paragraph.

(2) INITIAL CONSIDERATION BY THE NAIC.—Within 35 days after the date of publication of notice of filing of a proposal, or before the end of such longer period not to exceed 90 days as the NAIC may designate after such date if the NAIC finds such longer period to be appropriate and sets forth its reasons for so finding, or as to which the Association consents, the NAIC shall—

(A) by order approve such proposed rule or amendment; or

(B) institute proceedings to determine whether such proposed rule or amendment should be modified or disapproved.

(3) NAIC PROCEEDINGS.—

(A) IN GENERAL.—Proceedings instituted by the NAIC with respect to a proposed rule or amendment pursuant to paragraph (2) shall—

(i) include notice of the grounds for disapproval under consideration;

(ii) provide opportunity for hearing; and

(iii) be concluded within 180 days after the date of the Association's filing of such proposed rule or amendment.

(B) DISPOSITION OF PROPOSAL.—At the conclusion of any proceeding under subparagraph (A), the NAIC shall, by order, approve or disapprove the proposed rule or amendment.

(C) EXTENSION OF TIME FOR CONSIDERATION.—The NAIC may extend the time for concluding any proceeding under subparagraph (A) for—

(i) not more than 60 days if the NAIC finds good cause for such extension and sets forth its reasons for so finding; or

(ii) for such longer period as to which the Association consents.

(4) STANDARDS FOR REVIEW.—

(A) GROUNDS FOR APPROVAL.—The NAIC shall approve a proposed rule or amendment if the NAIC finds that the rule or amendment is in the public interest and is consistent with the purposes of this Act.

(B) APPROVAL BEFORE END OF NOTICE PERIOD.—The NAIC shall not approve any proposed rule before the end of the 30-day period beginning on the date the Association files proposed rules or amendments in accordance with paragraph (1) unless the NAIC finds good cause for so doing and sets forth the reasons for so finding.

(5) ALTERNATE PROCEDURE.—

(A) IN GENERAL.—Notwithstanding any provision of this subsection other than subparagraph (B), a proposed rule or amendment relating to the administration or organization of the Association may take effect—

(i) upon the date of filing with the NAIC, if such proposed rule or amendment is designated by the Association as relating solely to matters which the NAIC, consistent with the public interest and the purposes of this subsection, determines by rule do not require the procedures set forth in this paragraph; or

(ii) upon such date as the NAIC shall for good cause determine.

(B) ABROGATION BY THE NAIC.—

(i) IN GENERAL.—At any time within 60 days after the date of filing of any proposed rule or amendment under subparagraph (A)(i) or (B)(ii), the NAIC may repeal such rule or amendment and require that the rule or amendment be refiled and reviewed in accordance with this paragraph, if the NAIC finds that such action is necessary or appropriate in the public interest, for the protection of insurance producers or policyholders, or otherwise in furtherance of the purposes of this subtitle.

(ii) EFFECT OF RECONSIDERATION BY THE NAIC.—Any action of the NAIC pursuant to clause (i) shall—

(I) not affect the validity or force of a rule change during the period such rule or amendment was in effect; and

(II) not be considered to be final action.

(c) ACTION REQUIRED BY THE NAIC.—The NAIC may, in accordance with such rules as the NAIC determines to be necessary or appropriate to the public interest or to carry out the purposes of this subtitle, require the Association to adopt, amend, or repeal any bylaw, rule or amendment of the Association, whenever adopted.

(d) DISCIPLINARY ACTION BY THE ASSOCIATION.—

(1) SPECIFICATION OF CHARGES.—In any proceeding to determine whether membership shall be denied, suspended, revoked, and not renewed (hereafter in this section referred to as a "disciplinary action"), the Association shall bring specific charges, notify such member of such charges and give the member an opportunity to defend against the charges, and keep a record.

(2) SUPPORTING STATEMENT.—A determination to take disciplinary action shall be supported by a statement setting forth—

(A) any act or practice in which such member has been found to have been engaged;

(B) the specific provision of this subtitle, the rules or regulations under this subtitle, or the rules of the Association which any such act or practice is deemed to violate; and

(C) the sanction imposed and the reason for such sanction.

(e) NAIC REVIEW OF DISCIPLINARY ACTION.—

(1) NOTICE TO THE NAIC.—If the Association orders any disciplinary action, the Association shall promptly notify the NAIC of such action.

(2) REVIEW BY THE NAIC.—Any disciplinary action taken by the Association shall be subject to review by the NAIC—

(A) on the NAIC's own motion; or

(B) upon application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action, or the institution of review by the NAIC on the NAIC's own motion, shall not operate as a stay of disciplinary action unless the NAIC otherwise orders.

(g) SCOPE OF REVIEW.—

(A) IN GENERAL.—In any proceeding to review such action, after notice and the opportunity for hearing, the NAIC shall—

(i) determine whether the action should be taken;

(ii) affirm, modify, or rescind the disciplinary sanction; or

(iii) remand to the Association for further proceedings.

(B) DISMISSAL OF REVIEW.—The NAIC may dismiss a proceeding to review disciplinary action if the NAIC finds that—

(i) the specific grounds on which the action is based exist in fact;

(ii) the action is in accordance with applicable rules and regulations; and

(iii) such rules and regulations are, and were, applied in a manner consistent with the purposes of this Act.

SEC. 329. ASSESSMENTS.

(a) INSURANCE PRODUCERS SUBJECT TO ASSESSMENT.—The Association may establish such application and membership fees as the Association finds necessary to cover the costs of its operations, including fees made reimbursable to the NAIC under subsection (b), except that, in setting such fees, the Association may not discriminate against smaller insurance producers.

(b) NAIC ASSESSMENTS.—The NAIC may assess the Association for any costs it incurs under this subtitle.

SEC. 330. FUNCTIONS OF THE NAIC.

(a) ADMINISTRATIVE PROCEDURE.—Determinations of the NAIC, for purposes of making rules pursuant to section 328, shall be made after appropriate notice and opportunity for a hearing and for submission of views of interested persons.

(b) EXAMINATIONS AND REPORTS.—

(1) The NAIC may make such examinations and inspections of the Association and require the Association to furnish it with such reports and records or copies thereof as the NAIC may consider necessary or appropriate in the public interest or to effectuate the purposes of this subtitle.

(2) As soon as practicable after the close of each fiscal year, the Association shall submit to the NAIC a written report regarding the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year. The NAIC shall transmit such report to the President and the Congress with such comment thereon as the NAIC determines to be appropriate.

SEC. 331. LIABILITY OF THE ASSOCIATION AND THE DIRECTORS, OFFICERS, AND EMPLOYEES OF THE ASSOCIATION.

(a) IN GENERAL.—The Association shall not be deemed to be an insurer or insurance producer within the meaning of any State law,

rule, regulation, or order regulating or taxing insurers, insurance producers, or other entities engaged in the business of insurance, including provisions imposing premium taxes, regulating insurer solvency or financial condition, establishing guaranty funds and levying assessments, or requiring claims settlement practices.

(b) LIABILITY OF THE ASSOCIATION, ITS DIRECTORS, OFFICERS, AND EMPLOYEES.—Neither the Association nor any of its directors, officers, or employees shall have any liability to any person for any action taken or omitted in good faith under or in connection with any matter subject to this subtitle.

SEC. 332. ELIMINATION OF NAIC OVERSIGHT.

(a) IN GENERAL.—The Association shall be established without NAIC oversight and the provisions set forth in section 324, subsections (a), (b), (c), and (e) of section 328, and sections 329(b) and 330 of this subtitle shall cease to be effective if, at the end of the 2-year period after the date on which the provisions of this subtitle take effect pursuant to section 321—

(1) at least a majority of the States representing at least 50 percent of the total United States commercial-lines insurance premiums have not satisfied the uniformity or reciprocity requirements of subsections (a) and (b) of section 321; and

(2) the NAIC has not approved the Association's bylaws as required by section 328, the NAIC is unable to operate or supervise the Association, or the Association is not conducting its activities as required under this Act.

(b) BOARD APPOINTMENTS.—If the repeals required by subsection (a) are implemented—

(1) GENERAL APPOINTMENT POWER.—The President, with the advice and consent of the United States Senate, shall appoint the members of the Association's Board established under section 326 from lists of candidates recommended to the President by the National Association of Insurance Commissioners.

(2) PROCEDURES FOR OBTAINING NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS APPOINTMENT RECOMMENDATIONS.—

(A) INITIAL DETERMINATION AND RECOMMENDATIONS.—After the date on which the provisions of part a of this section take effect, then the National Association of Insurance Commissioners shall have 60 days to provide a list of recommended candidates to the President. If the National Association of Insurance Commissioners fails to provide a list by that date, or if any list that is provided does not include at least 14 recommended candidates or comply with the requirements of section 326(c), the President shall, with the advice and consent of the United States Senate, make the requisite appointments without considering the views of the NAIC.

(B) SUBSEQUENT APPOINTMENTS.—After the initial appointments, the National Association of Insurance Commissioners shall provide a list of at least 6 recommended candidates for the Board to the President by January 15 of each subsequent year. If the National Association of Insurance Commissioners fails to provide a list by that date, or if any list that is provided does not include at least 6 recommended candidates or comply with the requirements of section 326(c), the President, with the advice and consent of the Senate, shall make the requisite appointments without considering the views of the NAIC.

(C) PRESIDENTIAL OVERSIGHT.—

(i) REMOVAL.—If the President determines that the Association is not acting in the interests of the public, the President may remove the entire existing Board for the remainder of the term to which the members of the Board were appointed and appoint, with the advice and consent of the Senate, new members to fill the vacancies on the Board for the remainder of such terms.

(ii) SUSPENSION OF RULES OR ACTIONS.—The President, or a person designated by the President for such purpose, may suspend the effectiveness of any rule, or prohibit any action, of the Association which the President or the designee determines is contrary to the public interest.

(d) ANNUAL REPORT.—As soon as practicable after the close of each fiscal year, the Association shall submit to the President and to Congress a written report relative to the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year.

SEC. 333. RELATIONSHIP TO STATE LAW.

(a) PREEMPTION OF STATE LAWS.—State laws, regulations, provisions, or actions purporting to regulate insurance producers shall be preempted in the following instances:

(1) No State shall impede the activities of, take any action against, or apply any provision of law or regulation to, any insurance producer because that insurance producer or any affiliate plans to become, has applied to become, or is a member of the Association.

(2) No State shall impose any requirement upon a member of the Association that it pay different fees to be licensed or otherwise qualified to do business in that State, including bonding requirements, based on its residency.

(3) No State shall impose any licensing, appointment, integrity, personal or corporate qualifications, education, training, experience, residency, or continuing education requirement upon a member of the Association that is different than the criteria for membership in the Association or renewal of such membership, except that counter-signature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(4) No State shall implement the procedures of such State's system of licensing or renewing the licenses of insurance producers in a manner different from the authority of the Association under section 325.

(b) SAVINGS PROVISION.—Except as provided in subsection (a), no provision of this section shall be construed as altering or affecting the continuing effectiveness of any law, regulation, provision, or action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including, but not limited to, countersignature laws.

SEC. 334. COORDINATION WITH OTHER REGULATORS.

(a) COORDINATION WITH STATE INSURANCE REGULATORS.—The Association shall have the authority to—

(1) issue uniform insurance producer applications and renewal applications that may be used to apply for the issuance or removal of State licenses, while preserving the ability of each State to impose such conditions on the issuance or renewal of a license as are consistent with section 333;

(2) establish a central clearinghouse through which members of the Association may apply for the issuance or renewal of licenses in multiple States; and

(3) establish or utilize a national database for the collection of regulatory information concerning the activities of insurance producers.

(b) COORDINATION WITH THE NATIONAL ASSOCIATION OF SECURITIES DEALERS.—The Association shall coordinate with the National Association of Securities Dealers in order to ease any administrative burdens that fall on persons that are members of both associations, consistent with the purposes of this subtitle and the Federal securities laws.

SEC. 335. JUDICIAL REVIEW.

(a) JURISDICTION.—The appropriate United States district court shall have exclusive jurisdiction over litigation involving the Association, including disputes between the Association and its members that arise under this subtitle. Suits brought in State court involving the Association shall be deemed to have arisen under Federal law and therefore be subject to jurisdiction in the appropriate United States district court.

(b) EXHAUSTION OF REMEDIES.—An aggrieved person must exhaust all available administrative remedies before the Association and the NAIC before it may seek judicial review of an Association decision.

(c) STANDARDS OF REVIEW.—The standards set forth in section 553 of title 5, United States Code, shall be applied whenever a rule or bylaw of the Association is under judicial review, and the standards set forth in section 554 of title 5, United States Code, shall be applied whenever a disciplinary action of the Association is judicially reviewed.

SEC. 336. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) INSURANCE.—The term "insurance" means any product defined or regulated as insurance by the appropriate State insurance regulatory authority.

(2) INSURANCE PRODUCER.—The term "insurance producer" means any insurance agent or broker, surplus lines broker, insurance consultant, limited insurance representative, and any other person that solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance or offers advice, counsel, opinions or services related to insurance.

(3) STATE LAW.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(4) STATE.—The term "State" includes any State, the District of Columbia, American Samoa, Guam, Puerto Rico, and the United States Virgin Islands.

(5) HOME STATE.—The term "home State" means the State in which the insurance producer maintains its principal place of residence and is licensed to act as an insurance producer.

TITLE IV—MERGER OF BANK AND THRIFT HOLDING COMPANIES REGULATORS, AND BANK AND THRIFT INSURANCE FUNDS

SEC. 401. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This title may be cited as the "Thrift Charter Transition Act of 1998".

(b) DEFINITIONS.—Unless otherwise defined in this Act, the terms "bank holding company", "depository institution", "Federal

savings association", "insured depository institution", "savings association", "State bank", and "State savings association" (as used in the uncodified provisions of this Act) have the same meanings as in section 3 of the Federal Deposit Insurance Act, as in effect on the day before the date of enactment of this Act.

Subtitle A—Facilitating Conversion of Savings Associations to Banks

SEC. 411. BRANCHES OF FORMER SAVINGS ASSOCIATIONS.

(a) BRANCHES.—

(1) EXISTING BRANCHES RETAINED.—Notwithstanding any other provision of law, any depository institution that qualifies under paragraph (2), and any successor to such an institution, may continue to operate any branch or agency that the institution operated as a branch or agency, or was in the process of establishing as a branch or agency, respectively, as of the date of enactment of the Thrift Charter Transition Act of 1998.

(2) DEPOSITORY INSTITUTION DEFINED.—A depository institution qualifies under this paragraph for purposes of paragraph (1) if the institution—

(A) is a savings association on the date of enactment of the Thrift Charter Transition Act of 1998; or

(B) has filed an application to become a savings association by the date of enactment of the Thrift Charter Transition Act of 1998.

(b) BRANCHING RIGHTS OBTAINED IN ASSISTED ACQUISITIONS.—Notwithstanding any other provision of law, if a depository institution has branching rights under a contract entered into with the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation or pursuant to a resolution of the Federal Home Loan Bank Board or action of the Office of Thrift Supervision or Resolution Trust Corporation as part of a transaction in which the depository institution acquired or merged with a failed or failing savings association (prior to 1992), the depository institution may continue to branch in a manner consistent with that contract, resolution, or action.

(c) INTRASTATE BRANCHES.—Any branch operated under subsection (a)(1) in a State other than the depository institution's home State may acquire, establish or operate additional branches in the host State to the same extent as permitted for a national bank with its main office located in the host State.

SEC. 412. SAVINGS AND LOAN HOLDING COMPANIES.

Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by inserting after subsection (f) (as so redesignated by section 102(b)(2) of this Act) the following new subsection:

"(g) SAVINGS AND LOAN HOLDING COMPANY POWERS GRANDFATHERED.—

"(1) IN GENERAL.—A company that qualifies under paragraph (2) may—

"(A) maintain or enter into any nonbank affiliation that the company was permitted pursuant to section 10 of the Home Owners' Loan Act to maintain or enter into prior to becoming a bank holding company pursuant to paragraph (2)(C); and

"(B) engage in any activity, including holding any asset, in which the company or any affiliate described in subparagraph (A) was permitted pursuant to section 10 of the Home Owners' Loan Act to engage prior to becoming a bank holding company pursuant to paragraph (2)(C).

"(2) QUALIFIED GRANDFATHERED COMPANIES.—

"(A) GRANDFATHERED COMPANIES DEFINED.—A company qualifies under this paragraph for purposes of paragraph (1) if—

"(i) as of September 16, 1997, the company (or any affiliate of such company)—

"(I) was a savings and loan holding company (as defined in section 10 of the Home Owners' Loan Act, as in effect on that date); or

"(II) had filed an application to become a savings and loan holding company; and

"(ii) the company—

"(I) becomes a bank holding company by operation of law; or

"(II) was exempt from section 4 (as in effect on the date of enactment of the Thrift Charter Transition Act of 1998) under an order issued by the Board under section 4(d) (as in effect on the date of enactment of the Thrift Charter Transition Act of 1998).

"(B) HOLDING COMPANIES WITH IDENTICAL SHAREHOLDERS.—A company also qualifies under this paragraph for purposes of paragraph (1) if the company—

"(i) is formed by a company qualified under subparagraph (A); and

"(ii) the shareholders of such company are identical to the shareholders of the company referred to in (i).

"(C) OPERATION OF LAW DEFINED.—For purposes of this subsection, a company becomes a bank holding company by operation of law if the company becomes a bank holding company because a savings association controlled by the company is treated as a bank under an amendment made by the Thrift Charter Transition Act of 1998.

"(3) REQUIREMENTS TO RETAIN GRANDFATHERED POWERS.—

"(A) IN GENERAL.—Paragraph (1) shall cease to apply to a company if the company does not comply with this paragraph.

"(B) ACQUISITION OF BANKS .—

"(i) IN GENERAL.—The company may not acquire (by any form of business combination) control of a bank after the date of enactment of the Thrift Charter Transition Act of 1998.

"(ii) EXCEPTIONS TO PROHIBITION.—Clause (i) shall not apply to the acquisition of—

"(I) a bank, during the period ending on the date 2 years after the date of enactment of the Thrift Charter Transition Act of 1998, if the acquisition results from the treatment of a savings association as a bank under amendments made by the Thrift Charter Transition Act of 1998;

"(II) a bank, if the assets of such bank are merged with an insured depository institution which was controlled by such company before the date of enactment of the Thrift Charter Transition Act of 1998, and if the resulting institution complies with the requirements of Section 10(m) of the Home Owners' Loan Act;

"(III) shares held as a bona fide fiduciary (whether with or without the sole discretion to vote such shares);

"(IV) shares held by any person as a bona fide fiduciary solely for the benefit of employees of either the company or any subsidiary of the company and the beneficiaries of those employees;

"(V) an entity described in section 2(c)(2);

"(VI) shares held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

"(VII) shares held in an account solely for trading purposes;

"(VIII) shares over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation;

"(IX) shares or assets acquired in securing or collecting a debt previously contracted in good faith, during the 2-year period beginning on the date of such acquisition or for such additional time (not exceeding 3 years) as the Board may permit if the Board determines that such an extension will not be detrimental to the public interest;

"(X) a bank from the Federal Deposit Insurance Corporation, in any capacity; and

"(XI) a bank in an acquisition in which the bank has been found to be in danger of default by the appropriate Federal or State authority.

"(C) ENFORCEMENT OF CERTAIN ASSET LIMITATIONS.—The company may not control a savings association if such savings association, or any successor to such association, fails to comply with the requirements of section 5(c)(2) and section 10(m) of the Home Owners' Loan Act as in effect on the day before the date of the enactment of the Thrift Charter Transition Act of 1998.

"(4) GRANDFATHERED POWERS NONTRANSFERABLE.—

"(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any company if after the date of the enactment of the Thrift Charter Transition Act of 1998—

"(i) any company (other than a company qualified under paragraph (2)) not under common control with such company as of that date acquires, directly, or indirectly, control of the company; or

"(ii) the company is the subject of any merger, consolidation, or other type of business combination as a result of which a company (other than a company qualified under paragraph (2)) not under common control with such company acquires, directly or indirectly, control of such company.

"(B) ANTI-EVASION.—The appropriate Federal banking agency may issue interpretations, regulations, or orders that it deems necessary to administer and carry out the purpose, and prevent evasions, of this paragraph, including determining that (notwithstanding the form of a transaction) the transaction would in substance effect a change in control.

"(5) SAVINGS AND LOAN HOLDING COMPANIES THAT BECOME BANK HOLDING COMPANIES.—

"(A) EXCLUSION FROM APPLICATION REQUIREMENT.—A company that qualifies under subparagraph (B) shall not be required to obtain the approval of the Board under subsection (a) to become a bank holding company if such company becomes a bank holding company after the date of enactment of the Thrift Charter Transition Act of 1998 as a result of the conversion of a savings association subsidiary to a bank or by virtue of the treatment of a savings association subsidiary as a bank under an amendment made by the Thrift Charter Transition Act of 1998.

"(B) COMPANIES EXCLUDED FROM APPLICATION REQUIREMENT.—A company qualifies for purposes of subparagraph (A) if the company, as of the date of the enactment of the Thrift Charter Transition Act of 1998, was a savings and loan holding company (as defined in section 10(a) of the Home Owners' Loan Act as in effect on that date) or has filed an application to become a savings and loan holding company.

"(C) SUPERVISION AND REGULATION OF COMPANIES THAT WERE PREVIOUSLY SAVINGS AND LOAN HOLDING COMPANIES.—

"(i) IN GENERAL.—Any company that qualifies under paragraph (2) and complies with paragraph (3) and was registered and regulated under section 10 of the Home Owners' Loan Act on the day before becoming a bank holding company described in paragraphs (2) and (3) shall continue to be regulated, for a period of 3 years after becoming such holding

company, under the terms of section 10 of the Home Owners' Loan Act in the same manner and to the same extent and subject to the same requirements as by the Office of Thrift Supervision before the date of the enactment of the Thrift Charter Transition Act of 1998.

"(ii) HOLDING COMPANY CAPITAL EXCEPTION.—With regard to holding company capital, any company that qualifies under paragraph (2) and complies with paragraph (3) and was registered and regulated under section 10 of the Home Owners' Loan Act before June 19, 1997, or had an application pending to do so on such date, shall continue to be regulated under the terms of section 10 of the Home Owners' Loan Act in the same manner and to the same extent and subject to the same requirements as by the Office of Thrift Supervision before the date of the enactment of the Thrift Charter Transition Act of 1998.

"(iii) SUBMISSIONS TO REGULATORS.—A company shall provide for a period of 3 years after becoming a bank holding company described in paragraphs (2) and (3) the appropriate Federal banking agency with—

"(I) notice of acquisition of any company not controlled or affiliated on the date of enactment of the Thrift Charter Transition Act of 1998 that is engaged in nonbanking activities within 15 days after completion of any such transaction; and

"(II) copies of such quarterly and annual reports as it is otherwise required to file with any other governmental agency.

"(iv) REPORTING REQUIREMENTS.—The appropriate Federal banking agency may adopt, for a period of 3 years after a company becomes a bank holding company described in paragraphs (2) and (3), reporting requirements substantially similar to and no more burdensome than required by the Office of Thrift Supervision as of January 1, 1997.

"(v) REGULATORY AUTHORITY.—The appropriate Federal banking agency shall, for a period of 3 years after a company becomes a bank holding company described in paragraphs (2) and (3)—

"(I) have the same authority to examine a company or any subsidiary or affiliate thereof only to the same extent as the Office of Thrift Supervision had as of January 1, 1997; and

"(II) conduct only the same type of examination and with the same frequency as the Office of Thrift Supervision prior to January 1, 1997, unless required to prevent an unsafe or unsound activity or course of conduct of the savings institution treated as a bank pursuant to the Thrift Charter Transition Act of 1998.".

SEC. 413. TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGES.

(a) TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGES ISSUED BEFORE FIRREA.—For purposes of section 402(e) of Financial Institutions Reform, Recovery, and Enactment Act of 1989 (12 U.S.C. 1437 note), any reference in such section to—

(1) the Director of the Office of Thrift Supervision shall be deemed to be a reference to the Secretary of the Treasury; and

(2) a Savings Association Insurance Fund member shall be deemed to be a reference to an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act).

(b) TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGES INSTRUMENTS ISSUED AFTER FIRREA.—

(1) IN GENERAL.—For purposes of adjustable rate mortgage instruments that are in effect as of the date of enactment of this Act, any reference in the instrument to the Director of the Office of Thrift Supervision or Savings Association Insurance Fund members shall be treated as a reference to the Secretary of the Treasury or insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), as appropriate.

(2) SUBSTITUTION FOR INDEXES.—If any index used to calculate the applicable interest rate on any adjustable rate mortgage instrument is no longer calculated and made available as a direct or indirect result of the enactment of this title, any index—

(A) made available by the Secretary of the Treasury; or

(B) determined by the Secretary of the Treasury, pursuant to paragraph (4), to be substantially similar to the index which is no longer calculated or made available,

may be substituted by the holder of any such adjustable rate mortgage instrument upon notice to the borrower.

(3) AGENCY ACTION REQUIRED TO PROVIDE CONTINUED AVAILABILITY OF INDEXES.—Promptly after the enactment of this subsection, the Secretary of the Treasury, the Chairperson of the Federal Deposit Insurance Corporation, and the Comptroller of the Currency shall take such action as may be necessary to assure that the indexes prepared by the Director of the Office of Thrift Supervision immediately before the enactment of this subsection and used to calculate the interest rate on adjustable rate mortgage instruments continue to be available.

(4) REQUIREMENTS RELATING TO SUBSTITUTE INDEXES.—If any agency can no longer make available an index pursuant to paragraph (3), an index that is substantially similar to such index may be substituted for such index for purposes of paragraph (2) if the Secretary of the Treasury determines, after notice and opportunity for comment, that—

(A) the new index is based upon data substantially similar to that of the original index; and

(B) the substitution of the new index will result in an interest rate substantially similar to the rate in effect at the time the original index became unavailable.

SEC. 414. COST OF FUNDS INDEXES.

(a) COST OF FUNDS INDEX DEFINED.—The term "cost of funds indexed" means any index that is published by a Federal home loan bank and is based, in whole or in part, upon the cost of funds of such bank's members.

(b) CALCULATIONS BASED ON TYPE OF CHARTER AND INSURANCE FUND MEMBERSHIP OF MEMBERS.—If any cost of funds index includes data based on charter type, insurance fund membership, or other similar characteristics of members of a Federal home loan bank, such index shall be calculated after the date of the enactment of this Act using data only from insured depository institutions which were bank members and whose data was included in such index on or before such date of enactment.

(c) ACQUISITION OF DATA.—

(1) IN GENERAL.—Each insured depository institution the data from which is required to compile a cost of funds index in accordance with subsection (b) shall provide to the Federal home loan bank which maintains the index such information as may be necessary, and in such form as may be appropriate, for the bank to calculate and publish the index.

(2) ENFORCEMENT BY BANKING AGENCIES.—Each appropriate Federal banking agency shall take such action as may be necessary to ensure that insured depository institutions which are required to provide information to any Federal home loan bank under paragraph (1) furnish such information on a timely basis and in the form required by the bank.

(3) TREATMENT OF INSTITUTIONS.—Notwithstanding any other provision of law, an insured depository institution which furnishes information to a Federal home loan bank pursuant to this section for use in compiling a cost of funds index shall not be deemed to control, directly, or indirectly, such index.

(d) CERTAIN DATA EXCLUDED.—Notwithstanding subsections (b) and (c), no cost of funds index shall include any data from any insured depository institution which results from the merger, consolidation, or other combination of a member of a Federal home loan bank with a nonmember of any such bank if—

(1) the total assets of the nonmember exceed the total assets of the bank member at the time of such merger, consolidation, or other combination; or

(2) in the case of a merger, consolidation, or other merger in which a member of a Federal home loan bank is the resulting insured depository institution, combined ratio of the average amount of single-family loan balances to average total assets of all insured depository institutions involved in such merger, consolidation, or other combination for the 12-months period ending on the date of such transaction is less than 70 percent.

(e) OTHER DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" shall have the same meanings as in section 3 of the Federal Deposit Insurance Act.

Subtitle B—Ending Separate Federal Regulation of Savings Associations Branching Rights and Savings and Loan Holding Companies

SEC. 421. STATE SAVINGS ASSOCIATIONS TREATED AS STATE BANKS UNDER FEDERAL BANKING LAW.

(a) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) SECTION 44.—Section 44(f) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)) is amended by adding at the end the following new paragraph:

"(12) BANK.—For purposes of this section, the term 'bank' includes any savings association.".

(2) SECTION 3.—Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended—

(A) by inserting "and" after the semicolon at the end of paragraph (2);

(B) by striking "; and" at the end of paragraph (3) and inserting a period; and

(C) by striking paragraph (4).

(b) AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.—

(1) Section 2(a)(5) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)) is amended by striking subparagraph (E).

(2) Section 2(c)(1) of the Bank Holding Company Act is amended by inserting after subparagraph (C) (as added by section 133(a)(2) of this Act) the following new subparagraph:

"(D) A savings association.".

(3) Section 2(c)(2)(B) of the Bank Holding Company Act is amended to read as follows:

"(B) [Repealed].".

(4) Section 4(i) of the Bank Holding Company Act is amended to read as follows:

"(i) [Repealed].".

(c) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—Section 5(r) of the Home Owners' Loan Act is amended to read as follows:

"(r) IN-STATE BRANCHES.—Subject to section 411 of the Thrift Charter Transition Act

of 1998, a Federal savings association may only retain, establish, or operate branches within a State to the same extent a national bank can.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a)(2) and (b) shall take effect on January 1, 2000.

SEC. 422. AMENDMENTS TO THE HOME OWNERS' LOAN ACT.

(a) SECTIONS 1, 2, AND 3.—Sections 1, 2, and 3 of the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) are amended to read as follows:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

"This Act may be cited as the 'Home Owners' Loan Act'.

"TABLE OF CONTENTS

"Sec. 1. Short title and table of contents.
"Sec. 2. Definitions.
"Sec. 3. Director of the Division of Thrift Supervision.
"Sec. 4. Supervision of savings associations.
"Sec. 5. Federal savings associations.
"Sec. 6. Liquid asset requirements.
"Sec. 7. Applicability.
"Sec. 8. District associations.
"Sec. 9. Examination fees.
"Sec. 10. Qualified thrift lending and mutual holding companies.
"Sec. 11. Transactions with affiliates; extensions of credit to executive officers, directors, and principal shareholders.
"Sec. 12. Advertising.
"Sec. 13. Powers of examiners.
"Sec. 14. Separability provision.

"SEC. 2. DEFINITIONS.

"For purposes of this Act—

"(1) DIRECTOR.—The term 'Director' means the Director of the Division of Thrift Supervision.

"(2) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation.

"(3) OFFICE.—The term 'Office' means the Division of Thrift Supervision established under section 3(a).

"(4) SAVINGS ASSOCIATION.—The term 'savings association' means a savings association, as defined in section 3 of the Federal Deposit Insurance Act, the deposits of which are insured by the Corporation.

"(5) FEDERAL SAVINGS ASSOCIATION.—The term 'Federal savings association' means a Federal savings association or a Federal savings bank chartered under section 5 of this Act.

"(6) NATIONAL BANK.—The term 'national bank' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(7) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

"(8) STATE.—The term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(9) AFFILIATE.—The term 'affiliate' means any person that controls, is controlled by, or is under common control with, a savings association, except as provided in section 10.

"SEC. 3. DIRECTOR OF THE DIVISION OF THRIFT SUPERVISION.

"(a) ESTABLISHMENT OF DIVISION.—There is established the Division of Thrift Supervision, which shall be a division of the Office of the Comptroller of the Currency.

"(b) ESTABLISHMENT OF POSITION OF DIRECTOR.—

"(1) IN GENERAL.—There is established the position of the Director of the Division of Thrift Supervision, who shall be the head of the Division of Thrift Supervision and shall be subject to the general oversight of the Comptroller of the Currency.

"(2) AUTHORITY TO PRESCRIBE REGULATIONS.—The Comptroller of the Currency, acting through the Director, may prescribe such regulations and issue such orders as the Comptroller of the Currency, acting through the Director, may determine to be necessary for carrying out this Act and all other laws within the jurisdiction of this Act.

"(3) BANKING AGENCY RULEMAKING.—The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Comptroller of the Currency, acting through the Director.

"(c) APPOINTMENT.—The Director shall be appointed by and serve at the pleasure of the Comptroller of the Currency.

"(d) PROHIBITION ON FINANCIAL INTERESTS.—The Director shall not have a direct or indirect financial interest in any insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act.

"(e) POWERS OF THE COMPTROLLER OF THE CURRENCY WITH RESPECT TO THE SUPERVISION OF SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—The Comptroller of the Currency shall have—

"(A) all powers which—

"(i) were vested in the Federal Home Loan Bank Board (in the Board's capacity as such) or the Chairman of such Board on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

"(ii) were not—

"(I) transferred to the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, the Resolution Trust Corporation, or the Federal Home Loan Mortgage Corporation pursuant to any amendment made by such Act; or

"(II) established under any provision of law repealed by such Act; and

"(B) all other powers which were vested in the Director of the Office of Thrift Supervision as of the day before the date of the enactment of the Thrift Charter Transition Act of 1998.

"(2) DELEGATION.—The Comptroller of the Currency may delegate such authority to the Director as may be necessary or appropriate for purposes of carrying out this Act.

"(f) FUNDING THROUGH ASSESSMENTS.—The compensation of the Director and other employees of the Office and all other expenses thereof may be paid from assessments levied under this Act.

"(g) GAO AUDIT.—The Comptroller of the Currency, acting through the Director, shall make available to the Comptroller General of the United States all books and records necessary to audit all of the activities of the Office of Thrift Supervision.".

(b) SECTION 10.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended to read as follows:

"SEC. 10. QUALIFIED THRIFT LENDING AND MUTUAL HOLDING COMPANIES.

"(a) DEFINITIONS.—

"(1) IN GENERAL.—As used in this section, unless the context otherwise requires—

"(A) SAVINGS ASSOCIATION.—The term 'savings association' includes a savings bank or cooperative bank which is deemed by the Comptroller of the Currency, acting through the Director, to be a savings association under subsection (l).

"(B) UNINSURED INSTITUTION.—The term 'uninsured institution' means any depository institution the deposits of which are not insured by the Federal Deposit Insurance Corporation.

"(C) COMPANY.—The term 'company' means any corporation, partnership, trust, joint-stock company, or similar organization, but does not include the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, any Federal home loan bank, or any company the majority of the shares of which is owned by the United States or any State, or by an instrumentality of the United States or any State.

"(D) SUBSIDIARY.—The term 'subsidiary' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(E) AFFILIATE.—The term 'affiliate' of a savings association means any person which controls, is controlled by, or is under common control with, such savings association.

"(F) BANK HOLDING COMPANY.—The terms 'bank holding company' and 'bank' have the meanings given to such terms in section 2 of the Bank Holding Company Act of 1956.

"(G) ACQUIRE.—The term 'acquire' has the meaning given to such term in section 13(f)(8) of the Federal Deposit Insurance Act.

"(2) CONTROL.—For purposes of this section, a person shall be deemed to have control of—

"(A) a savings association if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 percent of the voting shares of such savings association, or controls in any manner the election of a majority of the directors of such association;

"(B) any other company if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 percent of the voting shares or rights of such other company, or controls in any manner the election or appointment of a majority of the directors or trustees of such other company, or is a general partner in or has contributed more than 25 percent of the capital of such other company;

"(C) a trust if the person is a trustee thereof; or

"(D) a savings association or any other company if the Comptroller of the Currency, acting through the Director, determines, after reasonable notice and opportunity for hearing, that such person directly or indirectly exercises a controlling influence over the management or policies of such association or other company.

"(b) ADMINISTRATION AND ENFORCEMENT.—

"(1) IN GENERAL.—The Comptroller of the Currency may issue such regulations and orders as the Comptroller of the Currency deems necessary or appropriate to enable the Comptroller of the Currency, acting through the Director, to administer and carry out the purposes of this section, and to require compliance therewith and prevent evasions thereof.

"(2) INVESTIGATIONS.—The Comptroller of the Currency, acting through the Director, may make such investigations as the Comptroller of the Currency deems necessary or appropriate to determine whether the provisions of this section, and regulations and orders thereunder, are being and have been complied with by savings associations and mutual holding companies and subsidiaries and affiliates thereof. For the purpose of any investigation under this section, the Comptroller of the Currency, acting through the

Director, may administer oaths and affirmations, issue subpoenas, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which may be relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in any State. The Comptroller of the Currency may apply to the United States district court for the judicial district (or the United States court in any territory) in which any witness or company subpoenaed resides or carries on business, for enforcement of any subpoena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance.

"(3) PROCEEDINGS.—

"(A) IN GENERAL.—In any proceeding under subsection (a)(2)(D) or under paragraph (5) of this subsection, the Comptroller of the Currency, acting through the Director, may administer oaths and affirmations, take or cause to be taken depositions, and issue subpoenas. The Comptroller of the Currency may make regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this paragraph may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted. Any party to such proceedings may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(B) Any hearing provided for in subsection (a)(2)(D) or under paragraph (5) of this subsection shall be held in the Federal judicial district or in the territory in which the principal office of the association or other company is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code.

"(4) INJUNCTIONS.—Whenever it appears to the Comptroller of the Currency, acting through the Director, that any person is engaged or has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this section or of any regulation or order thereunder, the Comptroller of the Currency, acting through the Director, may bring an action in the proper United States district court, or the United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, to enforce compliance with this section or any regulation or order, or to require the divestiture of any acquisition in violation of this section, or for any combination of the foregoing, and such courts shall have jurisdiction of such actions. Upon a proper showing an injunction, decree, restraining order, order of divestiture, or other appropriate order shall be granted without bond.

"(c) PENALTIES.—

"(1) CRIMINAL PENALTY.—

"(A) VIOLATION OF SECTION.—Whoever knowingly violates any provision of this section or being a company, violates any regulation or order issued by the Comptroller of the Currency, acting through the Director, under this section, shall be imprisoned not more than 1 year, fined not more than $100,000 per day for each day during which the violation continues, or both.

"(B) VIOLATION OF SECTION WITH INTENT TO DECEIVE, DEFRAUD, OR PROFIT SIGNIFICANTLY.—Whoever, with the intent to deceive, defraud, or profit significantly, knowingly violates any provision of this section shall be fined not more than $1,000,000 per day for each day during which the violation continues, imprisoned not more than 5 years, or both.

"(2) CIVIL MONEY PENALTY.—

"(A) PENALTY.—Any company which violates, and any person who participates in a violation of, any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(B) ASSESSMENT.—Any penalty imposed under subparagraph (A) may be assessed and collected by the Comptroller of the Currency, acting through the Director, in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(C) HEARING.—The company or other person against whom any civil penalty is assessed under this paragraph shall be afforded a hearing if such company or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this paragraph.

"(D) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(E) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(F) REGULATIONS.—The Comptroller of the Currency, acting through the Director, shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.

"(3) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a savings and loan holding company or subsidiary thereof (including a separation caused by the deregistration of such a company or such a subsidiary) shall not affect the jurisdiction and authority of the Comptroller of the Currency, acting through the Director, to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such holding company or its subsidiary (whether such date occurs before, on, or after the date of the enactment of this paragraph).

"(d) JUDICIAL REVIEW.—Any party aggrieved by an order of the Comptroller of the Currency, acting through the Director, under this section may obtain a review of such order by filing in the court of appeals of the United States for the circuit in which the principal office of such party is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Comptroller of the Currency be modified, terminated, or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Comptroller of the Currency, and thereupon the Comptroller of the Currency, acting through the Director, shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Comptroller of the Currency. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28, United States Code.

"(e) TREATMENT OF FDIC INSURED STATE SAVINGS BANKS AND COOPERATIVE BANKS AS SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a savings bank (as defined in section 3(g) of the Federal Deposit Insurance Act) and a cooperative bank that is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) upon application shall be deemed to be a savings association for the purpose of this section, if the Comptroller of the Currency, acting through the Director, determines that such bank is a qualified thrift lender (as determined under subsection (f)).

(2) FAILURE TO MAINTAIN QUALIFIED THRIFT LENDER STATUS.—If any savings bank which is deemed to be a savings association under paragraph (1) subsequently fails to maintain its status as a qualified thrift lender, as determined by the Comptroller of the Currency (acting through the Director), such bank may not thereafter be a qualified thrift lender for a period of 5 years.

"(f) QUALIFIED THRIFT LENDER TEST.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (7), any savings association is a qualified thrift lender if—

"(A) either—

"(i) the savings association qualifies as a domestic building and loan association, as such term is defined in section 7701(a)(19) of the Internal Revenue Code of 1986; or

"(ii)(I) the savings association's qualified thrift investments equal or exceed 65 percent of the savings association's portfolio assets; and

"(II) the savings association's qualified thrift investments continue to equal or exceed 65 percent of the savings association's portfolio assets on a monthly average basis in 9 out of every 12 months; and

"(B) at least 10 percent of the portfolio assets of the savings association consists of mortgages secured by domestic residential housing or manufactured homes or securities backed by or representing an interest in mortgages which were originated by the savings association and sold within 90 days of origination and are backed by domestic residential housing or manufactured homes.

"(2) EXCEPTIONS GRANTED BY COMPTROLLER OF THE CURRENCY, ACTING THROUGH THE DIRECTOR.—Notwithstanding paragraph (1), the Comptroller of the Currency, acting through the Director, may grant such temporary and limited exceptions from the minimum actual thrift investment percentage requirement contained in such paragraph as the Comptroller of the Currency, acting through the Director, deems necessary if—

"(A) the Comptroller of the Currency, acting through the Director, determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for a savings association to meet such investment requirements; or

"(B) the Comptroller of the Currency, acting through the Director, determines that—

"(i) the grant of any such exception will significantly facilitate an acquisition under section 13(c) or 13(k) of the Federal Deposit Insurance Act;

"(ii) the acquired association will comply with the transition requirements of paragraph (7)(B), as if the date of the exemption were the starting date for the transition period described in that paragraph; and

"(iii) the Comptroller of the Currency, acting through the Director, determines that the exemption will not have an undue adverse effect on competing savings associations in the relevant market and will further the purposes of this subsection.

"(3) FAILURE TO BECOME AND REMAIN A QUALIFIED THRIFT LENDER.—

"(A) IN GENERAL.—A savings association that fails to become or remain a qualified thrift lender shall either become one or more banks (other than a savings bank) or be subject to subparagraph (B), except as provided in subparagraph (D).

"(B) RESTRICTIONS APPLICABLE TO SAVINGS ASSOCIATIONS THAT ARE NOT QUALIFIED THRIFT LENDERS.—

"(i) RESTRICTIONS EFFECTIVE IMMEDIATELY.—The following restrictions shall apply to a savings association beginning on the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not make any new investment (including an investment in a subsidiary) or engage, directly or indirectly, in any other new activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) ADVANCES.—The savings association shall not be eligible to obtain new advances from any Federal home loan bank.

"(III) DIVIDENDS.—The savings association shall be subject to all statutes and regulations governing the payment of dividends by a national bank in the same manner and to the same extent as if the savings association were a national bank.

"(ii) ADDITIONAL RESTRICTIONS EFFECTIVE AFTER THREE YEARS.—The following additional restrictions shall apply to a savings association beginning 3 years after the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not retain any investment (including an investment in any subsidiary) or engage, directly or indirectly, in any activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) ADVANCES.—The savings association shall repay any outstanding advances from any Federal home loan bank as promptly as can be prudently done consistent with the safe and sound operation of the savings association.

"(C) REQUALIFICATION.—A savings association that should have become or ceases to be a qualified thrift lender shall not be subject to subparagraph (B) if the savings association becomes a qualified thrift lender by meeting the qualified thrift lender requirement in paragraph (1) on a monthly average basis in 9 out of the preceding 12 months and remains a qualified thrift lender. If the savings association (or any savings association that acquired all or substantially all of its assets from that savings association) at any time thereafter ceases to be a qualified thrift lender, it shall immediately be subject to all provisions of subparagraphs (B) as if all the periods described in subparagraph (B)(ii) had expired.

"(D) DEPOSIT INSURANCE ASSESSMENTS.—Any bank chartered as a result of the requirements of this section shall be obligated until December 31, 1993, to pay to the Savings Association Insurance Fund the assessments assessed on savings associations under the Federal Deposit Insurance Act. Such association shall also be assessed, on the date of its change of status from a Savings Association Insurance Fund member, the exit fee and entrance fee provided in section 5(d) of the Federal Deposit Insurance Act. Such institution shall not be obligated to pay the assessments assessed on banks under the Federal Deposit Insurance Act until—

"(i) December 31, 1993, or

"(ii) the institution's change of status from a Savings Association Insurance Fund member to a Bank Insurance Fund member, whichever is later.

"(E) EXEMPTION FOR SPECIALIZED SAVINGS ASSOCIATIONS SERVING CERTAIN MILITARY PERSONNEL.—Subparagraph (A) shall not apply to a savings association subsidiary of a holding company if at least 90 percent of the customers of the holding company and its subsidiaries and affiliates are active or former members in the United States military services or the widows, widowers, divorced spouses, or current or former dependents of such members.

"(G) EXEMPTION FOR CERTAIN FEDERAL SAVINGS ASSOCIATIONS.—This paragraph shall not apply to any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law; or

"(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law.

"(H) NO CIRCUMVENTION OF EXIT MORATORIUM.—Subparagraph (A) of this paragraph shall not be construed as permitting any insured depository institution to engage in any conversion transaction prohibited under section 5(d) of the Federal Deposit Insurance Act.

"(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' means the percentage determined by dividing—

"(i) the amount of a savings association's qualified thrift investments, by

"(ii) the amount of the savings association's portfolio assets.

"(B) PORTFOLIO ASSETS.—The term 'portfolio assets' means, with respect to any savings association, the total assets of the savings association, minus the sum of—

"(i) goodwill and other intangible assets;

"(ii) the value of property used by the savings association to conduct its business; and

"(iii) liquid assets of the type required to be maintained under section 6 of the Home Owners' Loan Act, in an amount not exceeding the amount equal to 20 percent of the savings association's total assets.

"(C) QUALIFIED THRIFT INVESTMENTS.—

"(i) IN GENERAL.—The term 'qualified thrift investments' means, with respect to any savings association, the assets of the savings association that are described in clauses (ii) and (iii).

"(ii) ASSETS INCLUDIBLE WITHOUT LIMIT.—The following assets are described in this clause for purposes of clause (i):

"(I) The aggregate amount of loans held by the savings association that were made to purchase, refinance, construct, improve, or repair domestic residential housing or manufactured housing.

"(II) Home-equity loans.

"(III) Securities backed by or representing an interest in mortgages on domestic residential housing or manufactured housing.

"(IV) EXISTING OBLIGATIONS OF DEPOSIT INSURANCE AGENCIES.—Direct or indirect obligations of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation issued in accordance with the terms of agreements entered into prior to July 1, 1989, for the 10-year period beginning on the date of issuance of such obligations.

"(V) NEW OBLIGATIONS OF DEPOSIT INSURANCE AGENCIES.—Obligations of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the FSLIC Resolution Fund, and the Resolution Trust Corporation issued in accordance with the terms of agreements entered into on or after July 1, 1989, for the 5-year period beginning on the date of issuance of such obligations.

"(VI) Shares of stock issued by any Federal home loan bank.

"(VII) Loans for educational purposes, loans to small businesses, and loans made through credit cards or credit card accounts.

"(iii) ASSETS INCLUDIBLE SUBJECT TO PERCENTAGE RESTRICTION.—The following assets are described in this clause for purposes of clause (i):

"(I) 50 percent of the dollar amount of the residential mortgage loans originated by such savings association and sold within 90 days of origination.

"(II) Investments in the capital stock or obligations of, and any other security issued by, any service corporation if such service corporation derives at least 80 percent of its annual gross revenues from activities directly related to purchasing, refinancing, constructing, improving, or repairing domestic residential real estate or manufactured housing.

"(III) 200 percent of the dollar amount of loans and investments made to acquire, develop, and construct 1- to 4-family residences the purchase price of which is or is guaranteed to be not greater than 60 percent of the median value of comparable newly constructed 1- to 4-family residences within the local community in which such real estate is located, except that not more than 25 percent of the amount included under this subclause may consist of commercial properties related to the development if those properties are directly related to providing services to residents of the development.

"(IV) 200 percent of the dollar amount of loans for the acquisition or improvement of residential real property, churches, schools, and nursing homes located within, and loans for any other purpose to any small businesses located within any area which has been identified by the Comptroller of the Currency, acting through the Director, in

connection with any review or examination of community reinvestment practices, as a geographic area or neighborhood in which the credit needs of the low- and moderate-income residents of such area or neighborhood are not being adequately met.

"(V) Loans for the purchase or construction of churches, schools, nursing homes, and hospitals, other than those qualifying under clause (IV), and loans for the improvement and upkeep of such properties.

"(VI) Loans for personal, family, or household purposes (other than loans for personal, family, or household purposes described in clause (ii)(VII)).

"(VII) Shares of stock issued by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

"(iv) PERCENTAGE RESTRICTION APPLICABLE TO CERTAIN ASSETS.—The aggregate amount of the assets described in clause (iii) which may be taken into account in determining the amount of the qualified thrift investments of any savings association shall not exceed the amount which is equal to 20 percent of a savings association's portfolio assets.

"(v) EXCLUSIONS FROM DEFINITION OF QUALIFIED THRIFT INVESTMENTS.—The term 'qualified thrift investments' excludes—

"(I) except for home equity loans, that portion of any loan or investment that is used for any purpose other than those expressly qualifying under any subparagraph of clause (ii) or (iii); or

"(II) goodwill or any other intangible asset.

"(D) CREDIT CARD.—The Comptroller of the Currency, acting through the Director, shall issue such regulations as may be necessary to define the term 'credit card'.

"(E) SMALL BUSINESS.—The Comptroller of the Currency, acting through the Director, shall issue such regulations as may be necessary to define the term 'small business'.

"(5) CONSISTENT ACCOUNTING REQUIRED.—

"(A) In determining the amount of a savings association's portfolio assets, the assets of any subsidiary of the savings association shall be consolidated with the assets of the savings association if—

"(i) Assets of the subsidiary are consolidated with the assets of the savings association in determining the savings association's qualified thrift investments; or

"(ii) Residential mortgage loans originated by the subsidiary are included pursuant to paragraph (4)(C)(iii)(I) in determining the savings association's qualified thrift investments.

"(B) In determining the amount of a savings association's portfolio assets and qualified thrift investments, consistent accounting principles shall be applied.

"(6) SPECIAL RULES FOR PUERTO RICO AND VIRGIN ISLANDS SAVINGS ASSOCIATIONS.—

"(A) PUERTO RICO SAVINGS ASSOCIATIONS.—With respect to any savings association headquartered and operating primarily in Puerto Rico—

"(i) the term 'qualified thrift investments' includes, in addition to the items specified in paragraph (4)—

"(I) the aggregate amount of loans for personal, family, educational, or household purposes made to persons residing or domiciled in the Commonwealth of Puerto Rico; and

"(II) the aggregate amount of loans for the acquisition or improvement of churches, schools, or nursing homes, and of loans to small businesses, located within the Commonwealth of Puerto Rico; and

"(ii) the aggregate amount of loans related to the purchase, acquisition, development and construction of 1- to 4-family residential real estate—

"(I) which is located within the Commonwealth of Puerto Rico; and

"(II) the value of which (at the time of acquisition or upon completion of the development and construction) is below the median value of newly constructed 1- to 4-family residences in the Commonwealth of Puerto Rico, which may be taken into account in determining the amount of the qualified thrift investments and of such savings association shall be doubled.

"(B) VIRGIN ISLANDS SAVINGS ASSOCIATIONS.—With respect to any savings association headquartered and operating primarily in the Virgin Islands—

"(i) the term 'qualified thrift investments' includes, in addition to the items specified in paragraph (4)—

"(I) the aggregate amount of loans for personal, family, educational, or household purposes made to persons residing or domiciled in the Virgin Islands; and

"(II) the aggregate amount of loans for the acquisition or improvement of churches, schools, or nursing homes, and of loans to small businesses, located within the Virgin Islands; and

"(ii) the aggregate amount of loans related to the purchase, acquisition, development and construction of 1- to 4-family residential real estate—

"(I) which is located within the Virgin Islands; and

"(II) the value of which (at the time of acquisition or upon completion of the development and construction) is below the median value of newly constructed 1- to 4-family residences in the Virgin Islands, which may be taken into account in determining the amount of the qualified thrift investments and of such savings association shall be doubled.

"(7) TRANSITIONAL RULE FOR CERTAIN SAVINGS ASSOCIATIONS.—

"(A) IN GENERAL.—If any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered as a savings bank or a cooperative bank under State law before October 15, 1982; or

"(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law,

meets the requirements of subparagraph (B), such savings association shall be treated as a qualified thrift lender during the period ending on September 30, 1995.

"(B) SUBPARAGRAPH (B) REQUIREMENTS.—A savings association meets the requirements of this subparagraph if, in the determination of the Comptroller of the Currency, acting through the Director—

"(i) the actual thrift investment percentage of such association does not, after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, decrease below the actual thrift investment percentage of such association on July 15, 1989; and

"(ii) the amount by which—

"(I) the actual thrift investment percentage of such association at the end of each period described in the following table, exceeds

"(II) the actual thrift investment percentage of such association on July 15, 1989,

is equal to or greater than the applicable percentage (as determined under the following table) of the amount by which 70 percent exceeds the actual thrift investment percentage of such association on such date of enactment:

For the following period:	The applicable percentage is:
July 1, 1991–September 30, 1992	25 percent
October 1, 1992–March 31, 1994	50 percent
April 1, 1994–September 30, 1995	75 percent
Thereafter	100 percent

"(C) For purposes of this paragraph, the actual thrift investment percentage of an association on July 15, 1989, shall be determined by applying the definition of 'actual thrift investment percentage' that takes effect on July 1, 1991.

"(g) MUTUAL HOLDING COMPANIES.—

"(1) IN GENERAL.—A savings association operating in mutual form may reorganize so as to become a holding company by—

"(A) chartering an interim savings association, the stock of which is to be wholly owned, except as otherwise provided in this section, by the mutual association; and

"(B) transferring the substantial part of its assets and liabilities, including all of its insured liabilities, to the interim savings association.

"(2) DIRECTORS AND CERTAIN ACCOUNT HOLDERS' APPROVAL OF PLAN REQUIRED.—A reorganization is not authorized under this subsection unless—

"(A) a plan providing for such reorganization has been approved by a majority of the board of directors of the mutual savings association; and

"(B) in the case of an association in which holders of accounts and obligors exercise voting rights, such plan has been submitted to and approved by a majority of such individuals at a meeting held at the call of the directors in accordance with the procedures prescribed by the association's charter and bylaws.

"(3) NOTICE TO THE DIRECTOR; DISAPPROVAL PERIOD.—

"(A) NOTICE REQUIRED.—At least 60 days prior to taking any action described in paragraph (1), a savings association seeking to establish a mutual holding company shall provide written notice to the Comptroller of the Currency. The notice shall contain such relevant information as the Comptroller of the Currency, acting through the Director, shall require by regulation or by specific request in connection with any particular notice.

"(B) TRANSACTION ALLOWED IF NOT DISAPPROVED.—Unless the Comptroller of the Currency, acting through the Director, within such 60-day notice period disapproves the proposed holding company formation, or extends for another 30 days the period during which such disapproval may be issued, the savings association providing such notice may proceed with the transaction, if the requirements of paragraph (2) have been met.

"(C) GROUNDS FOR DISAPPROVAL.—The Comptroller of the Currency, acting through the Director, may disapprove any proposed holding company formation only if—

"(i) such disapproval is necessary to prevent unsafe or unsound practices;

"(ii) the financial or management resources of the savings association involved warrant disapproval;

"(iii) the savings association fails to furnish the information required under subparagraph (A); or

"(iv) the savings association fails to comply with the requirement of paragraph (2).

"(D) RETENTION OF CAPITAL ASSETS.—In connection with the transaction described in

paragraph (1), a savings association may, subject to the approval of the Comptroller of the Currency (acting through the Director), retain capital assets at the holding company level to the extent that such capital exceeds the association's capital requirement established by the Comptroller of the Currency, acting through the Director, pursuant to subsections (s) and (t) of section 5.

"(4) OWNERSHIP.—

"(A) IN GENERAL.—Persons having ownership rights in the mutual association pursuant to section 5(b)(1)(B) of this Act or State law shall have the same ownership rights with respect to the mutual holding company.

"(B) HOLDERS OF CERTAIN ACCOUNTS.—Holders of savings, demand or other accounts of—

"(i) a savings association chartered as part of a transaction described in paragraph (1); or

"(ii) a mutual savings association acquired pursuant to paragraph (5)(B),

shall have the same ownership rights with respect to the mutual holding company as persons described in subparagraph (A) of this paragraph.

"(5) PERMITTED ACTIVITIES.—A mutual holding company may engage only in the following activities:

"(A) Investing in the stock of a savings association.

"(B) Acquiring a mutual association through the merger of such association into a savings association subsidiary of such holding company or an interim savings association subsidiary of such holding company.

"(C) Subject to paragraph (6), merging with or acquiring another holding company, one of whose subsidiaries is a savings association.

"(D) Investing in a corporation the capital stock of which is available for purchase by a savings association under Federal law or under the law of any State where the subsidiary savings association or associations have their home offices.

"(6) LIMITATIONS ON CERTAIN ACTIVITIES OF ACQUIRED HOLDING COMPANIES.—

"(A) NEW ACTIVITIES.—If a mutual holding company acquires or merges with another holding company under paragraph (5)(C), the holding company acquired or the holding company resulting from such merger or acquisition may only invest in assets and engage in activities which are authorized under paragraph (5).

"(B) GRACE PERIOD FOR DIVESTING PROHIBITED ASSETS OR DISCONTINUING PROHIBITED ACTIVITIES.—Not later than 2 years following a merger or acquisition described in paragraph (5)(C), the acquired holding company or the holding company resulting from such merger or acquisition shall—

"(i) dispose of any asset which is an asset in which a mutual holding company may not invest under paragraph (5); and

"(ii) cease any activity which is an activity in which a mutual holding company may not engage under paragraph (5).

"(7) REGULATION.—A mutual holding company shall be chartered by the Comptroller of the Currency, acting through the Director, and shall be subject to such regulations as the Comptroller of the Currency, acting through the Director, may prescribe. A mutual holding company shall be subject to the other requirements of the Bank Holding Company Act of 1956 regarding regulation of holding companies.

"(8) CAPITAL IMPROVEMENT.—

"(A) PLEDGE OF STOCK OF SAVINGS ASSOCIATION SUBSIDIARY.—This section shall not prohibit a mutual holding company from pledging all or a portion of the stock of a savings association chartered as part of a transaction described in paragraph (1) to raise capital for such savings association.

"(B) ISSUANCE OF NONVOTING SHARES.—This section shall not prohibit a savings association chartered as part of a transaction described in paragraph (1) from issuing any nonvoting shares or less than 50 percent of the voting shares of such association to any person other than the mutual holding company.

"(9) INSOLVENCY AND LIQUIDATION.—

"(A) IN GENERAL.—Notwithstanding any provision of law, upon—

"(i) the default of any savings association—

"(I) the stock of which is owned by any mutual holding company; and

"(II) which was chartered in a transaction described in paragraph (1);

"(ii) the default of a mutual holding company; or

"(iii) a foreclosure on a pledge by a mutual holding company described in paragraph (8)(A),

a trustee shall be appointed receiver of such mutual holding company and such trustee shall have the authority to liquidate the assets of, and satisfy the liabilities of, such mutual holding company pursuant to title 11, United States Code.

"(B) DISTRIBUTION OF NET PROCEEDS.—Except as provided in subparagraph (C), the net proceeds of any liquidation of any mutual holding company pursuant to subparagraph (A) shall be transferred to persons who hold ownership interests in such mutual holding company.

"(C) RECOVERY BY CORPORATION.—If the Corporation incurs a loss as a result of the default of any savings association subsidiary of a mutual holding company which is liquidated pursuant to subparagraph (A), the Corporation shall succeed to the ownership interests of the depositors of such savings association in the mutual holding company, to the extent of the Corporation's loss.

"(10) DEFINITIONS.—For purposes of this subsection—

"(A) MUTUAL HOLDING COMPANY.—The term 'mutual holding company' means a corporation organized as a holding company under this subsection.

"(B) MUTUAL ASSOCIATION.—The term 'mutual association' means a savings association which is operating in mutual form.

"(C) DEFAULT.—The term 'default' means an adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed.

"(h) MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.—

"(1) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act and all other applicable laws, any Federal savings association may acquire or be acquired by any insured depository institution.

"(2) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(A) IN GENERAL.—Any application by a savings association to acquire or be acquired by another insured depository institution which is required to be filed with the Comptroller of the Currency under any applicable law or regulation shall be approved or disapproved in writing by the Comptroller of the Currency, acting through the Director, before the end of the 60-day period beginning on the date such application is filed with the agency.

"(B) EXTENSION OF PERIOD.—The period for approval or disapproval referred to in subparagraph (A) may be extended for an additional 30-day period if the Comptroller of the Currency, acting through the Director, determines that—

"(i) an applicant has not furnished all of the information required to be submitted; or

"(ii) in the judgment of the Comptroller of the Currency, acting through the Director, any material information submitted is substantially inaccurate or incomplete.

"(3) ACQUIRE DEFINED.—For purposes of this subsection, the term 'acquire' means to acquire, directly or indirectly, ownership or control through a merger or consolidation or an acquisition of assets or assumption of liabilities, provided that following such merger, consolidation, or acquisition, an acquiring insured depository institution may not own the shares of the acquired insured depository institution.

"(4) REGULATIONS.—

"(A) REQUIRED.—The Comptroller of the Currency, acting through the Director, shall prescribe such regulations as may be necessary to carry out paragraph (1).

"(B) EFFECTIVE DATE.—The regulations required under subparagraph (A) shall—

"(i) be prescribed in final form before the end of the 90-day period beginning on the date of the enactment of this subsection; and

"(ii) take effect before the end of the 120-day period beginning on such date.

"(5) LIMITATION.—No provision of this section shall be construed to authorize a national bank or any subsidiary thereof to engage in any activity not otherwise authorized under the National Bank Act or any other law governing the powers of a national bank.".

SEC. 423. CONFORMING AMENDMENT RELATING TO MERGER OF DEPOSIT INSURANCE FUNDS.

Section 2704(c) of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 is amended to read as follows:

"(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on January 1, 2000.".

SEC. 424. CONFORMING AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.

(a) AMENDMENT TO SECTION 18.—Section 18(c) of the Federal Home Loan Bank Act (12 U.S.C. 1438(c)) is repealed.

(b) AMENDMENT TO SECTION 22.—Section 22(a) of the Federal Home Loan Bank Act (12 U.S.C. 1442(a)) is amended by striking ", and the Director of the Office of Thrift Supervision" each place such appears and inserting "and" before "the Chairperson of the National Credit Union Administration".

(c) EFFECTIVE DATE.—This section shall become effective 2 years after the date of enactment of this Act.

Subtitle C—Combining OTS and OCC

SEC. 431. PROHIBITION OF MERGER OR CONSOLIDATION REPEALED.

Section 321 of title 31, United States Code, is amended by striking subsection (e).

SEC. 432. SECRETARY OF THE TREASURY REQUIRED TO FORMULATE PLANS FOR COMBINING OFFICE OF THRIFT SUPERVISION WITH OFFICE OF THE COMPTROLLER OF THE CURRENCY.

(a) IN GENERAL.—Not later than 9 months after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Director of the Office of Thrift Supervision and the Comptroller of the Currency, shall formulate a plan for consolidating the Office of Thrift Supervision with the Office of the Comptroller of the Currency by January 1, 2000.

(b) CONSULTATION.—In formulating the plan pursuant to subsection (a), the Secretary of the Treasury shall consult with the Board of Governors of the Federal Reserve System with regard to the transfer of the regulation of savings and loan holding companies from the Director of the Office of Thrift Supervision to the Board.

(c) IMPLEMENTATION.—The Director of the Office of Thrift Supervision and the Comptroller of the Currency shall implement that plan, notwithstanding any other provision of Federal banking laws.

SEC. 433. OFFICE OF THRIFT SUPERVISION AND POSITION OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION ABOLISHED.

Effective January 1, 2000, the Office of Thrift Supervision and the position of Director of the Office of Thrift Supervision are abolished.

SEC. 434. RECONFIGURATION OF BOARD OF DIRECTORS OF FDIC AS A RESULT OF REMOVAL OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

(a) IN GENERAL.—Section 2(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(1)) is amended to read as follows:

"(1) IN GENERAL.—The management of the Corporation shall be vested in a Board of Directors consisting of 5 members—

"(A) 1 of whom shall be the Comptroller of the Currency; and

"(B) 4 of whom shall be appointed by the President, and with the advice and consent of the Senate, from among individuals who are citizens of the United States, 1 of whom shall have State bank supervisory experience.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 2(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1812(d)(2)) is amended—

(A) by striking "or the office of Director of the Office of Thrift Supervision";

(B) by striking "or such Director";

(C) by striking "or the acting Director of the Office of Thrift Supervision, as the case may be"; and

(D) by striking "or Director".

(2) Section 2(f)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1812(f)(2)) is amended by striking "or of the Office of Thrift Supervision".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 2000.

SEC. 435. CONTINUATION PROVISIONS.

(a) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS AND REGULATIONS.—All orders, resolutions, determinations and regulations of the Office of Thrift Supervision that have been issued, made, prescribed or allowed to become effective by the Office of Thrift Supervision (including orders, resolutions, determinations and regulations that relate to the conduct of conservatorship and receiverships), or by a court of competent jurisdiction, and are in effect on the day before the date of enactment, shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations and shall be enforceable by or against the appropriate successor agency until modified, terminated, set aside or superseded in accordance with applicable law by the appropriate successor agency or by a court of competent jurisdiction or by operation of law.

(b) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Office of Thrift Supervision shall abate because of the enactment of this Act, except that the appropriate successor agency to the Office of Thrift Supervision shall be substituted for the Office of Thrift Supervision as a party to any such action or proceeding.

(c) CONTINUATION OF AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to such agency, department, or instrumentality, that was providing supporting services to the Office of Thrift Supervision shall—

(1) continue to provide such services, on a reimbursable basis or as otherwise agreed before the date of enactment, to the Office of Thrift Supervision; and

(2) consult with the Office of Thrift Supervision to coordinate and facilitate a prompt and reasonable completion or termination of such services.

(d) TRANSFER OF PROPERTY.—Not later than two years of the date of enactment, all property of the Office of Thrift Supervision shall be transferred to the Office of the Comptroller of the Currency, or another appropriate successor agency, in accordance with the division of responsibilities and activities effected by this Act. For purposes of this subsection, the term "property" includes, but is not limited to, all interests in real property and all personal property, including financial assets, computer hardware and software, furniture, fixtures, books, accounts, records, reports of examination, work papers and correspondence related to such reports of examination, and any information, materials, property, and assets not specifically listed. The Secretary of the Treasury shall resolve any disagreement between successor agencies.

SENATE—*Thursday, March 19, 1998*

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 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.

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

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. Prest, 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 unanimonimous 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 were 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 artificial 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 homegrown, 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 anti-democratic 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, since 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 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 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 buildup 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, xx...
Brig. Gen. Claude M. Bolton, Jr., xxx...
Brig. Gen. Robert J. Boots, xx...
Brig. Gen. John W. Brooks, xxx...
Brig. Gen. Richard E. Brown III, xxx...
Brig. Gen. John G. Campbell, xx...
Brig. Gen. Bruce A. Carlson, xx...
Brig. Gen. Robert J. Courter, Jr., xx...
Brig. Gen. Daniel M. Dick, xx...
Brig. Gen. Paul V. Hester, xx...
Brig. Gen. Leslie F. Kenne, xx...
Brig. Gen. Tiiu Kera, xx...
Brig. Gen. Donald A. LaMontagne, xxx...
Brig. Gen. David F. MacGhee, xx...
Brig. Gen. Timothy P. Malishenko, xx...
Brig. Gen. Glen W. Moorhead III, xx...
Brig. Gen. Harry D. Raduege, Jr., xxx...
Brig. Gen. Leonard M. Randolph, Jr., xxx...
Brig. Gen. James E. Sandstrom, xxx...
Brig. Gen. Lance L. Smith, xx...
Brig. Gen. Charles F. Wald, xxx...
Brig. Gen. Tome H. Walters, Jr., xxx...
Brig. Gen. Herbert M. Ward, xx...
Brig. Gen. Joseph H. Wehrle, Jr., xx...
Brig. Gen. William Welser, III, xx...
Brig. Gen. Michael E. Zettler, xxx...

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, xx...

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., xx...
Brig.. Gen. Danny A. Hogan, xx...
Brig.. Gen. Robert B. Stephens, xx...
Brig.. Gen. Geoffrey P. Wiedeman, Jr., xx...
Brig.. Gen. Robert J. Winner, xx...

To be brigadier general

Col. Frederick H. Forster, xx...

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., xx...
Brig. Gen. Danny A. Hogan, xx...
Brig. Gen. Robert B. Stephens, xx...
Brig. Gen. Geoffrey P. Wiedeman, Jr., xxx...
Brig. Gen. Robert J. Winner, xxx...

To be brigadier general

Col. Marvin J. Barry, xxx...
Col. Bruce M. Carskadon, xx...
Col. John M. Danahy, xxx...
Col. John D. Dorris, xxx...
Col. Robert E. Duignan, xxx...
Col. Sally Ann Eaves, xxx...
Col. Bobby L. Efferson, xxx...
Col. William F. Gordon, xxx...
Col. Joseph G. Lynch, xxx...
Col. Mark V. Rosenker, xxx...
Col. Ronald M. Sega, xxx...
Col. Stephen A. Smith, xxx...
Col. Edwin B. Tatum, xx...
Col. Kathy E. Thomas, xxx...

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, xxx...

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, xxx...

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, xxx...

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, xxx...
Col. James F. Amos, xxx...
Col. John G. Castellaw, xxx...
Col. Timothy E. Donovan, xxx...
Col. James M. Feigley, xxx...
Col. Emerson N. Gardner, Jr., xxx...
Col. Stephen T. Johnson, xxx...
Col. James N. Mattis, xxx...
Col. Gordon C. Nash, xx...
Col. Robert M. Shea, xxx...
Col. Keith J. Stalder, xxx...
Col. Joseph F. Weber, xxx...

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., xx...

(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,
Administrator, 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 STATES 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 field 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-made 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 signature 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.

EXTENSIONS OF REMARKS

THE REPUBLIC OF HUNGARY AND THE REPUBLIC OF BOSNIA AND HERZEGOVINA

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. YOUNG of Florida. Mr. Speaker, I commend to my colleagues the following report on my trip to Bosnia and Herzegovina from March 6–8. At your request, I had the honor of leading a delegation of ten Members on an inspection trip to the Republic of Hungary and the Republic of Bosnia and Herzegovina, from March 6–8. You asked us to review the current military operations and international assistance efforts involving Bosnia and the other former Yugoslav republics.

We had an informative and productive trip, including meetings with President Bjilana Plavsic of the Republika Srpska (the Bosnian Serb Republic); the Supreme Allied Commander, Europe; the Commander of NATO Stabilization Forces in Bosnia; other senior U.S. military and diplomatic personnel; U.S. troops in the field; senior military commanders from other nations participating in the Stabilization Force; and representatives of a variety of international assistance programs. On behalf of the other Members of the delegation, I am forwarding with this letter a detailed report which summarizes our activities and observations.

Of course, I am available to discuss this trip as well as the significant policy questions associated with our involvement in Bosnia should you find it useful. In the meantime, I want to thank you again for providing this opportunity to me and our colleagues who made this trip.

CONGRESSIONAL DELEGATION TRIP REPORT
MARCH 5–9, 1998

Members: Representatives C.W. Bill Young, Tom Sawyer, Neil Abercrombie, Henry Bonilla, Tillie Fowler, Eddie Bernice Johnson, David Minge, Charles Bass, George Nethercutt, Allan Boyd.

Purpose: At the request of the Speaker and Minority Leader of the House, the delegation was asked to inspect and review the current deployment of U.S. and NATO forces to Bosnia-Herzegovina and the status of U.S. and international civic and economic recovery efforts.

Itinerary: As shown below.

Date	Places visited	Officials met
March 5	Depart Washington, D.C.	N/A
March 6	Budapest, Hungary	Deputy Chief of Mission, U.S. Embassy; Defense Attache, U.S. Embassy; Liaison Officer to U.S. Embassy, U.S. Stabilization Force (SFOR)
March 7	Sarajevo, Bosnia	Supreme Allied Commander, NATO; Commander, U.S. Army in Europe and Stabilization Force (SFOR); U.S. Ambassador to Bosnia-Herzegovina; Deputy Commissioner, United Nations; High Commission on Refugees (UNHCR)
	Banja Luka, Bosnia	President of the Republika Srpska
March 8	Tuzla, Bosnia	Commander, U.S. Task Force Eagle
	Camp McGovern, Bosnia.	Personnel of the U.S. 1st Armored Division and 2nd Armored Cavalry Regiment assigned to SFOR
	Brcko, Bosnia	Host-nation city and civic group officials; officials of the Office of the High Representative for Brcko; officials of the United Nations International Police Task Force (IPTF)
March 9	Return Washington, D.C.	N/A

Friday, March 6: Upon its arrival in Budapest, Hungary, the delegation met with U.S. Embassy and U.S. military personnel regarding the political, economic, and military outlook for Hungary; NATO expansion (Hungary is one of the three proposed new member nations); and Hungary-based operations associated with the NATO-led Stabilization Force for Bosnia.

Since turning to democracy in 1989, Hungary has pursued domestic and foreign policies emphasizing the establishment of democratic institutions and free market practices, and integration into Western political, economic and security institutions. There have been two national-level democratic elections since 1990 with a third scheduled for this summer. Hungary has encouraged outside investment and is the largest recipient of foreign investment in Eastern Europe, including more than $6 billion from the United States. Hungary has joined the OECD, is slated to formally enter NATO in 1999, and is pressing for membership in the European Economic Community.

The prospect of joining NATO enjoys broad political support in Hungary, although it has not become a prominent issue domestically. Embassy officials believe Hungary fully recognizes its obligations upon joining NATO and note that the government has committed to gradual increases in defense spending which, in several years, will then be in line with the NATO average (as expressed as a percentage of annual government spending).

Since 1989 Hungary has cut its armed forces by two-thirds in size, and its intent is to streamline and modernize that force in order to meet NATO needs, with an immediate goal of learning how to "think, speak, and act NATO." To that end many senior Hungarian military officials have or are planning to attend U.S. military war colleges. Both the Hungarian government and U.S. officials believe this transition to NATO's way of doing business must occur prior to any major equipment modernization effort.

In late 1995 Hungary responded to NATO requests and permitted use of its airbase at Taszar as the major logistics transhipment point for U.S. and other NATO forces involved in the initial deployment of the Implementation Force (IFOR) to Bosnia. While total personnel and activities at Taszar have dropped with the completion of the initial Bosnia deployment and stabilization of operations, NATO still maintains over 2100 personnel (military and civilian) there, under command of an American major general, as part of the overall Stabilization Force (SFOR). Taszar is the last waystation in, and first waystation out, for U.S. forces involved in operations in Bosnia or Croatia.

Saturday, March 7: The delegation traveled to Bosnia with the first stop in Sarajevo.

The delegation first met at NATO SFOR Headquarters with General Wesley Clark, Supreme Allied Commander, Europe; General Eric Shinseki, Commander, U.S. Army Europe and Commander, SFOR; and U.S. Ambassador Rich Kauzlarich. General Clark gave a briefing summarizing the NATO mission following the Dayton Peace Agreement, with particular emphasis on SFOR's continued success in stabilizing the overall security situation, the greater pace of civic and political progress in the past year, and recent efforts to marginalize Serb hardliners.

In questions and answers with delegation members, other key points made by General Clark, General Shinseki and Ambassador Kauzlarich included:

1. While still lagging, there is growing progress on the civilian side of the ledger in Bosnia:

Joint governing institutions are beginning to function;

The new Serb government in the Republika Srpska ("RS") is more committed to Dayton implementation and has moved to reduce to the influence of Serb hardliners (especially the so-called "Pale faction");

The hardline Serb party's representation in the RS parliament dropped from 54 percent to 28 percent in the September 1997 elections;

There has been steady progress in returns of refugees and resettlement of displaced persons;

The media is being restructured under Western supervision and is no longer an anti-SFOR propaganda outlet;

Freedom of movement within Bosnia is returning with agreements reached on a common license plate and on passports;

More indicted war criminals have either been seized or voluntarily turned themselves in;

The Bosnian factions and the International Police Training Foundation (IPTF) have reached agreement on a plan for police restructuring which is now underway throughout most regions of the country.

In summary, Bosnian society is beginning to heal itself. Among the general populace, there is a growing mindset that people are building towards their futures, and not for war. Elections are shifting power from those

groups who started the war and who impede Dayton implementation. Progress is being made in establishing freedom of movement, refugee returns to contentious areas such as Brcko are picking up, and initial efforts to reform/retrain police are promising. Yet in all these areas much more remains to be done.

2. General Clark, General Shinseki, and Ambassador Kauzlarich all stated SFOR must stay in Bosnia beyond the previously-announced June 1998 withdrawal date. Recent gains, while positive, are tenuous and will not hold absent continued aggressive efforts to implement the Dayton agreement with SFOR as the guarantor of a peaceful environment.

Current SFOR force levels (33,000 total, 8,500 U.S.) will be maintained through the national elections scheduled for September 1998. If successful, shortly thereafter U.S. forces could be reduced by 20 percent, to 6,900. (There was no discussion regarding contemplated changes in the number of non-U.S. forces.)

General Clark suggested that with sufficient progress in improving the local policing function, SFOR could be downsized even further. There will be six-month reviews to consider additional SFOR downsizing/restructuring. However, non-U.S. financial and personnel support for the International Police Task Force (IPTF), which is responsible for restructuring and retraining local police, remains inadequate.

3. The delegation was advised to be cautiously optimistic regarding recent political shifts in the Republika Srpska, particularly steps taken by President Plavsic and newly-elected Prime Minister Dodik. It is unclear whether they have had a real change of heart regarding reforms or whether these moves are tactical in nature. Nonetheless, their ability to promote change is circumscribed given their current narrow political margin, continued recalcitrance on the part of Serb hardliners, and the sheer weight of problems confronting the RS (the sorry state of the economy, the lack of knowledge, institutions, and outside investment needed to establish a more viable commercial sector, and the continued pervasiveness of corruption, black markets, and bribery.)

4. When asked, both General Clark and General Shinseki declined to estimate how long the presence of U.S. forces would be required, saying it is impossible to predict.

At one point General Clark stated, somewhat off-handedly, "I don't see this as a 5–10 year problem . . . SFOR is getting a little smaller, somewhat less expensive . . . If [this September's] elections are successful, we should be able to get even smaller."

At another juncture, General Clark said that the U.S. component of SFOR is "now down to the equivalent of three combat battalions . . . it is not that much of a burden anymore . . . we can meet our military requirements elsewhere." He conceded that in the event of a major conflict elsewhere that the U.S. role in SFOR would need to be revisited.

General Clark also cited the need for the just proposed emergency supplemental for Bosnia, totaling $489 million. He said these costs could not be absorbed and that they couldn't be offset from within existing Department of Defense funds.

5. All three officials pointed to economic reconstruction as an essential element of any long-term strategy. Both General Shinseki and Ambassador Kauzlarich indicated the lack of jobs was the biggest impediment to the successful return of displaced persons and refugees. They added that refugee returns also require local security, a function now performed by SFOR and one which eventually must be assumed by the restructured police forces.

6. At various points in the discussion, several members inquired as to the national interests being served by the U.S. deployment. General Clark responded by reviewing Bosnia's strategic location and problems posed for Europe by the Bosnian war, as well as the fissures which were opening up within NATO during the 1993–1995 timeframe when UNPROFOR was the international presence in Bosnia. General Clark portrayed NATO as being on the brink of disintegration over disagreements over what to do about Bosnia. The French and British were on the verge of withdrawing their forces from UNPROFOR, until the U.S. stepped forward in 1995 with its bombing campaign against the Serbs and then sponsorship of the Dayton negotiations. General Clark also said now that the U.S. is in Bosnia, as part of NATO, a precipitous American withdrawal would call into question U.S. credibility and ability to live up to its commitments. In addition, at one point he said "We can't be successful in NATO if we aren't successful in Bosnia."

Following this meeting, the delegation moved to the U.S. Embassy in Sarajevo and met with U.S. Ambassador Kauzlarich and other State Department officials. Joining this meeting in progress was American Jacques Klein, the Deputy High Commissioner of the United Nations High Commission on Refugees (UNHCR).

Ambassador Kauzlarich reviewed the embassy's various missions, which include:

Facilitation of refugee return process at a workable pace, and in a fashion which promotes reintegration of ethnic groups;

Working with the Federation and the RS to restructure their law enforcement institutions, including police restructuring and orientation towards demonstratic policing, and transformation of the judicial system;

Advancement of democracy, by working towards free and fair elections and implementation of the results, and also pressing for a free and independent media;

Promotion of reconstruction, by helping to facilitate investment, assisting the governments in creating a legal framework for a viable national economy, and also by promoting American products as well as open markets to ensure U.S. companies market access;

And strengthening of peace and stability, by assisting Federation military integration (former Muslim and Croat armies), support for the "Train and Equip" program, and by facilitating the work of the International War Crimes Tribunal.

The Ambassador reviewed the "train and equip" program with the delegation and offered his opinion that besides working to redress the Muslim/Croat military disadvantage vis-a-vis the Serbs, it had important side benefits. These include helping keep out Iran and other interests who had supported the Muslims or Croatians during the war. It also provides a forum whereby the Muslims and Croats are learning to work together, not only at the military level but also at the political level which is essential if the Federation government is to become a success.

The delegation then had the opportunity to question both the Ambassador and Jacques Klein. In response to queries, Mr. Klein explained the goal of being able to gradually withdraw U.S. forces by disengaging them from many functions over time as civilian institutions develop or are reestablished.

Mr. Klein then expressed his view as to some of the larger geopolitical issues involved in Bosnia. Simply stated, he said, Europe does not want a Muslim-dominated state in the region and a viable Serbia and Croatia are viewed as needed to prevent that from happening.

He then drew attention to the large Yugoslav refugee population in Germany, whose eventual return is needed because they will bring money, skills, and some measure of stability back to the region.

Mr. Klein remarked upon the Europeans initial response to crises which is always to deny they need U.S. leadership. But Bosnia has only provided the most recent example (over the period of 1991–1995, including the failure of UNPROFOR) of Europe's need for American leadership and capabilities, a point most Europeans will now concede.

Finally, on the matter of war criminals, Mr. Klein suggested they are nothing but thugs. A pro-active, "get-in-their-face" policy is needed and will work because when confronted with a professional military, they will always back down.

The delegation then traveled to Banja Luka in the Republika Srpska, where it met with Bjilana Plavsic, the President of the Republika Srpska.

President Plavsic began with an opening statement and then responded to questions from members of the delegation. In her opening statement, the President cited her priorities as being moving towards democratic procedures and also improving the economy. She stated ordinarily economic improvement would be the top priority but that without greater democracy, they couldn't fully realize the necessary economic improvements. She said the previous 50 years (under Communist rule) had left the economy in quite a mess. The President also stressed the need for the Ministry of the Interior and the justice system to work, saying "there must be a framework for a legal economy."

She finished by proclaiming "I as President must have the power to replace people [who resist change], and I will do so."

In response to questions from the delegation, President Plavsic addressed a number of issues including:

The role of SFOR and its importance: "SFOR is keeping the peace here. No amount of money is worth peace. If someone started the war there would be no telling what the effects would be . . . They are doing a very nice job, a noble job. We couldn't even consider economic recovery without the presence of foreign armies."

When she believes the U.S. and SFOR can withdraw: "I will tell you what I told President Clinton [when he visited Bosnia in December 1997]: 'we have started in a good way, but we need your patience' . . . Please help us, it won't last long. When we are offered a chance, the people will see this and grab for it. Remember, Dayton is a creation of the U.S., it is well balanced. Please support what you created . . . Much progress can be lost with impatience."

On prospects for continued peace: "Problems must be solved by democratic means. Last June [when hardline Serb elements were on the verge of staging a coup until SFOR intervened] was difficult. Now we have elections, and for the first time in decades people understand they do not have to go to war."

Regarding the refugee problem: "The Republika Srpska has 1.2 million people, and 400,000 of those are refugees . . . they must have homes, they must find work. With our new government we can start new industrial and economic processes."

On war criminals: "We understand the obligations of Dayton. This is a very sensitive and complex issue. But Dayton isn't just a document, we must accept it . . . You must realize this is difficult for Serbs to do to Serbs. Now within the last 20 days, four men have [voluntarily] surrendered to the Hague. There will be people who recognize the problems of living a life under indictment, and I expect we will see more in the next phase. This is the best way, for Prime Minister Dodik and myself—it is also better for SFOR troops."

Regarding the upcoming March 15th arbitration decision for Brcko (an unsolicited comment): "March 15th is Brcko. This could make everything harder, it could be a destroyer. It will only help the hardliners."

The role Radovan Karazdic is now playing and whether he remains an obstacle: "There have been great improvements in the last 3, 4 months. There are new institutions in the Republika Srpska responsible for policy. He did have influence before, now he does not. His influence is getting smaller and smaller. People just want to live their lives, it's not right that we should accommodate just one person. I have not had contacts with him in a long time."

On the ethnic violence in the Serbian province of Kosovo: "My opinion is not an official one. I am familiar with the Balkans and Kosovo, it is in every Serb's heart. Tito made many mistakes . . . he forced Serbs out of Kosovo and invited Albanians in . . . Kosovo dates back to medieval times, there are many Serb monasteries . . . Kosovo belongs to Serbia . . . Milosevic should know the police cannot solve this problem over the long haul, this is another example of his bad policies . . . Kosovo, there must be civil rights for all . . . if we do some thing special for one group [evidently referring to Albanian demands for automony], it is wrong."

When asked if whether she sees a future for multi-ethnic relationships in the RS, in the Federation, in Croatia: "This is a priority . . . this must be achieved, but certain things must be a pre-condition . . . In 1945, the Communists rose, and the people were not allowed to say 'I am a Serb, I am Croatian, I am a Muslim.' For 50 years everything we accumulated was very orthodox. Then Serbs, Muslims, Croatians starting asking questions about who you are. This is something that was not allowed in the United States. People wanted to say who and what they are, and this is what started the war. The Republika Srpska started with this, what is wrong with people stating who we are and what we are."

Sunday, March 8: The delegation first traveled to Tuzla, Bosnia.

Upon arrival in Tuzla, the delegation proceeded to Headquarters Task Force Eagle, the headquarters for both U.S. forces deployed in Bosnia and for the overall operations in the SFOR zone "MND-North" (Multi-National Division North). The delegation first met with Major General Larry Ellis, Commanding General, 1st Armored Division, who commands the multinational forces in MND-North.

General Ellis and his HQ staff briefed the delegation and answered questions on current operations in MND-North as well as particular issues of concern. Among the points covered:

MND-North is currently comprised of 13,500 troops, made up of U.S. troops drawn largely from the 1st Armored Division (7,950 troops), a Nordic-Polish brigade (comprised of 2,800 troops from the Baltic States, Sweden, Norway, Denmark, Finland and Poland), a Russian brigade (1,425), and a Turkish brigade.

The various armed factions within MND-North have complied with the provisions of the Dayton Accord and the zone has been "quiet".

34 of the 40 municipalities within MND-North which held elections in September 1997 have had their results certified by the OSCE. There are several instances where the elections resulted in governments which do not reflect the ethnicity of the local population, a result due to the use of absentee balloting whereby displaced people were permitted to cast votes in their former locales.

The most sensitive area in the region (if not all of Bosnia) remains Brcko, which due to its location (it connects the western half of the RS to the eastern half) and the results of the war is perhaps the most valuable and contested territory in Bosnia. Its pre-war population was 56 percent Muslim and 20 percent Serb; it now is over 90 percent Serb.

The Dayton Accord left the fate of Brcko to international arbitration. In March 1996 the arbitrator extended the date for a final determination to March 15, 1998.[1] In recent months over 700 displaced Muslim families have returned to Brcko and efforts to restructure local institutions, such as a police force, along multi-ethnic lines have shown progress.

SFOR retains custody of three media broadcast towers which were seized from Serb control last fall, which had served as active anti-SFOR outlets. SFOR is working with civil authorities to develop an open and free media system.

When queried as to U.S. forces' direct participation in activities such as elections/election support, location of mass graves, and law enforcement, General Ellis stated his forces' role was only incidental, with the primary task the provision of security in the area of operations.

General Ellis reviewed how troops inbound to Bosnia receive tailored training for the unique environment prior to deploying, including a full mission rehearsal. Compared to combat training, the skills required are less demanding but the difficult part is integrating and coordinating tasks which have a significant "non-combat" component, such as civic affairs.

Regarding mines, there are over 128,000 remaining in MND-North, with approximately 1,000 being cleared each month. U.S. forces participation in this is restricted to direct mineclearing only when needed to support U.S. operations, and a supervisory/training role for the former Bosnian armed forces.

The delegation then flew to Brcko, Bosnia, where after a visual inspection of the city by helicopter it moved to Camp McGovern, a U.S. base camp just outside Brcko.

While enroute to Camp McGovern, there were several observations:

A coal-fired power plant was observed northeast of Tuzla; according to major General Ellis, it is currently operating at only 20 percent of capacity due to lack of spare parts. Efforts are being made to correct this problem with the plant to be brought to 80–90 percent capacity in several months.

A large open-air market, the "Arizona Market" was observed, with hundreds of cars enroute backing up local traffic for miles. General Ellis noted this market, and another ("Virginia Market") were stood up last year and have enjoyed a significant business. The markets are multi-ethnic and run by local entrepreneurs. The markets have to some degree exasperated local authorities who, due to the lack of government control, have been unable to share in the proceeds.

Upon overflying Brcko, the destruction of housing in the outskirts of the city was evident. Some reconstruction was seen with many houses having new roofs, which General Ellis stated had mostly occurred within the past six months.

The bridge spanning the Sava River from Brcko to Croatia was observed, with it having been repaired last fall through insertion of a new span in mid-section. General Ellis noted that rail and barge traffic through the region had also recently resumed.

General Ellis also made some personal observations while enroute to Brcko:

All three parties (Serb, Muslim, and Croat) want SFOR to stay. At this stage, without SFOR fighting would eventually start up again.

Regarding war criminals, he doesn't disagree with the need to see them turned in or apprehended, but that this effort needs to go beyond just Serbs and the Republika Srpska.

The delegation then inspected Camp McGovern and also had the opportunity to eat lunch with the troops. Among the observations at this location:

Camp McGovern is located on the outskirts of Brcko, and in fact sits astride the Dayton-imposed military zone of separation.

Nearly 800 troops are currently deployed there. Forces are primarily from the 2nd Armored Cavalry Division, from Fort Polk, Louisiana, with some armored support from the 1st Armored Division which is home-stationed in Germany. Units from Fort Polk, were deployed last August, as part of a scheduled rotation, just before the September 1997 elections.

Efforts are being made to adhere to a six-month tour length for forces sent to Bosnia. This contrasts with a one-year duration at the start of the mission in 1995–1996.

The base camp features a small shopping area with a PX, a weight room, and a learning center with classes offered either through correspondence or instruction on-site by U.S. nationals on contract to the Army.

Nonetheless, conditions at Camp McGovern are austere, with all forces billeted in tents with wooden floors and a nominal "tent complement" of 8 soldiers per tent. However, on occasions of troop rotation or reinforcement this has been upped to as many as 12 per tent. Officers escorting the delegation indicated there has been some discussion about expanding the perimeter of Camp McGovern (a complicated endeavor given the proximity of minefields) in order to slightly increase the potential number of troops who can be stationed there, solely as a precautionary measure depending on future reaction to the Brcko arbitration decision.

Mail service has been good. When possible soldiers are offered access to computers for e-mail and there are opportunities for phone calls out of country.

In random conversations with troops, the delegation found that morale is generally good. There was concern voiced by individual service members about whether "the folks back home" understood what they were doing in Bosnia, and also about the effects of repeated deployments on individual family situations.

Members who met with Reservists heard complaints about the administration of the Reserve Mobilization Income Insurance program [which, due to initially faulty actuarial calculations at the Pentagon, continues to require funding in excess of prevously appropriated amounts despite the infusion of over $70 million over the past two years].

[1] On March 15, 1998, the international arbitrator for Brcko, Mr. Roberts Owen, announced he was once again delaying a decision on the territorial status of Brcko, until 1999.

Some soldiers from the 1st Armored Division are on their second deployment to Bosnia (having been sent in the initial movement of U.S. forces during late 1995-early 1996 as part of IFOR, the "Implementation Force."). These who had served at Camp McGovern on their first tour said there had been considerable improvement in and around Brcko, with the most noticeable change being the return of and visibility of children.

These soldiers observed that recent progress in returning refugees to Brcko is due to careful planning and oversight by the UN High Commission for Refugees (UNHCR). In an effort to restore confidence and build trust, returns to date have been focused on those areas which are "less difficult" and have involved only families who can clearly demonstrate they once lived in a particular area or dwelling.

Continuing, these soldiers said unemployment was a huge problem, with the population subsisting largely on international assistance, black market activities, and remittances from displaced persons who had moved abroad such as to Germany.

The soldiers' personal view was that the local population was genuinely tired of the war and its aftermath and wanted to get on with their lives.

The delegation then traveled to a resettlement camp on the outskirts of Brcko (Stari Rasadnik) where it was joined by Ambassador Kauzlarich and met with the group of 12 local citizens.

The local group was divided equally between Muslims and Serbs, including the Muslim "mayor" of Stari Rasadnik and six women from a local women's group. In questions and answers with the delegation several points rapidly became apparent:

The group was genuinely thankful for the role being played for SFOR with many expressing the opinion that conditions would rapidly deteriorate should SFOR leave in the near future;

Many of the group had been forced to move to many places through the duration of the war. The biggest impediment to returns and the reuniting of families is the absence of jobs. There had been noticeable improvement in recent months in terms of greater freedom of movement throughout Bosnia;

The mayor portrayed his relations with the Serbs as one of cooperation in trying to resettle the area;

Midway through the discussion, there were several acrimonious exchanges between members of the group at various points, prompted by charges that one side or the other (Serb or Muslim) was responsible for the war. One individual stated "we cannot forget what one side did to the other." This was met by another's response that "we were the ones who were thrown out, that suffered atrocities, but I have returned home. I am no war criminal."

When asked what the reaction would be should the arbitration decision give control to Brcko to the Serbs, one person responded "We can live side-by-side . . . but not together."

The delegation then proceeded to a brief tour of Brcko by bus, before proceeding to a meeting with representatives of the Office of the High Representative for Brcko (OHR) and the International Police Task Force (IPTF).

While on the tour of Brcko, the delegation briefly crossed over the now-repaired bridge over the Sava River into Croatia. SFOR escorts made several comments while on the tour including:

In downtown Brcko, there was a smattering of political posters featuring President Plavsic and Prime Minister Dodik of the RS. It was explained that several months prior, there were many posters featuring Radovan Karazdic. By all appearances these had been removed;

Within Brcko, it was claimed there are little or no problems with freedom of movement for any of the three formerly warring factions;

The local schools are now open, with both classes and faculties represented on a multi-ethnic basis. This is said to have created no problems.

The delegation then met with representatives of the OHR and the IPTF.

According to Mr. Ian McCloud, Deputy Commissioner of OHR:

The Office of the High Representative for Brcko was expanded and given greater authority in early 1997 after the arbitrator for Brcko, Mr. Roberts Owen, decided to delay his decision until March 1998. OHR was charged with working actively in the Brcko area to return refugees and displaced persons, to achieve a greater freedom of movement (in conjunction with the IPTF), to aid in ensuring democratic processes were established and respected, and to help with economic revitalization. Regarding each of these areas:

Since early 1997, OHR has approved over 2600 homesteads for return to displaced persons, with 755 families having actually returned and taken occupancy.

Freedom of movement within Brcko is pretty well established, and over 400 vehicles daily transit the bridge from Brcko to Croatia. However, Serbs are still not allowed by Croatia to pass over the bridge into Croatia.

Mr. McCloud had an upbeat assessment regarding the implementation of the local elections, saying that the re-establishment of multi-ethnic institutions is starting to "take" and is making progress.

Regarding the local economy, Mr. McCloud indicated this was a major challenge as OHR believes there needs to be the creation of 28,000 industrial and supporting jobs in the community to get Brcko back to its pre-war levels of employment.

The delegation was then briefed by Mr. Don Grady of the IPTF (who had come to Bosnia after a career in the United States in local law enforcement, most recently in New Mexico):

In Brcko, the local IPTF-trained and supervised police force is now on the verge of being able to do open policing. The police force has been structured on multi-ethnic lines and has been functioning as a unit since the beginning of 1998.

Mr. Grady explained that in building this police force, the IPTF role centers on training for "democratic policing", which perhaps can be best understood when contrasted with the previous role of police in Bosnia, which had inherited the mindset and functions of the internal security forces established over 50 years as part of Communist Yugoslavia.

IPTF training is centered out of Sarajevo, where after individual certification by IPTF, prospective police members are provided what in essence is "mini-police academy training". The Intent is to train police to conduct a "full service police operation", with jurisdiction ranging from local traffic and petty crimes to more serious phenomena such as organized crime and the black market. For the latter, where offenses cross local jurisdictional lines and also simply require greater resources and expertise, local forces work in conjunction with the ministry.

Mr. Grady summarized his presentation by saying "I think what's going on here is pretty spectacular ... it could be a prototype for the rest of Bosnia." He did state that the IPTF was well aware of the unique position of Brcko given its being subject to arbitration and that it was working with SFOR, as well as the local police, to ensure there would be coordination in the event of violence.

TRIBUTE TO DR. SAMUEL P. MASSIE—MENTOR, LEADER, AND TOP SCIENTIST

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. CLAY. Mr. Speaker, I rise today to pay tribute to my friend, and internationally renowned scientist, Dr. Samuel P. Massie, who was recently added to the list of the "World's Most Distinguished Chemists." I have had the privilege of knowing Sam for a great number of years and know that he is quite deserving of this great honor.

In this era of science and high-technology, Dr. Samuel P. Massie is the perfect role model for aspiring scientists of all races, but particularly for African-Americans. His life is an example of the great things they can accomplish and the impact they can have on the sciences. His contributions helped to change the course of science and to advance the discipline to its current priority status on the national agenda. His work has earned him world acclaim, and the honorable titles of Master Teacher and Scientist Extraordinare.

I recommend to our colleagues Dr. Samuel P. Massie's story, as reported in a February 26, 1998 Washington Post article titled "Living Out A Formula for Success: Academy's First Black Professor Is Among Top-Rated Chemists." It is my hope that they will share this wonderful piece with the future leaders of America.

[From the Washington Post, Feb. 26, 1998]

LIVING OUT A FORMULA FOR SUCCESS—ACADEMY'S FIRST BLACK PROFESSOR IS AMONG TOP-RATED CHEMISTS

(By Amy Argetsinger)

On a new roster of the world's most distinguished chemists—Madame Curie, Linus Pauling, big names like that—there are only three black scientists.

One is the famed agricultural scientist George Washington Carver, who a century ago transformed the economy of the South by developing new industrial uses for sweet potatoes and peanuts. Another is Percy Julian, a pioneering chemist.

And the third is the only one still alive—Samuel P. Massie, professor emeritus at the U.S. Naval Academy.

Though proud to be named to an elite industry list of the all-time top 75 distinguished contributors to the field of chemistry, Massie, now 78, welcomed the news with the breezy modesty that has marked a lifetime of remarkable achievements, one that gave him key vantage points to both the development of the atomic bomb and the civil rights turmoil of the 1960s.

"You do what you can do in that regard," the Laurel resident said.

A pioneer in silicon studies and the Naval Academy's first black professor, Massie is one of only 32 living scientists on the list compiled last month by Chemical and Engineering News to mark the magazine's 75th anniversary. The list includes 35 Nobel Prize winners and celebrated names like Kodak founder George Eastman, DNA researchers James Watson and Francis Crick, and plutonium discoverer, Glenn Seaborg.

Born in North Little Rock, Ark., Massie rushed through school, graduating at age 13. As a young child, he got a head start on his peers by following his schoolteacher mother around from class to class, enabling him to skip grades three years in a row. Today, his personal experience has left him a believer in classrooms blending multiple grade levels.

"Young children don't all learn at the same rate," he said.

Attending A.M.N. College—now the University of Arkansas at Pine Bluff—Massie was drawn to chemistry studies after becoming fixated on finding a cure for his father's asthma. After graduating at age 18, he launched into graduate studies at Fisk University and Iowa State University, where he worked on the Manhattan Project team, trying to convert uranium isotopes to a usable form for the atomic bomb.

After working as a teacher at Fisk University and Howard University, Massie was named president of North Carolina College in 1963, as the civil rights movement was taking hold in the region.

"Kids marching around the place, waving signs, singing 'We Shall Overcome,'" Massie recalled. "They were fun times."

Massie was hired by the Naval Academy in 1966—a time when Annapolis was still so segregated that he and his wife, Gloria, now a psychology professor retired from Bowie State University, were unable to find a home they wanted. Real estate agents wouldn't even take them to certain exclusive neighborhoods.

But Massie said he was unruffled by his introduction to the military college, where the vast majority of students were white in the mid-1960s.

"It wasn't difficult for me because I understood chemistry," he said. "I just had to make sure we understood each other."

While at the academy, Massie pursued research into anti-bacterial agents, and with some colleagues and midshipmen students was awarded a patent for a chemical effective in fighting gonorrhea. He also conducted environmental research at the Navy's David Taylor Research Center outside Annapolis, studying chemicals to prevent the growth of barnacles on ship hulls and developing protective foams to guard against nerve gases.

Massie said he found the academy, with its stringent admission standards and emphasis on technical education, a luxurious teaching environment.

"Scholarship is emphasized here—you knew you could expect certain things of your students," he said. "You had enough money to have the proper equipment, and students could afford all their books," unlike students at some of the civilian colleges where he taught.

Massie said midshipmen were sometimes baffled by his unorthodox way of scoring exams—two points for each question they got right, but 50 points subtracted for each one they got wrong. He was trying to prove a point to them:

"Everything in life doesn't have the same value," he said. "It depends on the circumstances."

AFRICAN GROWTH AND OPPORTUNITY ACT

SPEECH OF

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 11, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1432) to authorize a new trade and investment policy for sub-Saharan Africa:

Mr. McDERMOTT. Mr. Chairman, the most important thing about the U.S. trade policy towards sub-Saharan Africa is that there isn't one. Congress has an opportunity to change that situation by passing HR 1432, the African Growth and Opportunity Act, a widely supported bipartisan bill, that creates the framework for qualified African countries to move from aid to trade.

For the first time since the end of the colonial era, the United States is proposing to engage the countries of sub-Saharan Africa on the same basis as we do the rest of the world, as trading partners. The old donor and recipient paradigm, that has historically defined U.S. relations with Africa, is being replaced by a new and more dynamic paradigm that states that:

> . . . it is in the mutual economic interest of the United States and the countries of Africa to promote programs, policies and strategies that reduce poverty through economic growth, self reliance, and commerce. Traditional aid, while still necessary in some countries, is not sufficient to bring about fundamental change in Africa. Economic growth, self reliance, and commerce are not only vital for raising living standards on a broad basis, but also for addressing the critical social and health needs that plague Africa. Without a strong commitment to economic growth, self reliance, and commerce, no social programs, no schedule expenditures, no amount of aid will make a sustained improvement in the quality of life of Africa's citizens. Africa needs economic growth to make its social objectives feasible.

HR 1432 is the beginning of a process that will change our negative bureaucratic culture towards Africa. HR 1432 is strongly supported by all of Africa's political and economic leaders. The response from Africa had been clear, Africans want to be trading partners with the U.S. and the world, not perpetual recipients of donor assistance. HR 1432 explicitly states that the U.S. should continue to provide traditional development assistance to those countries attempting to build civil societies. In fact, the bill also states that economic growth depends on establishing a receptive environment for trade and investment, and that to achieve this objective USAID should continue to pursue programs in Africa. The Clinton Administration, including USAID, have strongly endorsed this legislation.

Many of the countries of Africa are moving in the right direction. Political and economic reform are beginning to take hold and a new generation of leaders have assumed power through elections. Things are much better, albeit not perfect, but better. Many countries in Africa have experienced positive growth rates over the last five years. Africa currently has 14 stock markets and the number is growing. Trade between the U.S. is growing, it is currently larger than trade between the U.S. and the former Soviet Union. The American corporate community has developed a renewed interest in Africa. Now is the time to seize the initiative and work to solidify the positive developments that are taking place in Africa. HR 1432 gives the world's largest economy a plan to help the smallest economies to grow and prosper without harming U.S. consumes, manufacturers, or workers.

In addition to establishing a trade policy towards Africa, HR 1432 is composed of three primary cornerstones and several key initiatives. The first cornerstone is the negotiation of U.S.-Africa free trade agreements. The negotiation of the free trade agreements gives us the opportunity to begin the process of bilateral and multilateral discussion that, over a number of years, will lead to the type of economic and trade relations that are mutually beneficial to Africa and the U.S. HR 1432 is not a free trade agreement—it promotes free trade with African countries as a goal for the future.

The second cornerstone is the creation of a U.S.-African Economic Cooperation Forum, loosely modeled on APEC. The forum will begin to change the perception of Africa as anything other than a recipient of donor aid, or as a humanitarian basket case. The forum will be the place where trade and investment issues and concerns will be discussed at by Cabinet level officials and will demonstrate to the international community that the United States takes Africa seriously. The forum will also send a signal to our business community that the U.S. government is committed to making it easier to do business in Africa.

The third cornerstone is the U.S.-Africa investment partnership. OPIC will be directed to establish a privately managed equity fund and an infrastructure fund that will leverage private financing for small and moderate sized U.S. and African businesses, and expand opportunities for infrastructure development throughout Africa. The demand for infrastructure in Africa is enormous but, the response from the international finance community has not been promising. It is clear that Africa's future competitiveness depends on reliable telecommunications, roads, railways, and power plants.

The principal goal of our three cornerstones is to attract international project financing to Africa, and to make it financially feasible for U.S. investors to participate in profitable business opportunities in Africa. If successful, there will be substantial job growth, increase in per capita incomes, and expanded trade between the U.S. and Africa.

While the three cornerstone programs will take time to implement, there is one initiative that could have an immediate impact on Africa countries. African textile and clothing exports to the U.S. represent less than 1% (about $383 million) of the total import market of $46 billion. HR 1432 contains a provision that could be implemented immediately and would not compete with U.S. products or cost U.S. jobs. In fact, when the World Bank analyzed HR 1432, it reported that the impact on U.S. manufacturers would be negligible. The provision eliminates the existing quotas on textiles and clothing exports from the countries of Africa as long as a cost effective and efficient

visa system to guard against transshipment is in place. This provision represents a major opportunity to expand Africa's exports to the U.S. and generates more than 200,000 jobs and millions of dollars in tax revenue for Africa. Moreover, African and American products would not compete with each other.

HR 1432 is a commitment to a major shift in emphasis towards a private sector and market incentives approach to stimulating economic growth and reducing poverty in Africa. To participate, a country will have to meet eligibility requirements based on a strong commitment to economic, political, and trade liberalization.

Some think this initiative is naive, overly optimistic, or just completely unrealistic. I think that it is time that the U.S. becomes actively involved in building an economic partnership with the countries of Africa. That's what HR 1432 intends to do.

Mr. Speaker, on the floor of the House of Representatives, we often hear of days which are declared "historic". However, with the passage of HR 1432, the African Growth and Opportunity Act, today is truly a historic day.

COMMEMORATION OF CALIFORNIA'S CHILDHOOD CANCER AWARENESS WEEK

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. GALLEGLY. Mr. Speaker, I would like to commemorate the week of March 15–21, 1998, which Governor Pete Wilson has proclaimed as "Childhood Cancer Awareness Week," in my home State of California.

Each year, about 10,000 children in our country are diagnosed with cancer. In California, this deadly disease is the second leading cause of death among children. There can be little else that can compare with the senselessness and tragedy of a little child who has been struck with a life-threatening illness. Today, I would like to recognize the American Cancer Fund for Children, and it's founder, Steven Firestein, for not only helping to find a cure for these sick children, but for easing their road to recovery, or to their final rest.

The American Cancer Fund for Children has helped families get through what is certain to be the most difficult time in their lives. Providing food, clothing, transportation, prosthetic devices and social service programs to young cancer patients, this organization comes to the aid of families who need it the most. They help take away worries, so families can have more time for hope.

Besides touching lives of individual children, the American Cancer Fund for Children has also made an impact on communities, through outreach and education about childhood cancer, and has contributed to cancer research.

While researchers and activists continue to search for a cure for cancer, it's important to recognize the interim needs of child victims and their families. Steven Firestein and the American Cancer Fund for children are doing just that. I encourage all my colleagues to join me in recognizing the American Cancer Fund for Children, and it's continuing efforts in easing the pain of childhood sickness and reaching for a cure.

INDIA LABELS INNOCENT SIKH A "TERRORIST"

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. BURTON of Indiana. Mr. Speaker, it has come to my attention that India's Central Bureau of Investigation (CBI) conspired to place a false label of "terrorist" on a young Sikh man named Navjot Singh, and that the vaunted National Human Rights Commission (NHRC) has ignored his case.

I have a copy of a letter sent to the NHRC President by the young man's father, Tarlok Singh Chhabra, this past December 12, 1997, that details his case. It is very disturbing. The letter states "that the CBI with the connivance of Delhi Police, planted a false claim" against Navjot Singh. According to the letter, "on protracted correspondence with the NHRC, it transpired that the NHRC had not bothered at all to go through the representation." Navjot Singh was forced to sign false papers to implicate him falsely in an incident in Delhi, as well as another pending case. This is an outrageous abuse of power, unacceptable in any country, but especially when that country wants to portray itself as the world's largest "democracy."

Several of us recently sent a letter to the Government of Punjab regarding its failure to punish those responsible for the genocide against the Sikh Nation. It requested that the Punjab Chief Minister appoint a commission to investigate over 75 cases of police murder, rape, and torture of Sikh youth that have been documented by the CBI, the Supreme Court of India, and the United Nations Commission on Human Rights. In fact, these agencies report that this abusive behavior has occurred deliberately, and on a massive scale. Also, it has been reported that the Punjab Government is diverting the mail of a fiercely independent journalist named Sukhbir Singh Osan. And a number of my colleagues were dismayed by Prime Minister Gujral's recent threat that "Hindustan will not tolerate another attack on Iraq." Now we are informed about Mr. Navjot Singh and his unfortunate experience with the Indian Government. India may have conducted a new round of elections, resulting in its fifth government in two years, but it takes more than elections to make a democracy.

Mr. Speaker, India is one of the five largest recipients of U.S. foreign aid, and the President wants to increase last year's assistance by almost $12 million. The Indian Government is responsible for taking the lives of 250,000 Sikhs in Punjab between 1984–1992, over 200,000 Christians in Nagaland since 1974, and 53,000 Muslims in Kashmir since 1988. There are a half-million Indian soldiers occupying the province of Punjab, and another half-million occupying Kashmir. We should not be supporting a government that condones these widespread abuses with American tax dollars.

The United States is the world's preeminent power, arguably the only Nation on earth with both the economic might and the moral legitimacy to make the observance of human rights a pillar of its foreign policy. The unfortunate peoples of the world, whose basic human rights are suppressed either by tyrants or failed economic experiments, turn to the United States for hope, not cheap imports! From India to China, the people who suffer under such regimes understand that, if America joins their struggle by sacrificing short-term economic gain for long-term justice and freedom, the regimes will ultimately succumb.

An increase in aid is difficult to justify to the American people, who send their hard-earned tax dollars to a country that obviously shares none of our most-cherished values. The time has come for action, it is time for America to take a stand.

The Human Rights in India Act, introduced by me along with my good friend and colleague GARY CONDIT of California, will bar development aid to India unless the government releases prisoners of conscience, ends the practice of torture by police and military forces, permits impartial investigations of reported torture and disappearances of those in custody, brings to justice police forces responsible for human rights abuses, and permits critics of the government to travel abroad,

My colleagues, from this well of the House of Representatives you will hear many stories of human rights abuses from all around the world. Today, I ask that you think of the hundreds of thousands who are suffering in India. Please do not turn your back on the innocent. Give them a flicker of hope and send a strong message to the Government of India. I urge my colleagues to give the Human Rights in India Act their full consideration, and their strong support.

I am placing Mr. Chhabra's letter into the RECORD, and recommend that my colleagues give it their immediate attention.

Subject: Conspiracy of the CBI to implicate Mr. Navjot Singh, an innocent boy & labelled him fraudulently as a "terrorist"

The CHAIRMAN,

National Human Rights Commission, New Delhi.

SIR: Your attention is invited immediately to paras 6 and 7 of my representation dated 19-1-96, which is reproduced for ready reference: "That the CBI with the Connivance of Delhi Police, planted a false case and implicated him in FIR 681/95 of 27-9-95 and he was lodged in Tihar Jail Delhi for about 6 weeks in 'C' class and that too in solitary confinement whereas in Chandigarh he was kept in 'B' class on account of his academic and professional qualifications. That the falsification of Delhi Police case can be proven by its own concocted story, that on 17-9-95 he had been arrested from our home and on the next day produced in the Chandigarh Police and remanded to police custody & then Judicial custody and it was from Burail Jail Chandigarh only to Delhi and planted a false case against him in Delhi whereas he was never present at Delhi on 27-09-95 as he was present in his office up to the last date of his arrest. During his police remand Delhi, he was interrogated by the officers/officials of the CBI only and not by any other Agency. There at also he was forced to sign many blank papers etc."

2. On protracted correspondence with the NHRC, it transpired that the NHRC had not bothered at all to go through the representation in totality and had taken the matter

lightly which required rapt attention of the NHRC in such a crucial matter involving the whole career of an educated young man. I have the documentary evidence to adduce, that it is all a conspiracy of the CBI officials to implicate my son falsely in Delhi case as well as Beant Singh case. What the hell on earth is that my son was forced to sign many blank papers including few diary pages of an old diary at gun point? Why duty is not cast upon the investigating agencies to faithfully discharge their duties and not involve innocent people in concocted and false cases which has glaringly happened in our case? Why penal action should not be taken against defaulting officials, who themselves behave like criminals and human rights are violated? A thorough enquiry be conducted and I be associated with the NHRC Court proceedings with following observations besides other issues:

1. The name of my son in FIR 681/95, does not figure at all at any stage.

2. The concocted confessional statement has been written in a language other than English and his signatures in English were already taken on blank sheets besides diary writings and few papers might have been filled in later on suiting the whims and fancies of the investigating officials, which is again a criminal offence on the part of the so called investigating officials and this fact cannot be ignored.

3. The Delhi case against my son came into being only as CBI were refused further remand by Chandigarh Court in Beant Singh case, in which he was falsely implicated already.

4. My son had never known any person named as co-accused or to any witness cited by the prosecuting agency, which again shows implication in a false and concocted case.

5. He was already arrested on 17-9-95 and was already lodged in Changigarh Jail, whereas the Delhi FIR came into being on 27-9-95, what a big fraud? He was straight away taken from Chandigarh Jail for Delhi, it is highly unbelievable as to how the Delhi Police came to know that he was already lodged in Chandigarh Jail, whereas in the statement of a witness falsely brought on record by Delhi Police in connivance with CBI, as the complete residential address as well as the name of father of Navjot Singh was completely missing, requires thorough probe and stern action against the erring officials, both of CBI and the Delhi Police which culminated in implicating an innocent boy in false cases. It is pertinent to add that he was subjected to 3rd degree methods, just to compel him to become approver in Beant Singh assassination case which he flatly refused to do so. He was also threatened that he will be implicated in other false cases of other states too and his family members shall also be subjected to all sorts of tortures etc.

PRAYER

I urge to your Lordship to please raise our case to its entirety and book the culprit officers/officials of the CBI and of Delhi police in whose connivance all episode of Delhi case as well as Chandigarh case took place, which had shaken the whole precious life of my only son.

Yours faithfully,

TARLOK SINGH CHHABRA,
889, Sector-60, MOHALI.

TRIBUTE TO DON TURNER

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. WELLER. Mr. Speaker, I rise today to honor the work and dedication of Don Turner who will retire from his post as Superintendent of Bradley-Bourbonnais Community High School at the end of the 1998 school year.

Mr. Turner retires from Bradley-Bourbonnais Community after thirty-five years of service to the High School. Mr. Turner grew up in Chrisman, Illinois where his dream in life was to become a basketball coach. After graduation from High School, Mr. Turner entered Eastern Illinois University to pursue that dream but left halfway through to serve in the Korean War. After serving his country, Mr. Turner returned home and finished his degree at Eastern Illinois University.

Mr. Turner's dream of becoming a coach became true when he became the head basketball coach at Lafayette High School. After two years of coaching at Lafayette, he moved to Serena, Illinois to become the high school basketball coach. It was during this time that Mr. Turner decided to make a career change. He returned to college and obtained a master's degree in education administration from the University of Illinois. After receiving his master's degree, he became principal at Gilman Grade School and after one year he became principal at Gilman High School.

In 1963, Mr. Turner was hired by Bradley-Bourbonnais Community High School. During his tenure at Bradley-Bourbonnais High School, Mr. Turner has been dean of boys, dean of students, and assistant superintendent. In 1982, Mr. Turner became the Superintendent at Bradley-Bourbonnais High School. Mr. Turner has seen Bradley-Bourbonnais High School grow dramatically and has been instrumental in the additions of the pool, computers and the new auditorium. Mr. Turner's best memories of the school include all the people who have passed through its doors. In spite of numerous job offers, Mr. Turner has never considered leaving Bradley-Bourbonnais High School.

Mr. Speaker, today I recognize this gentleman for his honorable career, uncommon loyalty, and education impact. I urge this body to identify and recognize others in their communities whose actions have so greatly benefited and strengthened America's schools.

TRIBUTE TO LT. GEN. JOE N. BALLARD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. SKELTON. Mr. Speaker, today I congratulate Lt. Gen. Joe Ballard the Chief of Army Engineers and the Commander of the United States Army Corp of Engineers. On February 28, General Ballard was recognized as the Black Engineer of the Year during the 12th Annual Black Engineer of the Year Awards Conference at Baltimore, Maryland. This award was presented by the Career Communications Group and the Council of Engineering Deans of the Historically Black College and Universities. A panel of judges from industry and academia screened over 200 entries and unanimously agreed that General Ballard was by far the best qualified for this award. General Ballard, a native of Oakdale, Louisiana, and a graduate of Southern University, leads the world's premier public engineering organization with engineering, construction and real estate responsibilities worldwide.

In the civil works program, the Army Corps of Engineers is responsible for operating and maintaining 275 locks, 12,000 miles of navigable waterway and 300 deep draft harbors. Flood control systems across our nation prevent an estimated $26.8 billion in potential damage each year and Corps facilities provide 24 percent of our nation's hydroelectric power. When disaster hits our hometowns across the United States, General Ballard's forces are always on the front lines fighting as they did recently in the Midwest and California floods and the New England ice storm.

General Ballard overseas the design and construction management of military facilities for the Army and Air Forces worldwide and often provides the same support for other Defense and federal agencies. As the senior Engineer in the Army, his engineer soldiers are also found on the front lines in Bosnia and Kuwait serving our nation. Through all this, he has the additional responsibilities for the nation's environment, managing environmental restoration programs and practicing environmentally sustainable development to balance environment values with economic growth.

It is a tremendous honor that one of our finest public servants is recognized across the country as the Black Engineer of the Year for 1998. We applaud General Ballard for his professionalism, dedication and leadership, and we in the Congress, congratulate him on this significant distinction.

DIRECTING THE PRESIDENT TO REMOVE UNITED STATES ARMED FORCES FROM BOSNIA-HERZEGOVINA

SPEECH OF

HON. DOC HASTINGS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1998

Mr. HASTINGS of Washington. Mr. Speaker, I rise to express my reluctant opposition to this resolution, which I believe proposes the wrong means of achieving the right end. I opposed the President's original decision to deploy our troops in Bosnia because I believed that neither the goals of the mission nor the exit strategy was clearly defined. Furthermore, I strongly suspected that the Dayton Agreement would not easily or permanently resolve the disagreements dividing groups in the region, and that the conditions of the Dayton Agreement could only be enforced through a long-term U.S. presence. As a result, I have voted on numerous occasions to put an end to this seemingly endless deployment of troops.

Unfortunately, my reservations have become reality. A mission originally characterized by President Clinton as a temporary implementation measure has turned into an open ended mission with U.S. troops serving as everything from peacekeepers, to traffic cops, to construction workers. For that reason, I have supported efforts in the House to fix a date certain for the withdrawal of our forces through the use of our Constitutional authority to control funding for such missions.

I must confess that because of my strong desire to see our troops returned home I considered supporting H. Con. Res. 227. However, in the end I cannot in good conscience endorse a process which I believe to be unconstitutional simply to settle a policy difference with this President. I have consistently opposed the War Powers Act as contrary to the intent of the framers of the Constitution, who reserved leadership in foreign policy to the Presidency.

I have always viewed the War Powers Act, enacted in 1973, as a partisan gimmick devised and used by liberal Democratic Congresses seeking to tie the hands of Republican presidents with whom they disagreed. To change my position now that we have a Congress controlled by Republicans in order to score points against Bill Clinton would be politically opportune, but counter to my basic opposition to the War Powers Act.

Mr. Speaker, I urge my colleagues to reject the unconstitutional mechanisms of the War Powers Act and defeat this resolution. Instead, I encourage my colleagues to vote their consciences on the Bosnia issue when we consider the President's request for additional funding to continue this deployment. Let us bring our troops home in an orderly, but timely manner. I have voted to do so before and I will do so again, but not in a way that I believe does such great damage to the doctrine of separation of powers enshrined in our Constitution.

TRIBUTE TO DR. STANLEY S. BERGEN, JR.

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. PAYNE. Mr. Speaker, I rise today on behalf of Dr. Stanley S. Bergen, Jr., to mark the occasion of his retirement as President of the University of Medicine and Dentistry of New Jersey (UMDNJ).

Dr. Bergen has served the State of New Jersey with exceptional dedication, energy and leadership that has distinguished his 27-year career as the first and only president of UMDNJ. Under Dr. Bergen's stewardship, the University has emerged as the largest public university of the health sciences in the country, and serves as a national resource for health professions education, research, patient care, and service to the community.

Through his resolve to provide educational opportunity and health care services to all the people of New jersey, UMDNJ has grown to include seven schools on five academic campuses statewide, with programs at more than one hundred affiliated educational and health care institutions in communities throughout the State.

Dr. Bergen is recognized as a national authority on health care and a prominent leader in academic medicine in the State and in the nation.

It is fitting and proper that the members of Congress salute Dr. Bergen's exemplary career and service to New Jersey and the nation. His high standard of excellence in education, research and patient care have brought pride and honor to our State.

We wish him well in the years ahead and hope that he will continue to serve as a valuable resource to New Jersey and the nation.

TRIBUTE TO GAINESVILLE FIRE DEPARTMENT

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. HALL of Texas. Mr. Speaker, in December of 1997 I had the honor of speaking to the Gainesville Fire Department at their annual Christmas banquet. Since that time, I have visited informally with Steve R. Boone, the highly regarded Fire Chief of the Gainesville Fire Department, Capt. Wally Cox, Training Officer, and Lt. David Tharp, Fire Safety Education Officer. I am impressed by their dedication and commitment to public service.

One of the main goals of the Gainesville Fire Department is to provide educational programs on fire safety. The Department accomplishes this by presenting programs in the local school systems as well as community events, sponsoring industrial training sessions, and making presentations to civic clubs. Ninety percent of their funding for fire safety education is received through donations from the community—evidence of the support that the Department receives from local citizens.

The Gainesville Fire Department has chosen to take a proactive approach to fire prevention and safety, rather than just a reactive one. Their efforts undoubtedly will help save lives and property. In the past, the Gainesville Fire Department has been recognized for their efforts by local groups, the International Association of Fire Chiefs, insurance companies, and other entities. Senator PHIL GRAMM also has recognized their commitment to serving the citizens of Cooke County.

Mr. Speaker, too often we take for granted the efforts of those who place their own lives at risk for their fellow citizens. I ask my colleagues to join me today in paying tribute to an outstanding group of public servants—the Gainesville Fire Department—and to other firemen across our great nation whose dedication to the prevention of fires and injuries deserves our gratitude and respect.

TRIBUTE TO HAZEL WOLF

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. McDERMOTT. Mr. Speaker, I rise today to honor my constituent, Hazel Wolf. On Saturday, March 21, 1998, hundreds of her friends will gather in Seattle celebrating her 100th birthday and giving thanks for her lifetime of dedication to the environment and human rights.

Born in Victoria, British Columbia on March 10, 1898, Hazel emigrated to the United States in 1923 as a single mother seeking work to support her young daughter, eventually becoming a legal secretary. Hazel officially became a citizen in 1976 after devoting more than 50 years to making our country a better place to live.

Through the years Hazel championed issues of importance for women, working people, human rights, and the environment. A true citizen of the world, her work has been recognized with awards by numerous international, state, and local organizations. On Saturday the Seattle Audubon Society will acknowledge the "rare bird" by announcing the creation of the Hazel Wolf Kids for the Environment Endowment. This fund will be dedicated to helping urban youth experience and appreciate nature, a lasting tribute to a woman who cherishes our nation's young people and loves the beauty of our natural world.

Mr. Speaker, please join me in thanking Hazel for demonstrating to us the value of a simple life adorned with the riches of a lifetime of service to humanity and nature. We wish her continuing vigor in pursuit of future endeavors.

CROATIAN POLICE ATTACK PROTESTERS AT PEACEFUL TRADE UNION RALLY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. TOWNS. Mr. Speaker, today I am sharing with my colleagues various newspaper articles related to a recent peaceful rally in which protesters were attacked by Croatian police. It was reported in the Federal Tribune that there were between 12,000 to 14,000 policemen from throughout Croatia brought in to control an estimated 10,000 to 30,000 protesters. The rally was organized by the largest trade union in Croatia and several opposition political parties. The reported focus of the rally were issues of high unemployment and poor living conditions for workers and retirees, while at the same time it has been reported that Croatia's President Franjo Tudjman has amassed a considerable fortune for himself and his family. I am also inserting into the RECORD an informative article released this week by Jack Anderson and Jan Moller entitled, "Croatian Seeks To End Human-Rights Abuses."

[From BBC News, Feb. 21, 1998]

CROATIAN POLICE DENY DEMO INJURIES

The Croatian Interior Ministry has denied reports that police used force against demonstrators during a mass protest in the capital Zagreb.

Tens of thousands of people took part in what is described as the largest rally the nation has seen, against growing poverty and unemployment.

The government banned the demonstration from main city square, Ban Jelacic square, deploying hundreds of police with riot gear to prevent the crowd from gaining access.

Protesters threw apples and eggs at officers and a shop window was shattered.

An Interior Ministry statement, carried by the official news agency HINA, contradicted Croatian radio and TV reports that several people were being treated in hospital for injuries.

Five police staff were also reported injured.

The demonstration was organized by three trade unions and backed by 10 opposition parties.

Correspondents say about 10,000 protesters moved to Marshall Tito square, also known as Theatre Square, where they held an hour-long meeting.

The head of the Croatian Workers Trade Union, Boris Kunst, said he was saddened that the Croatian police had raised their hands against the protesters.

"These people that gathered here are those who defended Croatia," he said. "But they cannot live off their salaries, while the others are decorating their palaces and are stealing from us."

Protesters called on ministers to reduce their own salaries and scrap the newly-introduced 22% value added tax which has seen prices increase on basic goods including food.

Correspondents say Croats have been reluctant to demonstrate against the government, led by President Franco Tujman, since the country achieved independence through a devastating war in 1991.

But dissatisfaction among citizens is mounting as the majority of them face post-war poverty.

An unemployment rate, which independent analysts say tops 23%, is at the center of public grievances.

As the rate rises a new wealthy elite, consisting mainly of businessmen favored by the government or ruling party members, has emerged.

VECERNJI LIST—MARCH 18, 1998

ZAGREB. President of the United American Trade Union headquarters AFL–CIO John J. Sweeney sent a letter to the President of the Republic of Croatia Franjo Tudjman protesting confiscation of the trade union's property. Mr. Sweeney appealed to the government of Croatia that it was urgent that they change their position and rescind their orders under the "law of unions" in relation to the trade union's property, and withdraw their decision about nationalization of the trade union's property, declared the International Department of the Association of the Independent Trade Unions in Croatia, the largest association of trade unions in Croatia.

DIE TAGESZEITUNG—FEBRUARY 24, 1998

BERLIN, Federal Republic of Germany. At the peaceful rally in Zagreb, which was organized by the Association of Workers' Unions and several political opposition parties, on Friday, February 20th in the capital of Croatia, Zagreb, were tens of thousands of people who protested against social and economic policy and unemployment. The target of this protest was Croatian President Franjo Tudjman and the government of the ruling party, HDZ, who were proclaimed responsible for the poor living conditions of workers, retirees and unemployed persons. People shouted "Tudjman is Sadam" and "All of you are thieves". People were angry and resisting the selling of many factories to leading members of HDZ for symbolic money and that the current value of the private property of the President and his family is more than $1 billion.

DIE PRESSE—FEBRUARY 28, 1998

VIENNA, Austria. A Press Correspondent from Zagreb reported that President of Croatia, Dr. Franjo Tudjman has property of several billion dollars in German marks and this was the reason for the large workers' demonstration in Zagreb's streets. It is very important that the trade unions want to change policy through their demonstrations.

CROATIAN SEEKS TO END HUMAN-RIGHTS ABUSES

(By Jack Anderson and Jan Moller)

When Dobroslav Paraga rallied his fellow Croatians for change in 1991, he could get only a few hundred supporters to publicly protest Croatian President Franjo Tudjman's regime.

Seven years later, close to 15,000 of Paraga's countrymen routinely crowd the city squares in discontent over the civil rights violations and declining economic fortunes that have befallen Croatia under Tudjman's watch. One-fourth of all Croatians are currently unemployed.

"Before, people were afraid to speak out against the government," Paraga told our associate Kathryn Wallace. "Now they are hungry."

Conditions were supposed to improve when the communist government toppled in 1990 and democracy prevailed.

But Paraga tells us the new government is still communist, albeit disguised as a social democracy.

A 1997 State Department report agrees with this assessment, referring to the government as "authoritarian" and Tudjman's recent re-election as "fundamentally flawed."

"The president serves as head of state and commander of the armed forces, chairs the influential National Defense and Security Council, appoints the prime minister who leads the government, and approves senior appointments in local government," the report states.

"Government influence circumscribes and weakens the judiciary. This, combined with the extensive constitutional powers of the presidency, the overwhelming dominance of the (Croatian Democratic Union, Tudjman's party), its absolute control of television, and the continuing concentration of power within the one-party central government, makes Croatia's nominally democratic system in reality authoritarian."

It also grants the government the ability to violate human rights as it sees fit.

The tall, rumpled Paraga doesn't look the part of a patriot or a politician. Yet in the last decade he's been arrested and jailed in his own country as well as in Austria and Canada for what the Croatian government calls "high treason" and "terrorist acts."

Paraga's offense? He was the president on the Croatian Party of Rights 1861, espousing such radical views as freedom of the press and an equitable separation of powers between the judicial, legislative and executive branches of government. A 1993 visit to Washington to raise awareness of human rights violations in his homeland led to his removal from the legislature. The government's reason: "Dissemination of false information" to incite rebellion.

"Our neighbors have freedom, but we stay at the same place," Paraga told us. "I have lost 28 friends in car bombs and assassinations, (and) I have been imprisoned. I have lost fear."

While Paraga has been outspoken of the offenses of his government—assigning responsibility for the assassinations of 28 officials of his party to Tudjman's group—he disavows any violent or terrorist activities.

He is in the United States now at the invitation of recently retired Rep. Ronald V. Dellums, D-Calif., the ranking member of the House National Security Committee, to help draft a human rights resolution—which, if passed, would be the first official policy statement by the United States about the government of Croatia.

It's not the first time that Paraga has sought congressional help in his freedom fight. He first came to our attention nearly a decade ago, in 1989, when Croatia was still part of communist Yugoslavia. Then a 28-year-old dissident, he had already been in five prisons for a total of four years, the first time being when he was only 19.

In 1980 he and his friend Ernest Brajder were thrown in jail for circulating a petition opposing torture in Yugoslavia. Paraga came out alive, but Brajder did not. After three days in jail, he was dead in what the U.S. State Department admitted were "mysterious circumstances."

Back in 1989, Paraga made the rounds on Capitol Hill, as he has this month, explaining the plight of those who dared stand up to the Croatian authorities. The Senate believed Paraga and passed a resolution with plenty of "whereas" and "therefore" language. It had no binding effect on anyone, but it nevertheless made headlines in Yugoslavia.

One again, Paraga is hoping that a congressional resolution will help prod the Croatian government into loosening its iron-fisted grip on power and information. He told us that his party, disbanded by the government, nonetheless has the support of as much as 80 percent of young people in Croatia.

After nearly a decade of war and political turmoil, it's high time that Croatia gets back on the road toward free markets and respect for human rights. If a congressional resolution can help bring this about, we urge Congress to act without delay.

INTRODUCTION OF A BILL TO ADJUST THE BOUNDARIES OF THE LAKE CHELAN NATIONAL RECREATION AREA AND THE WENATCHEE NATIONAL FOREST

HON. DOC HASTINGS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. HASTINGS of Washington. Mr. Speaker, I have introduced a bill today that would correct a mistakenly drawn boundary between the Lake Chelan National Recreation Area and the Wenatchee National Forest.

This measure would move the boundary that divides one land owner's property into two

different federal jurisdictions, the National Park Service and the National Forest Service. While the land owner was originally assured that his property was located completely within the Wenatchee National Forest, it is now apparent that due to an error in the original boundary designation, that only part of his property is so designated. This bill would retroactively change this oversight to the original intent.

IN MEMORY OF OREE WOODS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to someone I had the privilege of meeting just last November—Oree Lea Woods of Sadler, Texas—who died on January 19 at his residence after a long illness. He was 79 years old. Although I knew Oree only two short months, I felt that I had known him all my life.

I had the opportunity to visit Oree and his wife, Jean, at the invitation of CASHA Resource Home Health Services. This was one of several home health visits that I made during our winter break. I have long been a supporter of home health services as a member of the Health and Environment Subcommittee of the Commerce Committee, and it was good to see how much these services meant to Oree. Oree had experienced continued health problems during the past two years and had been a home health patient for two months when I met him. He and Jean had high praise for this service and were grateful to have this health assistance during Oree's recuperation period.

Oree was a World War II veteran and a lifetime member of the Veterans of Foreign Wars. He served for three years as Mayor of Sadler, was a retired metal lather, and was a member of the First Baptist Church. He was married to his wife, Jean, for 57 years, and they have a son, Kimsey Woods, a daughter, Karen Whitmire, two grandchildren and three great-grandchildren.

Because of home health care, I was able to visit with Oree and Jean in the comfort of their home, where we swapped many stories about family, childhood escapades, school, World War II experiences, and health care. I came away from our visit feeling that I had truly had a chance to get to know Oree—an experience that I think would not have been possible outside the home environment.

Mr. Speaker, I ask my colleagues to join me in recognizing the importance of home health services in enhancing the quality of life for thousands of patients throughout our nation. As we adjourn today, it is a privilege for me to pay tribute to the late Oree Lea Woods—a man who lived his life in devotion to his wife, his family, his community, and his country.

ANNOUNCING THE INTRODUCTION OF LEGISLATION TO REDUCE THE MARRIAGE TAX PENALTY MARCH 19, 1998

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. McDERMOTT. Mr. Speaker, today Representative KLECZKA and I are introducing legislation to reduce the marriage tax penalty for most Americans.

The marriage penalty reduction legislation I am introducing with Representative KLECZKA (D–WI) simply would increase the standard deduction for joint filers so that it equals twice that of single filers. The standard deduction in tax year 1997 is $6,900 for joint returns and $4,150 for single returns. Two singles get a combined standard deduction of $8,300 compared to $6,900 for a couple—thus penalizing the couple for getting married. In my view, increasing the standard deduction for joint filers is the simplest, fairest, easiest, and most fiscally responsible way in which to address the structural marriage tax penalties within the code.

As you can see from the attached charts to be inserted into the record, the fix I proposed last Congress would have eliminated virtually all marriage penalties, and, it even provides a modest bonus for one-earner families.

The McDermott-Kleczka plan is progressive: Since most high-income taxpayers do not use the standard deduction, the Congressional Budget Office (CBO) has found that only 36% of the benefits from this type of change goes to taxpayers earning $50,000 or more—meaning—64% of the benefits go to couples earning less than $50,000/year. CBO found that other leading repeal proposals direct at least 65% of the benefits to those taxpayers earning more than $50,000/year.

The McDermott-Kleczka plan is affordable: CBO estimates that increasing the standard deduction for joint filers costs roughly $4 billion/year. Estimates prepared by the Joint Committee on Taxation verify this finding. Meanwhile, CBO found other leading repeal proposals cost as much as $29 billion/year.

The McDermott-Kleczka plan is family friendly: In addition to eliminating the marriage penalty, the standard deduction fix slightly increases the marriage bonus (see charts)—making it more affordable for the spouses of single earners who prefer to have a parent stay at home to care for their child or children. This bonus provides a small incentive without creating a new program and is not excessive so that it overly penalizes individuals for being unmarried.

The McDermott-Kleczka plan is simple compared to the problems raised by other repeal proposals which will force taxpayers to do their taxes twice in order to figure out which is the best choice for their family.

In 1997, repeal of the marriage penalty was pushed aside by the Republican Majority. Inexplicably, in the W&M Committee, where roughly 20 members signed the Contract with America my amendment failed. Most likely, the Majority preferred cutting taxes for corporations (not mentioned in their contract). In my view, a tactical decision was made that it was more important to provide tax cuts preferred by the business community (such as reducing the corporate AMT and corporate capital gains tax cuts) than it was to address the marriage penalty.

In fact, no legislation was introduced during the 105th Congress to repeal the marriage penalty until after the Budget Agreement passed Congress last August.

Now that repeal of the marriage penalty is finally being addressed and if it sincerely is a priority of this Congress, I would urge my colleagues to take a second look at the McDermott-Kleczka proposal before they rush to advocate an alternative.

STRUCTURAL MARRIAGE TAX PENALTIES AND BONUSES IN 1997 DOLLAR AND PERCENTAGE AMOUNTS BY WHICH JOINT INCOME TAX LIABILITIES EXCEED THOSE OF TWO SINGLES

[Marriage tax bonus shown in parenthesis]

Income levels ($000s)	Joint income tax liability	50/50		60/40		70/30		100/0	
		Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent
20	$1,170	$210	22	$345	42	$378	48	($810)	(41)
25	1,920	210	12	210	12	384	25	(810)	(30)
30	2,670	210	9	210	9	269	11	(810)	(23)
35	3,420	210	7	210	7	210	7	(1,272)	(27)
40	4,170	210	5	210	5	210	5	(1,922)	(32)
50	5,670	210	4	210	4	(252)	(4)	(3,222)	(36)
60	8,028	1,068	15	1,476	6	(304)	(4)	(3,664)	(31)
75	12,228	1,444	13	1,256	11	281	2	(3,918)	(24)
100	19,228	1,444	8	1,444	8	1,152	6	(4,668)	(19)

Source: CRS.

McDERMOTT-KLECZKA LEGISLATION CHANGES THE STRUCTURAL MARRIAGE TAX PENALTIES AND BONUSES: DOLLAR AND PERCENTAGE AMOUNTS BY WHICH JOINT INCOME TAX LIABILITIES EXCEED THOSE OF TWO SINGLES

[Marriage tax bonus shown in parenthesis]

Income levels ($000s)	Joint income tax liability	50/50		60/40		70/30		100/0	
		Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent
20	$960	.....	.....	$135	16	$108	13	($1,020)	(52)
25	1,710	.....	.....	.....	.....	174	11	(1,020)	(37)
30	2,460	.....	.....	.....	.....	59	2	(1,020)	(29)
35	3,210	.....	.....	.....	.....	.....	.....	(1,482)	(32)
40	3,960	.....	.....	.....	.....	.....	.....	(2,132)	(35)
50	5,460	.....	.....	.....	.....	(462)	(8)	(3,432)	(39)
60	7,636	$676	10	84	1	(696)	(8)	(4,058)	(35)
75	11,836	1,052	10	864	8	(111)	(1)	(4,310)	(27)
100	18,836	1,052	6	1,052	6	760	4	(5,060)	(21)

Source: CRS.

PERSONAL EXPLANATION

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. DIXON. Mr. Speaker, yesterday during Roll Call vote number 58 I inadvertently voted yea. I intended to vote nay.

RECOGNIZING THE UNIVERSITY OF MARY HARDIN-BAYLOR LADY CRUSADERS BASKETBALL TEAM

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. EDWARDS. Mr. Speaker, today I rise to recognize the University of Mary Hardin-Baylor Lady Crusaders of Belton, Texas for their determination in making it to the national women's basketball championship game.

After posting an impressive season record of 24–6, the Lady Crusaders entered the women's NAIA Division II National Tournament unseeded. Fighting their way through highly ranked teams to the finals, they challenged Walsh University of Ohio for the championship trophy Tuesday night.

Although they fell in the championship game, these young ladies combined effort, teamwork, dedication, and vision to fool the experts and outplay their opposition. The Lady Crusaders set several new tournament records and proved that the underdog should never be counted out.

I ask you to join me in acknowledging the accomplishment of these outstanding athletes from my Texas Congressional District. Congratulations Lady Crusaders for a job well done.

TRIBUTE TO ANDREA GIBSON

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. THOMPSON. Mr. Speaker, it is an honor to stand here before you today and pay tribute to a courageous young person in my district. Ms. Andrea Gibson, a 11th-grader at Warren Central High School in Vicksburg, MS saved a 5-year-old from drowning on June 29th in a pool in Birmingham, Ala. Ms. Gibson was on vacation with her mother when she noticed a child staring fearfully into the pool calling his brother's name.

When Andrea heard the young boy call out for his brother, she quickly noticed that the child was at the bottom of the pool and proceeded to jump in. Once the boy was rescued from the pool, Andrea quickly performed CPR to revive the young man. Had it not been for the actions of Ms. Gibson, the life of a young child could have been in severe jeopardy or lost.

Mr. Speaker, my hat goes off to Ms. Gibson. At a time in our history where so many children are doing negative things, it is stories such as these where we need to take a look at our young people's positive actions and congratulate them on their valor and good judgement. Ms. Gibson is a very courageous young woman and I wish her the very best in her future endeavors.

TRIBUTE TO LAMAR HIGH SCHOOL GIRLS BASKETBALL CHAMPIONSHIP

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to recognize the outstanding accomplishment of the Colorado Class 4A State Girls Basketball Championship Team, the Savages of Lamar High School. The championship game of March 7, 1998 was the culmination of a perfect 25–0 season.

here are many reasons this victory is so special for the team which hails from Lamar, an agricultural town of 8400 proud people in Colorado's Fourth Congressional District. They are proud of the fact that two of these fine athletes, Britt Hartshorn and Diane Dittburner, have been named "All-Americans." They are proud of the fact that their team had the strength and fortitude to overcome a 10-point deficit in the second half of the championship game. They are proud of Coach Dennis Bruns, who started the girls' basketball team in 1975 and has devoted the subsequent 23 years to the girls' athletic and academic excellence. They are proud of the fact that the Savages have won 96 of their last 100 games. But what makes them most proud of all is that this team has done what no other has—win four consecutive state championships.

This victory is an inspiration to all in high school athletics who strive for excellence and achievement. What these girls, from the plains of Colorado, have shown to all of us is that great talent and ability span across the state, the great state of Colorado and I ask the Congress to join me in congratulating these tremendous high school athletes and their dedicated Coach.

TRIBUTE TO DR. JOHN DONOHOO

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. PORTMAN. Mr. Speaker, Georgetown, Ohio lost one of its finest last week: Dr. John Donohoo—known to his many friends, neighbors and patients simply as "Dr. John."

Dr. John was an old-fashioned family doctor in the finest American tradition. Throughout the 37 years he practiced medicine, if you happened to be sick, he came to your home. His fee was whatever the patient could afford; sometimes it was cash, other times it was a chicken or maybe some homegrown produce. There aren't many like him left.

A Georgetown native, he served in World War II as a medical technician before receiving his undergraduate and medical degrees from the University of Cincinnati. Dr. John dedicated a great deal of his time and leadership to the Brown County community. He served as a board member for Brown County Hospital; President of the Georgetown Exempted Village School District for nine years; and President of the Brown County Board of Health. He was also a member of the Georgetown Village Council; Chairman of the Brown County Courthouse Reconstruction Association; and an elder and choir member of the Georgetown Presbyterian Church. He loved horses and helped to found the Brown County Charity Horse Show, as well as owning and operating Donohoo Stable for 28 years.

Dr. John gave so much to so many throughout Brown County, but he will be missed the most by his family: his beloved wife of 55 years, Betty Donohoo; his children J. Michael Donohoo, Deborah Durbin and Dr. Jeffrey Donohoo; his mother Mary Donohoo; and his four grandchildren.

Mr. Speaker, Dr. John Donohoo represented the highest ideals of the medical profession. Throughout his life, he worked to make his community a better place to live. I salute his many contributions and offer my deepest sympathy to his family and many friends.

CONGRATULATIONS TO REGINA MORRISSEY

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. WEYGAND. Mr. Speaker, I rise today to congratulate Miss Regina Morrissey on the occasion of her 90th birthday, which she will celebrate on March 27, 1998. Miss Morrissey was born in Providence, Rhode Island on March 27, 1908 and has resided most of her life in New Bedford, Massachusetts.

Miss Morrissey is a graduate of New Bedford High School. She received her college degree from Hyannis State Teachers College on Cape Cod. For 32 years Miss Morrissey taught elementary school in both the Fairhaven and New Bedford school systems. To hundreds of former pupils, she is known simply as "Aunt Reggie".

Miss Morrissey is a communicant of Saint James Catholic Church, is a member of New Bedford Women's Club, serving as the Chairman of Publicity, a member of the Executive Board, and the Committee for the Blind. She is a member of the Catholic Women's Club, the Saint James Women's Club, and the Saint James Senior Citizen's club. Miss Morrissey worked for many years on the Greater New Bedford Concert Series.

Throughout her life, Miss Morrissey has been an inspiration to her students, her community, and her large extended family. I ask my colleagues to join me in wishing Miss Morrissey a very Happy Birthday, and congratulate her on her first 90 years.

IN HONOR OF MR. CARL VAIL OF SOUTHOLD, LONG ISLAND, NY

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. FORBES. Mr. Speaker, rare is the occasion when one person so defines the character of a place, but I stand here today reflecting on just such a man, Mr. Carl Vail, of Southold, Long Island, New York. A man of great dignity and integrity, someone who held dear his Long Island home and served his country with special distinction, Carl Vail was someone that made you feel proud to be an American. That is why it is with great sadness that I inform my colleagues in the U.S. House of Representatives of the passing of Car Vail, at 102 years of age, on Thursday, March 12, 1998.

Born on August 12, 1895, Carl Vail lived his life as a reflection of the view that our national and familial legacy are gifts to nurture and pass on to our sons and daughters. The Vails are one of Long Island's and America's longest reigning families, having served and protected this land since the early 1700's. A Vail has fought in nearly every American conflict since the French and Indian War. Just last year, Car discovered that he was a descendant of Christopher Vail who fought in the Revolutionary War. His own son Everett flew B–24s in World War II and his seven grandsons served during the Vietnam conflict.

That tradition of service and patriotism ran deep in Carl Vail, who left the family's Southold farm to join the U.S. Army in December of 1917 and served his country in World War I. Carl was wounded in combat a month before the war ended after an enemy mustard-gas attack in France's Argonne Forest. Due to lost paperwork and a modest regard for his own heroic service to our country, Carl did not receive his Purple Heart until 1982. Until he passed away, Carl Vail was one of two dozen surviving World War I veterans living in Suffolk County.

After courageously serving his country, Carl returned to Southold, where he and his brother started a Hupmobile franchise, the beginning of an automobile sales business that lasted nearly 70 years. Generations of East Enders purchased their cars from Vail Brothers in Southold, Vail Motors in Riverhead and Seavale Motors in Southampton, dealerships that sold 20 different makes of cars, from Packards to Hudsons to Model T Fords.

I am proud to have come to know Carl during my service as a Member of the Congress representing Brookhaven, Smithtown and the five East End towns of Suffolk County. Born and raised in the same East End community, I can tell you that Carl Vail was the epitome of Eastern Long Island: friendly, proud, independent-minded and loyal to the core of this place to which the Vail family was such an integral part.

Carl Vail was a spirited man who cared about our community and participated in it to the last hours of his 102 years. May God bless and keep him. He will be sorely missed by all who knew him and all who so dearly love the East End.

[From Newsday, Mar. 17, 1998]

CARL VAIL, WWI VETERAN, DIES

(By George DeWan)

The Vail family name is one of Long Island's oldest, and a Vail has fought in most of America's wars going back to the French and Indian War in the mid-1700s.

On Thursday, Carl Vail of Southold, who was gassed as an infantryman in France in World War I and was one of about two dozen surviving World War I veterans in Suffolk County, died at 102. He passed away at the Veterans Affairs Medical Center in Northport after an eight-month illness.

Vail was best known on the East End for the automobile dealerships he founded: Vail Brothers Inc. in Southold, Vail Motor Corp. in Riverhead and Seavale Motors in Southampton. He had sold 20 makes of cars—including Packard, Willys, Nash, Hudson, Maxwell and Model T Ford—and became one of the top dealers in eastern Suffolk.

Born in Peconic on Aug. 12, 1895, Vail was 22 when he was drafted in 1917. He was a farmer at the time, but was in love with the water. "I wanted to get in the Navy," he said in an interview with Newsday last year. "They said they'd take me only as a ship's cook." He didn't want to be a cook, so he went to the draft board in December, 1917.

Vail was a member of the Army's 77th, known as the Rainbow Division, which trained at Camp Upton in Brookhaven. He was hospitalized after an enemy mustard-gas attack in France's Argonne Forest in early October, 1918, a month before the war ended. After a number of governmental paperwork snafus, he was awarded the Purple Heart in 1982.

"My son, Everett, was a B–24 pilot in World War II," he has said. "He did 35 missions over Germany, and came home without a scratch. During the Vietnam War, I had seven grandsons in the service." Vail learned only last year that he was a descendant of Revolutionary War soldier Christopher Vail.

Vail first learned to drive in a 1905 Pierce Arrow, and cars became a hobby, then a business. In 1919, he and his brother got a Hupmobile franchise, the beginning of an automobile sales business that grew and grew, lasting until 1983, when he retired at 88.

"In '27 I bought an acre of potato land for $8,000," he said. "We built a garage, and I built up a $100,000 business in a little town."

"When World II started, most car dealers went out of business," Vail's grandson, Carl III, said yesterday. "He went out and bought a lot of cars. He once told me he was either going to go bankrupt or make a lot of money. After the war, he had a lot of cars, and he made a lot of money."

Vail helped found chapters of the American Legion in Mattituck and Southold. He was a life member of Eastern Long Island Hospital, a member of the Southold Universalist Church, the Southold Rotary Club and the East End Surf and Fishing Club.

Vail is survived by three children: Mary Hart of Southold, Virginia Bard of New York City and C. Everett Vail of Malabar, Fla.

Cremation was private. A memorial service will be held 3 p.m. Sunday, May 3, at the Universalist Church in Southold.

IN RECOGNITION OF BOOKS FOR KIDS

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. QUINN. Mr. Speaker, I rise today to bring to the attention of my colleagues a very special program underway in my district, Books For Kids.

Now entering its fourth year, Books for Kids aims to collect 70,000 new or nearly new books for children ages 2–12 who have never owned a book of their own or who cannot afford to buy one.

As stated by Dr. Elizabeth Cappella, a confunder of Books for Kids, this program was established to help those children who can benefit the most by developing an early love of reading. That early love of reading can help them gain a major foundation for successful learning and living.

The Books for Kids drive has grown from an idea initiated in 1995 with the cooperation of The Buffalo News, United Way of Buffalo and Erie County, the Buffalo and Erie County Public Library, the Junior League of Buffalo, Inc., Buffalo State College's Project Flight and the 30th Congressional District to a successful community wide effort to promote literacy.

Mr. Speaker, today I would like to join with the entire Western New York community, to announce the start of the 1998 Books for Kids drive. I encourage my colleagues to join in similar programs in their Congressional Districts and strive to provide Books for Kids.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. KIND. Mr. Speaker, next week this body will consider campaign finance reform. After a year and a half of work on this issue, by myself and many other members of Congress, I am hopeful that the result of our work is a meaningful bill that gets the big money out of the electoral process. I am afraid, however, that we may not see true reform.

An editorial in Saturday's New York Times may have foreshadowed the result of next week. "In order to quell a rebellion by Democrats and reform-minded Republicans, House Speaker Newt Gingrich promised that there would be a vote by the end of March on campaign finance reform. Now that the deadline is approaching, Mr. Gingrich is working hard to make sure the vote is rigged to come out the way he wants."

Mr. Speaker, I hope the New York Times is wrong. I hope that next week you will respond to the call of the public to fix our broken campaign finance system. I hope that next week we will finally have a chance to deliver true reform of our system and restore the public's faith in our democracy. Mr. Speaker, please don't let the people of my district down.

VOLUNTEERISM BY THE MERLE REED UNIT OF DELANO, CALIFORNIA

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. DOOLEY of California. Mr. Speaker, I rise today to recognize and honor the work of the American Legion Auxiliary Unit #124, the Merle Reed Unit of Delano, California, for their remarkable and outstanding community service in the 20th District of California on October 25, 1997, "Make a Difference" Day in Delano truly did make a substantive difference in the lives and well-being of the people of Delano. Thirty-five members of the Merle Reed Unit worked that day on seven different projects designed to benefit the community in a wide range of ways.

They volunteered during the local Red Ribbon Week, promoting drug free awareness throughout the community. They collected yard sale items worth approximately $4,280 to sell at their "Spring Day", the proceeds of which will be donated to the Salvation Army and local church organizations. The Unit ran a canned food drive for the Holidays, recycled 583 pounds of bottles to benefit Veterans projects, and ran a comprehensive clean-up of the Auxiliary Post Hall, beautifying both the interior and exterior of the community center. Visits to the sick, local hospital volunteering and a joint luncheon for local Post Boys and Girls State participants rounded out an extremely beneficial day of service.

I commend the members of the Merle Reed Unit for their excellent commitment to bettering the community and the lives of those who live in it through public service, and am proud to be able to make this statement to honor just one of the many outstanding examples of service done everyday throughout this nation. I hope their fellow citizens will recognize the great work that the American Legion Auxiliary Unit had done, and continues to do, for the community, and will follow their admirable example.

REMARKS OF HIS EMINENCE BERNARD CARDINAL LAW ON CUBA

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. McGOVERN. Mr. Speaker, I would like to share with my colleagues the remarks of His Eminence Bernard Cardinal Law, Archbishop of Boston, on Friday, March 13, 1998. Cardinal Law participated as a speaker in a conference co-sponsored by the Inter-American Dialogue, the Weatherhead Center for International Affairs, and the David Rockefeller Center for Latin American Studies of Harvard University.

AMERICAN ACADEMY OF ARTS AND SCIENCES TALK ON CUBA, MARCH 13, 1998, BY BERNARD CARDINAL LAW

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 an 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 it 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 than 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 a 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 out dated 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 closets 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?

HEALTH CARE CLAIMS GUIDANCE ACT

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. McCOLLUM. Mr. Speaker, today I join my colleague from Massachusetts, Mr. DELAHUNT, in introducing the Health Care Claims Guidance Act. This legislation recognizes that, in our zeal to crack down on health care fraud and abuse, we must be careful not to throw our nets so wide that we ensnare honest providers who are making inadvertent billing mistakes. Ensuring that health care providers comply with all federal, state and local laws and regulations is, and always has been, a priority. At the same time, we should not carelessly paint all health care billing mistakes as billing fraud.

Many hospitals and other health care providers have received demand letters from the

offices of U.S. Attorneys asserting that the provider may be guilty of fraudulent billing and threatening the imposition of treble damages plus $5,000 to $10,000 per claim under the False Claims Act unless a quick settlement is reached. In some cases, demand letters have been sent based on alleged overbilling of less than $100. In one case, a demand letter was sent to a hospital for overbilling in the amount of $8.79 on a single claim over a one year period.

The most innocent of providers often feel forced to settle these claims instead of facing the prospect of an automatic $10,000 fine for a small disputed amount. Even if a provider could clearly prove their innocence and show that these claims resulted from innocent clerical error, they would be likely to settle the case rather than incur large legal costs. The numbers speak for themselves. In fiscal year 1997, there were 4,010 federal civil health care fraud matters pending but only 89 cases resulted in the actual filing of a civil complaint. The large majority were settled.

Considering that providers are faced with a federal health care payment system of more than 1,700 pages of law and over 1,200 pages of regulations interpreting those laws, as well as thousands of additional pages of instruction, it is inevitable that human error will occur and that erroneous claims will be submitted. Every day, providers submit over 200,000 federal health care claims, adding up to 73 million claims per year. Considering the sheer volume and complexity of such claims, it is unreasonable to view every single billing mistake as fraud that merits the threat of the severest civil sanctions.

Mr. Speaker, the Health Care Claims Guidance Act provides a clear and simple way of distinguishing between those claims that are fraudulent and those claims that result from human error. The bill establishes a deminimus threshold requiring that the amount of damages in dispute be a material amount for an action brought under the False Claims Act. The deminimus threshold would be established by the Secretary of Health and Human Services. This requirement would protect against the use of the False Claims Act for small, erroneous billings which likely result from human error.

In addition, the legislation would provide safe harbors for reliance on government advice or written policies. There is no better example of fundamental unfairness than when a private party relies on government advice but is then threatened with court action for having done so. The Health Care Claims Guidance Act would also provide safe harbors for claims that are in substantial compliance with model compliance plans. Affirmative defenses would be established for these situations.

It is clearly in the public's interest for parties to work together to prevent health care billing mistakes from occurring. Providers should actively seek out trouble spots and quickly flag problems to government agencies. At the same time, in order to further the goal of compliance, federal agencies which administer federal health care programs should be encouraged to assist providers in the early detection and correction of practices which may result in a disputed claim. By encouraging such self-policing, providers and government agencies will be able to work together to root out problems quickly.

It is clear that there are organizations and individuals engaging in efforts to defraud the federal government and we must use all of the tools at our disposal to pursue and severely punish such willful violators. In fact, during consideration of the Health Insurance Portability and Accountability Act during the last Congress, the Crime Subcommittee worked on provisions to strengthen criminal health care fraud statutes. At the same time, there are honest providers doing their best to comply with complex health care rules and regulations who will make honest mistakes. The Health Care Claims Guidance Act provides clear guidance to ensure that the false claims of fraudulent actors are distinguished from the honest mistakes of innocent providers. I urge all my colleagues to support the Health Care Claims Guidance Act.

HONORING CANTOR BRUCE WETZLER OF CONGREGATION SHAAREY ZEDEK

HON. DEBBIE STABENOW

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Ms. STABENOW. Mr. Speaker. I wish to recognize the service of a very special individual, Cantor Bruce Wetzler of Congregation Shaarey Zedek in East Lansing. After 39 years, Canton Wetzler will be retiring.

Cantor Wetzler graduated from the Hebrew High School of Congregation Tikvoh Chadoshoh in New York City. He then attended Yeshivah University Cantorial Institute and the Jewish Theological Seminary, while studying music at both the New York School of Music and the Victor Stott Music Conservatory.

Since 1959, Canton Wetzler had dedicated his life to Congregation Shaarey Zedeck by serving as musical leader, teacher, community spokesperson, and spiritual advisory to people of all ages.

Most of all, through music, Cantor Wetzler has brought many people in East Lansing closer to God. Whether it is a weekly service or a personal experience like a wedding or a Bar or Bat Mizvah, Cantor Wetzler has offered his voice though song to many people through the years. With his guidance, families and individuals have gained a better understanding of loss and a better appreciation of joy.

Cantor Wetzler is a leader in the greater Lansing community, but his special dedication to his Congregation and religious belief has been unparalleled. I wish him the very best in his future endeavors and I know he will relish the additional time with his wife Miriam, his two daughters, and his two grandchildren.

AMENDMENT TO H.R. 10

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. BLILEY. Mr. Speaker, elsewhere in the CONGRESSIONAL RECORD today, an amendment in the nature of a substitute to H.R. 10, the Financial Services Act of 1998, was filed by James Leach on behalf of both the Banking Committee and the Commerce Committee.

This legislation is the culmination of 20 years of work, and represents our best opportunity to enact meaningful financial modernization and consumer protection this term. We have tried to work on a bipartisan basis where possible, and have enjoyed extensive input and involvement from affected businesses and consumer groups throughout the process. While everyone had to make compromises to move this bill forward, we have achieved our fundamental goals of functional regulation, increased competition on a level playing field, no expansion of taxpayer subsidies, and enhanced consumer protection and opportunities.

WOODROW WILSON MEMORIAL BRIDGE REPLACEMENT ACT

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. MORAN of Virginia. Mr. Speaker, today I rise to introduce legislation that would authorize full federal funding for the replacement of the Woodrow Wilson Memorial Bridge.

As many of my colleagues know, the present bridge is in a serious state of disrepair and is one of the worst traffic bottlenecks in the metropolitan region. It is also the most troubled link on the east coast interstate corridor. Designed to carry 70,000 cars and trucks per day the bridge now carries 175,000 vehicles per day. By the year 2020, Federal Highway Administration estimates a 67 percent increase in vehicle traffic with up to 300,000 vehicles per day crossing the bridge. The future capacity needs alone should make the construction of a new crossing urgent.

Coupled with the capacity concerns, however, is the rapidly deteriorating condition of the present bridge. Federal and state highway engineers have determined that the useful life of the present bridge is less than six years. The underpinnings and supports of the bridge are literally crumbling into the Potomac River. The Federal Highway Administration has warned that at some point in the near future, it will need to restrict traffic on the bridge and would likely ban truck traffic for engineering and safety reasons.

While I would have favored replacing the present bridge with a tunnel, I recognize that there is not enough money in the federal highway program to support such a costly undertaking. There should, however, be sufficient funds for the Federal Government to meet its responsibility to pay for a replacement bridge. The bridge is owned by the Federal Government and will remain a federal liability until the funds are made available to replace it with a new bridge. At that time, the Commonwealth of Virginia, the District of Columbia and the State of Maryland are prepared to assume ownership and all future maintenance of this bridge through a multi-state authority.

I am deeply concerned that without a significant increase in the amount of federal funds

pledged to build a new bridge, no significant progress will be made. My proposal authorizes full federal funding for the replacement bridge, the connecting interchanges and approaches. It also seeks to address some of the concerns raised by the affected community that endure the current congestion and traffic and will suffer from a bridge construction project that may last up to nine years. The legislation, therefore also seeks to address their concerns by ensuring that there is:

(1) Progress on an additional southern Potomac River crossing, (2) a restriction on tolls, (3) a restriction on the width of the bridge, (4) a limitation on the total number of operational lanes, (5) a requirement that the final two lanes be reserved exclusively for High Occupancy Vehicle lanes and/or mass transit, and (6) an enforcement mechanism to ensure that both the State and Federal Governments honor the mitigation commitments outlined in the Record of Decision.

Mr. Speaker, I believe this legislation reflects a compromise on what must be done to get a replacement bridge built.

PERSONAL EXPLANATION

HON. BILL REDMOND

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. REDMOND. Mr. Speaker, I was absent from the floor, from Wednesday, March 11, through Friday, March 13 because I was attending my daughter's graduation from the Defense Languages Institute in Monterey, California.

What follows is a list of the votes I missed and how I would have voted had I been here:

Roll call #43 (H. Res. 383)—yes.

Roll call #44 (amendment to H.R. 1432)—no.

Roll call #45 (amendment to H.R. 1432)—yes.

Roll call #46 (amendment to H.R. 1432)—no.

Roll call #47 (final passage of H.R. 1432)—yes.

Roll call #48 (H. Res. 384)—yes.

Roll call #49 (Journal)—yes.

Roll call #50 (H.R. 2883)—yes.

Roll call #51 (amendment to H.R. 992)—no.

Roll call #52 (final passage of H.R. 992)—yes.

TRIBUTE TO MR. AND MRS. FERDINAND AND CARRIE HATFIELD PEARSON

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1998

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Ferdinand and Carrie Hatfield Pearson of Clarendon County, South Carolina, on the occasion of their fiftieth wedding anniversary.

The Pearsons were married on February 28, 1948, in Manning, South Carolina. Their marriage is the kind we all wish to experience, one which has trials and tribulations throughout the years and which grows even stronger and more committed with each one. The Pearson's marriage has produced six children: Jerome Pearson (deceased), Alfreda Pearson, Grace Pearson Waters, Cynthia Pearson Felder, Ferdinand Pearson, Jr., and Timothy Pearson.

Both Mr. and Mrs. Pearson are dedicated members of their community. Ferdinand Pearson is a very active and senior member in the political arena of Clarendon County, as well as with the National Association of Colored People (NAACP) and the American Legion Post. Mr. Pearson has proven to be a model citizen both at home and abroad. Carrie Hatfield Pearson is a senior member of the Eastern Stars, as well as the Jordan Community Club and several churches. Her priorities have indicated a wealth of inner strength and charisma. Ms. Pearson puts God first, and she supports her family's needs and hopes as she helps to guide them through the phases of life. She is always attentive to the ways in which the community can be improved, and she encourages the youth to strive for excellence and high self-esteem.

Please join me in warmly wishing Mr. and Mrs. Pearson a very happy fiftieth anniversary, and in congratulating them for the inspiring example which they set for all of us.