United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRES, SECOND SESSION

SENATE—*Tuesday, April 21, 1998*

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

The PRESIDENT pro tempore. Today our prayer will be offered by the guest Chaplain, Dr. Carl F. Schultz, Jr., First Church of Christ Congregational, Glastonbury, CT.

We are glad to have you with us.

PRAYER

The guest Chaplain, Dr. Carl F. Schultz, Jr., offered the following prayer:

Oh God, Scripture reminds us that those who wait upon You shall renew their strength; they shall walk and not faint. In the confidence of that glorious promise, we wait upon You in prayer with joy and thanksgiving.

O Creator God, we thank You for the gift of this new day. We thank You for the gift of life, full of potential and promise. We thank You for the beauty we see all about us these spring days, as nature comes alive at Your call.

O God of hope, help us to live sustained by Your hope. O God of love, empower us so that our deeds mirror Your love and compassion. O God of wisdom, may our decisions reflect Your truth.

Gracious God, bless each Senator this day, each staff member, each person who serves in this place. Guide, guard, protect, and nudge them to be open to Your spirit.

O God, pour Your power on Your people, that each of us might see ever more clearly what You require, that we might live justly, love mercy and kindness, and walk humbly with You and with one another, till at last justice rolls down like water and righteousness like an ever-flowing stream. Shalom. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. SMITH of Oregon. Mr. President, on behalf of the majority leader, I wish to announce that today at 9:40 a.m. the Senate will resume consideration of S. 414, the ocean shipping reform bill. Under a previous unanimous consent agreement, there will be 20 minutes of debate remaining on the Gorton amendment No. 2287 which is pending to the shipping bill. At 10 a.m., the Senate will proceed to two stacked rollcall votes. The first vote will be on or in relation to the Gorton amendment, followed by a vote on the motion to table the Kennedy amendment No. 2289 to the Coverdell education bill.

Further, the Senate will stand in recess between the hours of 12:30 and 2:15 for the weekly party caucuses. When the Senate reconvenes at 2:15, under a previous unanimous consent agreement, there will be two stacked rollcall votes. The first vote will be on or in relation to the Glenn amendment No. 2017, followed by a vote on or in relation to the Mack-D'Amato amendment No. 2288. Following those votes, Senators should expect further votes throughout Tuesday's session as Members offer and debate their amendments to the Coverdell education bill.

I thank my colleagues for their attention. I thank the Chair.

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

The PRESIDENT pro tempore. The clerk will call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to speak as if in morning business.

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

SHIPPING REFORM

Mrs. HUTCHISON. Mr. President, I am going to take the 2 or 3 minutes we have before we begin the debate on the Gorton amendment just to familiarize my colleagues with the bill that is before us, the Ocean Shipping Reform Act of 1998, and give an overview of the bill.

This is something that I think has been a long time coming. What we are trying to do is open our ports and give our carriers and our shippers more of an opportunity to compete with foreign competitors where they have been at a disadvantage in the past because our markets were so open that they were transparent in their contracts to the extent that many shippers would go to foreign carriers in order to escape the requirement to have so much openness and on the other hand carriers would be able to compete at a disadvantage to our shippers because they knew everything about a contract and they could undercut that contract.

So it has not been a good situation. Particularly our ports that are near Canada or are near Mexico have felt a loss of business because of the competition from the foreign carriers. What we are trying to do is level the playing field for American shippers, American carriers, and try to help American ports get more of the business, which we think, of course, would create more jobs for our port cities.

So what we tried to do was balance the interests. We want transparency. We want openness. But we also want to allow the privacy of contracting to the extent that shippers and carriers can make contracts which they ought to be able to do privately, and as long as everything is open in competition it should be an open marketplace.

I would not say this is a perfect bill. Certainly nothing we ever pass is just the way we would pass it if we alone wrote it. But we are not alone. We have 100 Members. We have a Commerce Committee that debated this bill, that worked on it for a long time. In fact, we have been working on it for 2 years, and it has been a compromise bill. But I think everyone will be better off as a result of this effort.

I appreciate the support of the Commerce Committee. It has been a major achievement for the Commerce Committee. I appreciate the work of Senator LOTT, our majority leader, who is very interested in this matter. I appreciate the work of Senator GORTON and Senator BREAUX, both of whom have

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

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worked very diligently to try to hone the balance in this bill.

Senator GORTON has an amendment. There was one part of the bill that he felt needed changing. So he is going to debate that amendment. I think the bill should pass as it is because I think the balancing has been done.

So with that, I will yield the floor. I know we have a unanimous consent agreement that at 9:40 we will begin the debate on the Gorton amendment. And Senator BREAUX will be arguing on the other side for the committee.

Thank you, Mr. President.

OCEAN SHIPPING REFORM ACT OF 1997

The PRESIDING OFFICER. Under the previous order, the hour of 9:40 a.m. having arrived, the Senate will now resume consideration of S. 414, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 414) to amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States imports and exports, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Hutchison amendment No. 1689, in the nature of a substitute.

Gorton amendment No. 2287 (to amendment No. 1689) to provide rules for the application of the act to intermediaries.

AMENDMENT NO. 2287

The PRESIDING OFFICER. There will now be 20 minutes of debate prior to the vote on or in relation to the Gorton amendment No. 2287.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

PRIVILEGE OF THE FLOOR

Mr. GORTON. Mr. President, I ask unanimous consent to allow a Commerce Committee staffer, Jim Sartucci, the privilege of the floor during the remainder of the debate on this bill.

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

Mr. GORTON. I also ask unanimous consent that my own assistant, Jeanne Bumpus, be granted the privilege of the floor.

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

Mr. GORTON. Mr. President, the 1984 Shipping Act significantly brought openness and competition into the field of ocean shipping, a field dominated for decades by cartels, by fixed prices, by underhanded competition, and by, very frequently, the victimization of those who ship their goods by sea.

This 1998 set of amendments to the Shipping Act further opens up the process to competition and allows the business of ocean shipping to operate far more like most of the rest of the free market in the United States, with one exception. If you are a large shipper of goods by sea, sophisticated, a major customer, you deal directly with the ocean carrier, and those relationships with the ocean carrier are made much more flexible, much more subject to competition, by this bill.

If, on the other hand, you are a modest shipper, a small or medium-sized shipper, perhaps someone new to the business of exporting your goods from the United States of America, you don't, as a general practice, deal directly with the ocean carrier, you deal with a middleman, a consolidator, a freight forwarder. That small businessman in the various ports of the United States gathers together shipments to the same place from a number of different shippers and makes the arrangements with the ocean carrier.

As this bill was debated and reported from the Committee on Commerce, it treated both of these groups in an identical fashion. Each got the benefits of the bill; each got the benefits of competition.

Somewhere, however, between the Commerce Committee and the floor, the big boys got together behind closed doors, and a combination of the ocean carriers and the longshoremen's unions, working with a handful of Senators, determined that the small business people would not get these advantages, that they would continue to have to operate, under most circumstances, under the requirements of the 1984 act.

Under the 1984 act, they were treated identically. If this bill passes without my amendment, they will no longer be treated identically. The small shipper will be discriminated against. The small businessman who is a freight forwarder will be discriminated against. The big guys will get away with something.

It is curious, Mr. President, that neither the small shippers nor the freight forwarders were included in the negotiations that led to the revised bill, the substantive bill that is before us, as against the bill that came out of the Commerce Committee. The big boys got together, shafted the small business people on both sides, and now present this bill to you with the statement, "Take it or leave it; it's tough, but we've made a deal with the longshoremen's unions because they think that they may not get some of the business from these small businessmen, and you're just simply going to have to take it that way."

I don't think that is the way the laws ought to be made. I don't think that is the way we ought to deal as Senators. We make wonderful speeches at home, all of us, about the sanctity of small business, but here we are asked to discriminate against small business and in favor of big business.

If we adopt my amendment, we will simply put this bill back into the same condition in which it found itself when it was reported by the Commerce Committee—everyone treated equally, everyone the beneficiary of a freer market than we have at the present time—and we will have done our duty to all of our constituents and not just to those who are able to afford expensive lobbyists in Washington, DC.

The bill, in its present form, is unfair to small businesses. It discriminates against small businesses. The bill as reported from the Commerce Committee did not do so. We should restore provisions that the Commerce Committee saw fit to include in the bill.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Thank you, Mr. President.

I would imagine that all Members of the Senate who are vitally interested in this legislation must be here this morning to follow these very complicated, very detailed arguments. This, indeed, is incredibly complicated. It just always continues to amaze me how complicated some of these international shipping agreements can become. It is part of the reason why it took 4 years to put together this legislation. This is not something that just came to the floor overnight but is the result of 4 years of painful negotiating and compromise among people who ship packages and cargo, people who carry packages and cargo internationally.

Mr. President, 96 percent of our cargoes carried internationally are on shipping vessels. It also has involved, to a large extent, the people who put together packages for people to ship in order to make it more efficient than it has been in the past.

Like all other compromises that normally are reached, everybody doesn't get everything they want. I think this legislation is an example of what a true compromise is. This legislation clearly is incredibly important because it further deregulates the shipping industry and makes it more competitive than it has been in the past.

But in reaching that compromise among all of the Senators who are involved, including Senator GORTON and Senator KAY BAILEY HUTCHISON, who has done such a terrific job as the chairman of our subcommittee, Senator LOTT's involvement, Senator INOUYE's involvement—everybody on the committee has been deeply involved on this very complicated issue, like I said, for 4 years.

Unfortunately, the amendment of the Senator from Washington is a killer amendment in the sense that if this amendment were to be adopted, the 4 years of hard work would go for naught. This bill would not be able to pass because the carefully crafted compromise would fall apart. As in most compromises, if you lose one part, you will lose the whole deal.

So it is very, very important for all of us who want to see a shipping act adopted and signed into law to recognize that it is necessary this morning to defeat the amendment of the Senator from Washington. I know it is well intended. I do not in any way question his motives in offering it, but I think that on the facts, there is a strong difference of opinion.

The non-vessel-operating common carriers, the so-called NVOCCs, are not actually in the business of carrying cargo at all. These organizations were formed in 1984 and recognized in 1984 in order to help very small shippers who would not ordinarily have enough cargo to fill an entire container, who would hire these NVOCCs to consolidate the cargo and put them in the container. But it is very, very clear that they are not a carrier, they don't own ships, they don't have the expense of having an entire shipping company at their disposal in building ships and operating ships and everything else.

Yet under the Gorton amendment, they would want to be treated just like a shipper would be treated and yet not have any of the expenses of a common carrier. That is wrong. That is why it was not done. It is wrong to say they are going to get special treatment and be treated just like an international shipping company with all of their expenses because in fact they are not so. Yet the Gorton amendment would basically accord these intermediary companies, who actually do not perform any transportation function itself, the same contractual rights that an ocean carrier enjoys, without any of the expense, without any of the liability, without any of the responsibility. That is simply not right, and it is not correct.

I submit that this is a hindrance to small business because the small NVOCCs could not do this. They do not have enough cargo to be able to provide these types of special deals. So the small NVOCCs would not be helped at all. What it would help basically is a large number of foreign NVOCCs, particularly from the European theater, who would be able to assimilate large enough amounts of cargo in order to participate under the Gorton amendment.

This would not help small intermediaries at all. They simply do not have the capacity to benefit from it. Small NVOCCs, by virtue of the modest cargoes that they handle, as I have said, would not be able to take advantage of the Gorton amendment. Only the big, huge megacompanies out of Europe and foreign companies who are our competition would be able to participate. America's small businesses, I think, do not deserve this type of treatment.

So I just conclude by saying, No. 1, it not fair to the small companies in America. It helps the larger ones basically in Europe; and that is not our responsibility. In addition to that, it is a killer amendment. The 4 years of hard work led by so many on this committee—including Senator GORTON, who has been, I think, very helpful in putting this package together; we differ on this one amendment—but the whole thing would go down the drain, and we would not have the moderate reform of the Shipping Act that I think is so important. I hope at the appropriate time those who are managing the legislation, Senator HUTCHISON and others, will make a motion to table the Gorton amendment. I intend to support that motion to table and hope that in fact it is tabled and we can go along and proceed to final passage in an expedited fashion.

Mr. President, we have been laboring long and hard over the past four years to reformulate, and further deregulate the ocean shipping industry. S. 414, the Ocean Shipping Reform Act, reflects an effort to compromise the sometimes dissimilar interests of the international ocean shipping industry, from the ocean carriers and shippers and shipping intermediaries to the interests of U.S. ports and port-related labor interests such as longshoremen and truckers. The effort to provide further deregulation has been difficult due to some of the unique characteristics of international liner shipping. Currently, every nation affords ocean liner shipping companies an exemption from the relevant antitrust or competition policies that regulate competition for domestic companies. Given the need to provide some regulatory oversight to protect against abuse of the grant of antitrust immunity, it has been difficult to balance the desire for further deregulation. However, I feel that we have reached a workable agreement which almost all parties can support.

It is safe to say that our ocean shipping industry affects all of us in the United States as currently 96% of our international trade is carried on board ships, but very few of us fully understand the ocean shipping industry. International ocean shipping is an over half a trillion dollar annual industry that is inextricably linked to our fortunes in international trade. It is a unique industry, in that international maritime trade is regulated by more than just the policies of the United States, in fact, it is regulated by every nation capable of accepting vessels that are navigated on the seven seas. It is a complex industry to understand because of the multinational nature of the trade, and its regulation is different from any of our domestic transportation industries such as trucking, rail, or aviation.

The ocean shipping industry provides the most open and pure form of trade in international transportation. For instance, trucks and railroads are only allowed to operate on a domestic basis, and foreign trucks and railroads are required to stop at border locations, with cargo for points further inland transported by U.S. firms. International aviation is subject to restrictions imposed as a result of bilateral trade agreements, that is, foreign airlines can only come into the United States if bilateral trade agreements provide access into the United States. However, international maritime trade is not restricted at all, and treaties of friendship, commerce, and navigation guarantee the right of vessels from anywhere in the world to deliver cargo to any point in the United States that is capable of accommodating the navigation of foreign vessels.

The Federal Maritime Commission ("FMC") is charged with regulating the international ocean shipping liner industry. The ocean shipping liner industry consists of those vessels that provide regularly scheduled services to U.S. ports from points abroad, in large part, the trade consists of containerized cargo that is capable of being moved on an international basis. The Federal Maritime Commission does not regulate the practices of ocean shipping vessels that are not on regularly scheduled services, such as vessels chartered to carry oil or chemicals, or bulk grain or coal carriers. One might ask why regulate the ocean liner industry, and not bulk shipping industry? The answer is that the ocean liner industry enjoys a worldwide exemption from the application of U.S. antitrust laws and foreign competition policies. Also, the ocean liner industry is required to provide a system of "common carriage," that is, our law requires carriers to provide service to any importer or exporter on a fair, and non-discriminatory basis.

The international ocean shipping liner industry is not a healthy industry, in general, it is riddled with trade distorting practices, chronic over-capacity, and fiercely competitive carriers. In fact, rates have plunged in the trans-pacific trade to the degree that importers and exporters are expressing concerns about the overall health of the shipping industry. The primary cause of liner shipping overcapacity is the presence of international policies designed to promote national-flag carriers and also to ensure strong shipbuilding capacity in the interest of national security. These policies include subsidies to purchase ships and to operate ships, tax advantages to lower costs, cargo reservation schemes, and national control of shipyards and shipping companies. This results in an industry which is not completely driven by economic objectives. For instance, one of the largest shipping companies in the world, China Overseas Shipping Company ("COSCO") is operated by the government of China, much in the way the U.S. government controls the Navy, however, the government of

China is not constrained by considerations that plague private sector companies.

Historically, ocean shipping liner companies attempted to combat "rate wars" that had developed because of the situation of over-capacity by establishing shipping conferences to coordinate the practices and pricing policies of liner shipping companies. The first shipping conference was established in 1875, but it was not until 1916 that the U.S. government reviewed the conference system. The Alexander Committee (named after the then-Chairman of the House Committee on Merchant Marine and Fisheries) recommended continuing the conference system in order to avoid ruinous "rate wars" and trade instability, but also determined that conference practices should be regulated to ensure that their practices did not adversely impact shippers. All other maritime nations allow shipping conferences to exist immune from the application of antitrust or competition laws, and presently no nation is considering changes to their shipping regulatory policies.

In the past, U.S. efforts to apply antitrust principles to the ocean shipping liner industry were met with great difficulty, since foreign governments objected to the application of U.S. antitrust laws to the business interests of their shipping companies, and to the exclusion of their own laws on competition policy. Many nations have enacted blocking statutes to expressly prevent the application of U.S. antitrust laws to the practices of their shipping companies. As a result of these blocking statutes, U.S. antitrust laws would only be able to reach U.S. companies and would destroy their ability to compete with foreign companies. With the difficulties in applying our antitrust laws, U.S. ocean shipping policy has endeavored to regulate ocean shipping practices to ensure both that the grant of antitrust immunity is not abused and that our regulatory structure does not contradict the regulatory practices of foreign nations.

The current regulatory statute that governs the practices of the ocean liner shipping industry, is the Shipping Act of 1984. The Shipping Act of 1984 was enacted in response to changing trends in the ocean shipping industry. The advent of intermodalism and containerization of cargo drastically changed the face of ocean shipping, and nearly all liner operations are now containerized. Prior to the Shipping Act of 1984, uncertainty existed as to whether intermodal agreements were within the scope of antitrust immunity granted to carriers. In addition, carrier agreements were subject to lengthy regulatory scrutiny under a public interest-type of standard. Dissatisfaction with the regulatory structure led to hearings and legislative review in the late 1970s and early 1980s. In the wake of passage of legislation deregulating the trucking and railroad industry, deregulation of the ocean shipping industry was accomplished with the enactment of the Shipping Act of 1984.

The Shipping Act of 1984 continues antitrust immunity for agreements unless the FMC seeks an injunction against any agreement it finds "is likely, by a reduction of competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost." The Act also clarifies that agreements can be filed covering intermodal movements, thus allowing ocean carriers to more fully coordinate ocean shipping services with shore-side services and surface transportation. One can easily measure the success of this provision, in examining the number of railroad double stack services, a rail service that was actually pioneered by U.S.-flag shipping companies, that have promulgated since the enactment of the Shipping Act of 1984.

The Shipping Act of 1984 attempts to harmonize the twin objectives of facilitating an efficient ocean transportation system while controlling the potential abuses and disadvantages inherent in the conference system. The Act maintains the requirement that all carriers publish tariffs and provide rates and services to all shippers without unjust discrimination, thus continuing the obligations of common carriage. In order to provide shippers with a means of limiting conference power, the Shipping Act of 1984 made three major changes: (1) it allowed shippers to utilize service contracts, but required the essential terms of the contract to be filed and allowed similarly situated shippers the right to enter similar contracts; (2) it allowed shippers the right to set up shippers associations, in order to allow collective cargo interests to negotiate service contracts; and (3) it mandated that all conference carriers had the right to act independently of the conference in pricing or service options upon ten days' notice to the conference.

Amendments to the Merchant Marine Act, 1920, and the passage of the Foreign Shipping Practices Act of 1988, strengthened the FMC's oversight of foreign shipping practices and the practices of foreign governments that adversely impact conditions facing U.S. carriers and shippers in foreign trade. The FMC effectively utilized its trade authorities last year to challenge restrictive port practices in Japan, and after a tense showdown, convinced the Japanese to alter their practices that restrict the opportunity of carriers to operate their own marine terminals. The changes that will be required to be implemented under this agreement will save consumers of imports and exporters trading to Japan, millions of dollars, and the FMC deserves praise for hanging tough in what was undeniably a tense situation.

Ten years later, after the enactment of the Shipping Act of 1984, we started anew on the process of providing a deregulated shipping environment to allow our shippers to become more competitive in international trade, and to provide more contractual flexibility to our ocean shipping companies. After four years of stops and starts, I think that we have reached a point where nearly all sectors of the maritime transportation community can get behind a common proposal for change. It has not been easy to balance the different interest involved in this legislation because of the competing differences of each of their needs, but I think that we have had each of the different sectors willing to give up a little of what they hoped to get in order to move the bill forward, and I would congratulate the private sector representatives for their willingness to compromise to move the process forward.

The Ocean Shipping Reform Act moves forward to provide further deregulation to the ocean shipping industry, while at the same time, balancing the need for a degree of oversight given the continued provision of immunity from antitrust laws. The bill will not alter the structure of the FMC. The FMC is a small independent agency with an annual appropriation of $15 million which oversees over one half a trillion dollars of trade. It is important to note, that the agency's status of independence allows it to effectively fulfill its trade opening related functions without interference from other sorts of considerations. We had considered the possibility of merging the functions of the Federal Maritime Commission and the Surface Transportation Board, but ultimately concluded that the combination of the two agencies did not save the taxpayer anything because the agencies would have no real overlap of responsibility.

One of the major problems in moving forward with legislative change in this area was the need to provide additional service contract flexibility and confidentiality, while balancing the need to continue oversight of contract practices to ensure against anti-competitive practices immunized from our antitrust laws. I think the contracting proposal embodied in S. 414 adequately balances these competing considerations. The bill transfers the requirements of providing service and price information to the private sector, and will allow the private sector to perform functions that had heretofore been provided by the government. The bill broadens the authority of the FMC to provide statutory exemptions, and reforms the licensing and bonding requirements for ocean shipping intermediaries.

I have been contacted by Senators LAUTENBERG and MOYNIHAN about their

concerns for the freight forwarding community, and their desire to set mandatory or reasonable compensation for forwarding services provided under a shipping contract. While we were unable to provide a legal requirement for forwarder compensation, I would urge the FMC to continue to be vigilant to ensure that forwarders and forwarding expertise is not jeopardized in this new and more deregulated environment. The forwarding community provides valuable expertise to the shipping community and I will continue to monitor the impacts of this legislation to ensure that it does not adversely impact forwarders. Additionally, we were able to provide less stringent report guidance about what sort of activity should be monitored by the FMC to ensure against unjust discrimination against shipping intermediaries at the request of Senator HARKIN, and I would like to thank him for his imput on this legislation.

Importantly, the bill does not change the structure of the Federal Maritime Commission. The FMC is a small agency with a annual budget of about 14 million dollars. When you subtract penalties and fines collected over the past seven years, the annual cost of agency operations is less than $7 million. All told, the agency is a bargain to the U.S. taxpayer as it oversees the shipping practices of over $500 billion in maritime trade. Added benefit to the U.S. public accrues when the FMC is able to break down trade barriers that cost importers and exporters millions in additional costs, such as what recently occurred when the FMC challenged restrictive Japanese port practices.

The FMC is an independent regulatory agency that is not accountable to the direction of the administration. Independency allows the FMC to maintain a more aggressive and objective posture when it comes to the consideration of eliminating foreign trade barriers. When we first assessed the issue of agency structure we considered appending the functions of the FMC to a new enlarged Surface Transportation Board ("STB"). However, the functions performed by the STB are quite different than the FMC functions that would remain after implementation of the deregulatory changes provided in S. 414 and the Congressional Budget Office did not estimate any savings through a merger approach. Additionally, the initial proposal to merge the functions of the FMC and the STB would have run afoul of the Appointments Clause of the Constitution. Ultimately, we decided to pursue solely the needed regulatory changes, and not needlessly alter the structure of the agency for no real purpose.

S. 414 also provides some additional protection to longshoremen who work at U.S. ports. The concerns expressed by U.S. ports and port-related labor interests revolved around reductions in the transparency afforded to shipping contracts, and the potential abuse that could occur as a result of carrier antitrust immune contract actions. In order to address the concerns of longshoremen who have contracts for longshore and stevedoring services, S. 414 sets up a mechanism to allow the longshoremen to request information relevant to the enforcement of collective bargaining agreements.

I would also like to thank Senators HUTCHISON, LOTT and GORTON for their efforts on this bill. Additionally, the following staffers spent many hours meeting with the affected members of the shipping public and listening to their concerns about our proposal and I would like to personally thank Jim Sartucci, Carl Bentzel, Clyde Hart, and Jim Drewry of the Commerce Committee staff, Carl Biersack of Senator LOTT's staff, Jeanne Bumpus of Senator GORTON's staff, Amy Henderson of Senator HUTCHISON's staff as well as my own staffers, Mark Ashby and Paul Deveau. It is my hope that our progress on ocean shipping will spill over to our efforts to implement the OECD Shipbuilding Trade Agreement, so we can move forward with another positive piece of legislation for the maritime industries.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, my friend from Louisiana makes a curious set of arguments. The single word he used most in his remarks was "compromise," that this provision is now the result of a compromise of 4 years' work. No; this provision is not the result of 4 years of work. This provision is the result of a discussion that took place after this bill was reported from the Commerce Committee, after all of the open public hearings and all the open discussion. And what kind of compromise was it? Well, it was a compromise between the big unions, the big carriers and maybe some of the big shippers. It isn't a compromise that involved its victims.

No representative of small shippers was in the room where this "compromise" was made. None of the small businessmen who were middlemen were in the room when this "compromise" was made. A curious compromise, I must say, when the victims were excluded from it, after having been a part of everything that went on for the 4 years of work on this bill up through and including its report from the Commerce Committee. No, this was not a compromise; this was a backroom deal, the worst kind of backroom deal.

The Senator from Louisiana says, "Carefully, carefully crafted." "Killer amendment." Strange. I don't see any dissent on the Commerce Committee, Republicans or Democrats, with the bill in its original form. How can it be a killer amendment?

Does the Senator from Louisiana mean that, if we pass this amendment, every Member of his party will then filibuster the bill? Simply because we have not done the will of the longshoremen's unions, they will give up competition and open shipping, lock, stock and barrel across the board? Well, if that is what he means—if that is what they mean, let them say so. It isn't going to kill the bill over here; and I do not think it will kill the bill over there.

What do outsiders say about it? Today's Journal of Commerce, the newspaper that deals with business, endorses this bill. It says:

> Today, the Senate is expected to approve a bill that boosts competition and makes it easier for shipping lines and their customers to operate.
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> In one respect, however, this bill actually limits competition by denying freight consolidators—middlemen—full opportunity under the new law.
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> Lately, however, middlemen have become an important export conduit and even a threat to the status quo. Not surprisingly, it was the major shipping lines and labor unions that teamed up to deny to consolidators private contracting privileges.

In other words, they have given themselves the ability to do business in a way they now want to deny to others in the same business. The only difference is the people who made this "compromise" are big and the ones who are victimized are small.

This amendment is consistent with the philosophy of the bill. It was included in the bill in every stage to this point. It is backed by everyone who deals with this issue objectively. It will not kill the bill, unless there are 41 Members here who will simply vote to kill the bill on behalf of one small set of labor unions who want a monopoly. And I do not think that will happen.

We should do the right thing and pass the amendment.

Mr. President, I ask unanimous consent to have the article in the Journal of Commerce, which is dated April 21, 1998; a statement in support by the Transportation Intermediaries Association, dated April 20, 1998; and a letter from the New York/New Jersey Foreign Freight Forwarders and Brokers Association, Inc., dated April 20, 1998, printed in the RECORD.

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

[From the Journal of Commerce, April 21, 1998]

SHIP DEREGULATION PROMISE

After three years of tortured debate, a congressional bid to curb regulation of the ocean shipping business is at a critical stage. Today, the Senate is expected to approve a bill that boosts competition and makes it easier for shipping lines and their customers to operate.

In one respect, however, this bill actually limits competition by denying freight consolidators—middlemen—full opportunity under the new law. Even with this blight, the bill deserves support. But Senators should be aware of its tainted nature and the culprits who shaped it, and revisit it later to fix its shortcomings.

The shipping bill scheduled for debate today lets ocean carriers and their customers, for the first time, negotiate direct, confidential contracts—without influence from the cartels that define this business. Thus, parties in the maritime industry would enjoy the same contracting privileges as other buyers and sellers of transportation.

With one important exception.

The bill does not let ocean freight consolidators—companies that pool small export shipments, then buy space aboard ships—sign private contracts with their customers. Confidential contracting is important to carriers and shippers because it allows them to negotiate deals free from competitors' prying eyes. If consolidators—or non-vessel-operating common carriers—do not have the same right, they could have trouble keeping customers and striking good deals.

At the time of the 1984 Shipping Act, freight consolidators were not a major industry force. Lately, however, middlemen have become an important export conduit and even a threat to the status quo. Not surprisingly, it was the major shipping lines and labor unions that teamed up to deny to consolidators private contracting privileges.

The unions are predictably doing whatever they can to hurt non-union companies. Ocean carriers take a more subtle tack, arguing that companies that don't have ships shouldn't have the same privileges as those that do.

Ultimately the carriers' arguments are just as self-serving as the unions'. Low-overhead middlemen are an important part of many industries, brokering deals, arbitraging markets and holding down prices. This sometimes exerts price pressure on higher cost operators; in this case, shipping lines. The carriers hope to deny consolidators private contracting rights to curb a competitive threat. That is wrong.

To correct this problem, Sen. Slade Gorton, R-Wash., will offer an amendment today that extends private contracting to freight consolidators. It doesn't stand much of a chance, however. Why? Because supporters say the shipping bill is a delicate compromise that could blow apart if the careful balance between carriers, shippers, ports and labor is disturbed. Part of that balance is to hammer consolidators.

Distasteful as that is, the bill is still worth passing. The basic contracting freedoms it offers are simply too important to be delayed yet again. Fortunately, some consolidators may have a way around the bill's restrictions. Shippers' associations—groups of shippers who pool their business to get better rates—have full contracting rights under the bill, so consolidators working with them may be able to sidestep the bill's restrictions.

Even so, the House should shine as much light as possible on this issue when it considers the bill, perhaps later this year. The "delicate compromise" argument likely will prevail there as well, but the issue still needs debating.

If the bill becomes law, lawmakers should look for a chance next year to fix the consolidator provision, a strategy the bill's chief sponsor, Sen. Kay Bailey Hutchison, R-Texas, hinted at earlier this month. If deregulation is to yield real benefits, everyone must have the same right to compete, not just those who wield the biggest sticks.

SUPPORT GORTON AMENDMENT TO S. 414, THE OCEAN SHIPPING REFORM ACT OF 1998

The Transportation Intermediaries Association (TIA) urges you to support Senator Slade Gorton's amendment to the Ocean Shipping Reform Act of 1998. *Passage of the Gorton amendment April 21 is essential to permit the benefits of deregulation to flow to small business as well as large business.*

The Ocean Shipping Reform Act of 1998 requires NVOCCs (transportation intermediaries) to publish tariffs and does not permit them to deviate from those tariffs in confidential contracts. The bill does, however, permit the ocean carriers to deviate from tariffs by entering into confidential contracts. The Gorton amendment will permit both carriers and transportation intermediaries to offer confidential contracts to shippers.

This issue is important, because while large shippers can enter into direct negotiations with ocean carriers, small shippers usually deal with transportation intermediaries to arrange for their transportation. S. 414 as it is currently written will permit large shippers to know what their small competitors pay for ocean freight, while the small competitor will not know what the large shipper is paying. *The benefits of deregulation in S. 414, therefore, will flow only to big business!* Senator Gorton's amendment will permit all shippers to benefit from ocean carrier deregulation through the right to confidential contracting for ocean freight transportation.

Transportation intermediaries have the ability to enter into confidential contracts with their shipper customers and with motor carriers, railroads, and airlines. Forwarders based in other countries can enter into confidential contracts for ocean carriage anywhere in the world except to or from the U.S. *It is baffling why the Senate would treat U.S. ocean carriage differently than other modes of transportation and ocean carriage everywhere else in the world. It will be American small businesses that suffer because of this distinction.*

TIA is the leading organization of North American transportation intermediaries. TIA is the only organization representing transportation intermediaries of all disciplines. The members of TIA include: international forwarders, NVOCCs, property brokers, domestic freight forwarders, air forwarders, intermodal marketing companies, perishable commodity brokers, and logistics management companies. TIA also provides management services for the American International Freight Association (AIFA), a leading organization of NVOCCs. AIFA is the U.S. representative of FIATA, an international organization of more than 30,000 freight forwarders.

For further information, contact TIA's Government Affairs Manager Ed Mortimer at (703) 329-1895. *Show your support for small business. Vote "YES" for the Gorton amendment.*

NEW YORK/NEW JERSEY FOREIGN FREIGHT FORWARDERS AND BROKERS, ASSOCIATION, INC.,

April 20, 1998.

Hon. BOB GRAHAM,
U.S. Senator, Senate Office Building, Washington, DC.

Re: S. 414: The "Gorton Amendment"—Votes YES for Small Business and US Exports

DEAR SENATOR GRAHAM: On Tuesday morning S. 414 will come before the Senate and Senator Slade Gorton will offer an amendment on behalf of small exporters and shippers. Members of the New York/New Jersey Foreign Freight Forwarders & Brokers Association, Inc. encourage you to vote YES on the Gorton Amendment and help make the Ocean Shipping Reform Act true "reform" for small business and US exports.

S. 414 is about international trade. The Gorton Amendment is about whether the small guy is going to benefit from this legislation or suffer as a result of special interests. Voting YES on the Gorton Amendment will help to protect in the global commerce of the 21st Century the 70% of U.S. exports that small shippers produce. The Gorton Amendment helps ensure that the small shipper and business will be able to compete by enabling the freight consolidator (NVOCC), who works on behalf of smaller shippers, to sign confidential contracts with the shipper-client. Without the Gorton Amendment, large multi-national companies, that don't use NVOCCs, would be able to sign confidential contracts with the steamship companies—but since the NVOCCs would not be able to sign contracts with their shipper-clients, small business' transportation costs will NOT be confidential—unlike their larger competitors. This is not reform.

The ironic twist to this debate is that the Senate Commerce Committee initially recommended that NVOCCs be able to sign contacts with shippers—but longshore labor and some carriers used the legislative process to advance their dislike for consolidators—and small shippers. As it stands now, S. 414 would please labor, large shippers and carriers, and place the small shipper at a severe disadvantage and impede the entry of small business in the global marketplace. The question is simple: Do you support small business? The Gorton Amendment helps to right the wrong done to small shippers. We urge you to support small business and vote YES of on the Gorton Amendment.

Very truly yours,

LOUIS POLICASTRO,
Vice President, Export Committee.

Mr. BREAUX. Mr. President, I would just, as we move toward a vote on this measure, make one other comment, and that is that it is very clear that there is a great deal of support for the current bill that is on the floor. And there is pretty much across-the-board opposition to the amendment that Senator GORTON is offering. And it is across the board in the sense that it is opposed by all segments of the industry.

I want to have printed in the RECORD, and ask unanimous consent to do so, a letter addressed to myself in opposition to the Gorton amendment.

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

SUPPORTERS OF S. 414.

Arlington, VA, March 11, 1998.

Re Opposition to Senator Gorton Amendment.

Hon. JOHN B. BREAUX,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BREAUX: We wish to convey to you our full support for the managers' floor amendment for S. 414, The Ocean Shipping Reform Act of 1998, without additional

amendments. It represents a carefully crafted compromise serving a broad cross section of the maritime industry including importers/exporters, ports, carriers, and labor.

We understand that Senator Slade Gorton plans to offer an amendment to S. 414 managers floor amendment that would alter current law and allow non-vessel operating common carriers (NVOCCs) to offer confidential service contracts directly to the proprietary owners of the cargo. Some interests have argued that the retention of current law would disadvantage smaller volume shippers who might utilize NVOCC's in order to obtain competitive rates with larger volume shippers.

However, the perceived benefits that smaller shippers might receive from the ability of NVOCCs to enter into service contracts with their customers is largely misunderstood. Under current law, NVOCCs are allowed to enter into service contracts with carriers and this can generate a significant cost savings that is passed onto shippers. This would not change under the latest version of S. 414. NVOCC's would however benefit from the provisions allowing confidentiality of certain terms in their contracts with carriers. Smaller volume shippers would also have the option to consolidate their cargoes by joining shippers associations who may then negotiate lower rates as larger volume shippers.

Therefore, we urge you to oppose the Gorton amendment. This amendment is unnecessary and would kill legislation which has been carefully constructed by the bill's sponsors to make U.S. ocean shipping law compatible with the rest of the transportation industry and which will benefit the U.S. economy.

Sincerely,

American Association of Port Authorities; APL, Limited; Council of European and Japanese Shipowners' Associations; Crowley Maritime Corporation; Internal Longshoremen's Association; International Longshoremen's & Warehousemen's Union; The Chamber of Shipping of America; The National Industrial Transportation League; Sea-Land Service, Inc.; Transportation Trades Department, AFL-CIO.

Mr. BREAUX. The letter basically says that:

We understand that Senator Slade Gorton plans to offer an amendment . . . that would alter current law and allow non-vessel operating common carriers (NVOCCs) to offer confidential service contracts directly to the proprietary owners of the cargo. Some interests have argued that the retention of current law would disadvantage smaller volume shippers who might utilize [the non-vessel operating common carriers] in order to obtain competitive rates with larger volume shippers.

They point out:

However, the perceived benefits that smaller shippers might receive from the ability of NVOCCs to enter into service contracts with their customers is largely misunderstood. Under current law, NVOCCs are allowed to enter into service contracts with carriers and this can generate a significant cost savings that is passed onto shippers. This would not change under the latest version of S. 414. NVOCCs would however benefit from the provisions allowing confidentiality of certain terms in their contracts with carriers. Smaller volume shippers would also have the option to consolidate their cargoes by joining shippers associations who may then negotiate lower rates as larger volume shippers.

The point is pretty clear that this group opposes the amendment of the Senator from Washington. I would like to list for the RECORD the ones who have signed this letter because it indeed is significant, and that is across-the-board opposition.

It is signed by the American Association of Port Authorities; by American President Lines, Limited; by the Council of European and Japanese Shipowners' Associations; by the Crowley Maritime Corporation, a major shipping company; the International Longshoremen's Association; by The Chamber of Shipping of America; by The National Industrial Transportation League; by Sea-Land Service, one of the largest carriers in the world; by the Transportation Trades Department of the AFL-CIO.

So whether you are talking about the workers who handle the cargo, or by the port authorities who have the cargo shipped through their ports, or by the ship carriers who are actually carrying the cargo, it is pretty unanimous agreement that this is not the right thing to do.

Let us support the compromise. Everything in that compromise is a positive step forward. It may not be as much as some would want, but it is far better than the current law. It allows some more decontrol, allows some more deregulation, more competition. And that is good. But it is simply unfair to say to people who have no responsibility for owning ships or the expense of running ships that they are going to allow them to have the same advantages as a shipping company does. It simply would break the balance in this industry, which I think is very important to preserve.

I think the bill is a good bill. It took 4 years to get us to this point. These compromises were not entered into behind the scenes, but were debated on a regular basis among all the active participants. This is a good bill. It should be passed. The Gorton amendment should be tabled.

The PRESIDING OFFICER. All time has expired. Under the previous order, the question is on the Gorton amendment.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Washington.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "aye."

The result was announced—yeas 72, nays 25, as follows:

[Rollcall Vote No. 85 Leg.]

YEAS—72

Abraham	Durbin	Levin
Akaka	Faircloth	Lieberman
Ashcroft	Feingold	Lott
Baucus	Feinstein	Lugar
Biden	Ford	Mack
Bingaman	Frist	Mikulski
Bond	Glenn	Moseley-Braun
Boxer	Graham	Murray
Breaux	Gregg	Reed
Bryan	Hagel	Reid
Bumpers	Harkin	Robb
Campbell	Hatch	Rockefeller
Chafee	Hollings	Roth
Cleland	Hutchison	Santorum
Cochran	Inhofe	Sarbanes
Collins	Johnson	Shelby
Conrad	Kempthorne	Snowe
Coverdell	Kennedy	Specter
Craig	Kerrey	Thompson
D'Amato	Kerry	Thurmond
Daschle	Kohl	Torricelli
DeWine	Landrieu	Warner
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden

NAYS—25

Allard	Grams	Nickles
Brownback	Grassley	Roberts
Burns	Helms	Sessions
Byrd	Hutchinson	Smith (NH)
Coats	Jeffords	Smith (OR)
Domenici	Kyl	Stevens
Enzi	McCain	Thomas
Gorton	McConnell	
Gramm	Murkowski	

NOT VOTING—3

Bennett	Inouye	Moynihan

The motion to lay on the table the amendment (No. 2287) was agreed to.

Mrs. HUTCHISON. Mr. President, I move to reconsider the vote.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. ASHCROFT. On rollcall vote 85, I voted no. It was my intention to vote yea. Therefore, I ask unanimous consent I be permitted to have a change of my vote reflected in the RECORD. It in no way changes the outcome of the vote. I did not note it was a motion to table rather than the substance of the amendment.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. HOLLINGS. Mr. President, I rise in support of the Hutchison, Lott, and Breaux amendment to S. 414. This amendment reflects a fair and reasoned compromise among the various interests affected by the bill. While I am no

great fan of deregulation, I do believe that it is necessary to balance the interests affected by the bill in order not to adversely impact or destroy any particular sector. I am particularly pleased that the amendment preserves the Federal Maritime Commission (FMC) as an independent agency to oversee our waterborne foreign commerce.

As introduced and reported out of Committee, S. 414 would have merged the FMC and Surface Transportation Board (STB) into a new entity to be known as the Intermodal Transportation Board (ITB), placed within the Department of Transportation (DOT). The Hutchison, Lott, and Breaux amendment alleviates several problems with this approach.

In the first place, there are no overlaps in jurisdiction or functions between the FMC and the STB that in any way hamper effective regulation. There are simply no significant synergies between the FMC's mandate to protect U.S. international ocean commerce and the STB's responsibilities with respect to domestic railroad mergers, rate regulation, and the like. Moreover, given the two vastly different constituencies and the two entirely different systems of regulation, there would have been a continuing struggle to determine priorities and to allocate scarce resources within a merged agency. Lastly, even though there might be some marginal savings in administrative expenses from such a merger, these would be offset by the more substantial costs of combining and relocating the two agencies. I understand that when the FMC was required by the General Services Administration to relocate in 1992, the moving costs to the government were $1 million.

The Congressional Budget Office (CBO) has determined that if the two agencies were merged, the "ongoing costs to carry out the new board's responsibilities would be about the same as those incurred by the FMC and the STB under current law." Clearly then, the combining of these two agencies could not be justified by any cost savings that would accrue to the government.

I would also note that during the ocean shipping reform process, the vast majority of the commenters have supported an independent, free-standing agency to oversee our waterborne foreign commerce. Those sentiments were initially expressed by the South Carolina State Ports Authority and have subsequently been endorsed by many others. This includes the three U.S. shipping companies who otherwise supported the bill but stated that "the Federal Maritime Commission has done a superb job," and "[o]ur strong preference would be to preserve the agency's structure as an independent agency." Others who joined in support of an independent FMC include: the International Longshoremen's and Warehousemen's Union; the Transportation Trades Department, AFL–CIO; the National Customs Brokers & Forwarders Association of America, Inc.; the NY/NJ Foreign Freight Forwarders and Brokers Association; the Council of European and Japanese National Shipowners' Association; and the American Association of Port Authorities, as well as many individual port authorities. Further, it is my understanding that the coalition supporting this amendment supports, in toto, the retention of the FMC in its present form. A change in the agency's structure could serve to fracture that fragile coalition of support for the amendment.

Another reason I support the amendment is that merging the FMC into the STB would have sent the wrong message to our trading partners—i.e., that the new agency would be constrained from taking direct and immediate action against unfair foreign shipping practices. The FMC has been able to effectively combat unfair trading practices of foreign governments largely because of its status as an independent agency. The agency has an international reputation for aggressively and swiftly addressing restrictive shipping practices without the threat of diplomatic interference or retaliation in other sectors. In fact, I would hope that some of our other trade agencies could learn a thing or two from the FMC. Both the Department of State and DOT regularly cite the FMC's independence to persuade foreign governments that maritime issues must be addressed directly and expeditiously. In fact, Admiral Herberger, former Administrator of the Maritime Administration (MarAd), testified before the House Appropriations Subcommittee that the FMC's independent status has been critical to MarAd's success in negotiations with foreign governments. Also, in his August 5, 1997, letter to the Japanese Ministry of Transport, Secretary of Transportation Rodney Slater cited the FMC's authority to impose sanctions while urging Japan to reform its port practices.

The agency's recent actions against Japanese port restrictions are a perfect example of its successful accomplishments. The agency took decisive action to address Japanese intransigence on easing restrictions which impede the operations of U.S. carriers. As an independent agency, the FMC did not have to overcome the hurdles or various pressures imposed by other Executive branch departments within the Administration that have competing interests. And this body, by a 100 to zero vote, in S. Res. 140, endorsed the action taken by the FMC to respond to the unfair practices of Japan.

Supporting this amendment and the FMC ensures that the agency's effectiveness will not be impeded, and sends the right message to our trading partners: that the U.S. Congress endorses an aggressive stance against foreign-imposed restrictions on open competition in shipping.

I would further note that by retaining the FMC as an independent agency, the amendment alleviates the concern of some that merging the FMC and STB into a new entity could violate the Appointments Clause of the Constitution, U.S. Const. Art. II, § 2, cl. 2, to the extent that STB members would be accruing new responsibilities unrelated to those for which they were appointed and confirmed, and could accordingly subject the new agency to challenges that it is not legally constituted.

The amendment offered by Senators HUTCHISON, LOTT, and BREAUX corrects a major and potentially disastrous flaw in S. 414. I support this amendment enthusiastically.

(At the request of Mr. DASCHLE the following statement was ordered to be printed in the RECORD.)

• Mr. INOUYE. Mr. President, I would like to join my colleagues in support of the Hutchison amendment to S. 414, the Ocean Shipping Reform Act of 1998. I believe that this amendment further improves upon the bill as reported out of the Commerce Committee and takes into account and alleviates many of the concerns raised by interested parties who may be affected by the bill. As is true with all compromises, you cannot please everybody. Nonetheless, I believe this amendment represents a workable solution to the regulation of our waterborne foreign commerce and should serve us well for many years to come. I would like to commend my Chairwoman, Senator HUTCHISON, for her effort in moving this bill forward, and also thank Senators BREAUX, LOTT, and GORTON for their invaluable imput into the process.

I am pleased to note that the bill preserves antitrust immunity for the conference system which has been an integral part of our ocean transportation regime since 1916. While it may be best for everyone if the antitrust laws were applicable on a global basis, it is unrealistic to believe that we could achieve a global recognition of the value and utility of the Sherman Act. However, the Shipping Acts of 1916 and 1984 balanced the inability to apply our antitirust laws to foreign corporations, with a realistic approach allowing us to operate in comity with international shipping regulatory practices, and the need to protect our citizens from potential abuses brought on by a lack of antitrust law enforcement.

This bill, however, makes several changes to the conference system to make it more "user-friendly" for its shipper customers. For example, the bill requires shipping conferences to allow their members to offer rates that

are different than those of the conference—so-called "independent action." As a result, individual conference carriers can offer their own service contracts unimpeded by conference action. I am further pleased that the notice requirement for all independent action has been reduced from 10 business days to five calendar days. This will ensure that independently negotiated rates or service contracts will quickly become effective. I also support the prohibition against conferences requiring their members to disclose service contract negotiations.

The bill as reported out of committee treated all service contracts equally. Subsequently, there were several attempts to develop a bifurcated treatment for service contracts, with one set of rules governing carrier agreement service contracts and another dealing with individual carrier contracts. I am pleased that the current amendment returns to a version more closely resembling that which was reported out of committee and, more importantly, treating all service contracts the same. While there was some merit to the bifurcated treatment approach, it may have been very difficult to have implemented in practice.

The amendment will require that all service contracts be filed confidentially with the Commission, that they contain certain essential terms, and that a limited number of those terms be published and made available to the general public. I believe that this compromise represents the best approach to service contracting. It allows carriers and shippers a certain degree of confidentiality with respect to the bargains they have struck, while at the same time informing the general public of the types of arrangements being made for certain commodities, for certain minimum volumes, in specific trade lanes. I also believe that the continued filing of the actual contracts with the Federal Maritime Commission ("FMC") will enable it to monitor them and take appropriate action if necessary. It will also help the U.S. port community in monitoring trade developments and reacting accordingly.

Like many of you, I am particularly pleased to see that the amendment maintains the FMC as an independent agency overseeing the ocean transportation industry. The Commission has time and again proven its worth in administering Congress' system of regulation and combating unfair foreign shipping practices, most recently in Japan. And the Senate unanimously backed the FMC in its action to address the unfair practices of Japan in passing S. Res. 140. The Commission has developed considerable expertise in implementing the Shipping Act of 1984. It will now be able to bring this expertise to bear on the new era of ocean shipping reform engendered by this bill.

Another aspect of this bill that is particularly commendable is the new provision dealing with the disclosure of certain terms of service contracts to labor organizations. A labor organization which is party to a collective bargaining agreement that includes an ocean common carrier now has a mechanism for obtaining information concerning movements of cargo within port areas and the assignment of certain work within those areas. It is my understanding that this type of information is especially relevant to labor organizations and this bill should ensure that they will have easy access to it. This information will enable them to make sure that the terms of their collective bargaining agreement are complied with.

This amendment, in my opinion, achieves a balance in S. 414 which provides the best possible compromise among the broad array of interests in shipping. It has not been easy to balance the many disseparate interests involved, but I think that we have reached an approach which accomodates many of these interests. It fosters one of the bill's primary goals of stimulating U.S. exports through a more efficient and market-reliant ocean transportation system. It provides for a more effective system of industry oversight, regulating where we need to and not regulating where we do not. And it keeps the FMC as an independent agency, unfettered by political or other influences as it performs its critical international trade functions. I support this amendment, and urge my colleagues to do the same.●

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will read S. 414 for the third time.

The legislative clerk read as follows:

A bill (S. 414) to amend the Shipping Act of 1984 to encourage competition and international shipping and growth of United States imports and exports.

The PRESIDING OFFICER. Under the previous order, the bill is passed.

The bill (S. 414), as amended, was passed, as follows:

S. 414

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 "Ocean Shipping Reform Act of 1998".

SEC. 2. EFFECTIVE DATE.

Except as otherwise expressly provided in this Act, this Act and the amendments made by this Act take effect May 1, 1999.

TITLE I—AMENDMENTS TO THE SHIPPING ACT OF 1984

SEC. 101. PURPOSE.

Section 2 of the Shipping Act of 1984 (46 U.S.C. App. 1701) is amended by—

(1) striking "and" after the semicolon in paragraph (2);

(2) striking "needs." in paragraph (3) and inserting "needs; and";

(3) adding at the end thereof the following:

"(4) to promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.".

SEC. 102. DEFINITIONS.

Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended by—

(1) striking "the government under whose registry the vessels of the carrier operate;" in paragraph (8) and inserting "a government;";

(2) striking paragraph (9) and inserting the following:

"(9) 'deferred rebate' means a return by a common carrier of any portion of freight money to a shipper as a consideration for that shipper giving all, or any portion, of its shipments to that or any other common carrier over a fixed period of time, the payment of which is deferred beyond the completion of service for which it is paid, and is made only if the shipper has agreed to make a further shipment or shipments with that or any other common carrier.";

(3) striking paragraph (10) and redesignating paragraphs (11) through (27) as paragraphs (10) through (26);

(4) striking "in an unfinished or semi-finished state that require special handling moving in lot sizes too large for a container," in paragraph (10), as redesignated;

(5) striking "paper board in rolls, and paper in rolls." in paragraph (10) as redesignated and inserting "paper and paper board in rolls or in pallet or skid-sized sheets.";

(6) striking "conference, other than a service contract or contract based upon time-volume rates," in paragraph (13) as redesignated and inserting "agreement";

(7) striking "conference." in paragraph (13) as redesignated and inserting "agreement and the contract provides for a deferred rebate arrangement.";

(8) by striking "carrier." in paragraph (14) as redesignated and inserting "carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of title 49, United States Code.";

(9) striking paragraph (16) as redesignated and redesignating paragraphs (17) through (26) as redesignated as paragraphs (16) through (25), respectively;

(10) striking paragraph (17), as redesignated, and inserting the following:

"(17) 'ocean transportation intermediary' means an ocean freight forwarder or a non-vessel-operating common carrier. For purposes of this paragraph, the term—

"(A) 'ocean freight forwarder' means a person that—

"(i) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

"(ii) processes the documentation or performs related activities incident to those shipments; and

"(B) 'non-vessel-operating common carrier' means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.";

(11) striking paragraph (19), as redesignated and inserting the following:

"(19) 'service contract' means a written contract, other than a bill of lading or a receipt, between one or more shippers and an individual ocean common carrier or an agreement between or among ocean common carriers in which the shipper or shippers makes a commitment to provide a certain volume or portion of cargo over a fixed time

period, and the ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of nonperformance on the part of any party."; and

(12) striking paragraph (21), as redesignated, and inserting the following:

"(21) 'shipper' means—

"(A) a cargo owner;

"(B) the person for whose account the ocean transportation is provided;

"(C) the person to whom delivery is to be made;

"(D) a shippers' association; or

"(E) an ocean transportation intermediary, as defined in paragraph (17)(B) of this section, that accepts responsibility for payment of all charges applicable under the tariff or service contract.".

SEC. 103. AGREEMENTS WITHIN THE SCOPE OF THE ACT.

(a) OCEAN COMMON CARRIERS.—Section 4(a) of the Shipping Act of 1984 (46 U.S.C. App. 1703(a)) is amended by—

(1) striking "operators or non-vessel-operating common carriers;" in paragraph (5) and inserting "operators;";

(2) striking "and" in paragraph (6) and inserting "or"; and

(3) striking paragraph (7) and inserting the following:

"(7) discuss and agree on any matter related to service contracts.".

(b) MARINE TERMINAL OPERATORS.—Section 4(b) of that Act (46 U.S.C. App. 1703(b)) is amended by—

(1) striking "(to the extent the agreements involve ocean transportation in the foreign commerce of the United States)";

(2) striking "and" in paragraph (1) and inserting "or"; and

(3) striking "arrangements." in paragraph (2) and inserting "arrangements, to the extent that such agreements involve ocean transportation in the foreign commerce of the United States.".

SEC. 104. AGREEMENTS.

(a) IN GENERAL.—Section 5 of the Shipping Act of 1984 (46 U.S.C. App. 1704) is amended by—

(1) striking subsection (b)(8) and inserting the following:

"(8) provide that any member of the conference may take independent action on any rate or service item upon not more than 5 calendar days' notice to the conference and that, except for exempt commodities not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item;

(2) redesignating subsections (c) through (e) as subsections (d) through (f); and

(3) inserting after subsection (b) the following:

"(c) OCEAN COMMON CARRIER AGREEMENTS.—An ocean common carrier agreement may not—

"(1) prohibit or restrict a member or members of the agreement from engaging in negotiations for service contracts with 1 or more shippers;

"(2) require a member or members of the agreement to disclose a negotiation on a service contract, or the terms and conditions of a service contract, other than those terms or conditions required to be published under section 8(c)(3) of this Act; or

"(3) adopt mandatory rules or requirements affecting the right of an agreement member or agreement members to negotiate and enter into service contracts.

An agreement may provide authority to adopt voluntary guidelines relating to the terms and procedures of an agreement member's or agreement members' service contracts if the guidelines explicitly state the right of members of the agreement not to follow the guidelines. These guidelines shall be confidentially submitted to the Commission.".

(b) APPLICATION.—

(1) Subsection (e) of section 5 of that Act, as redesignated, is amended by striking "this Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do" and inserting "this Act does"; and

(2) Subsection (f) of section 5 of that Act, as redesignated, is amended by—

(A) striking "and the Shipping Act, 1916, do" and inserting "does";

(B) striking "or the Shipping Act, 1916,"; and

(C) inserting "or are essential terms of a service contract" after "tariff".

SEC. 105. EXEMPTION FROM ANTITRUST LAWS.

Section 7 of the Shipping Act of 1984 (46 U.S.C. App. 1706) is amended by—

(1) inserting "or publication" in paragraph (2) of subsection (a) after "filing";

(2) striking "or" at the end of subsection (b)(2);

(3) striking "States." at the end of subsection (b)(3) and inserting "States; or"; and

(4) adding at the end of subsection (b) the following:

"(4) to any loyalty contract.".

SEC. 106. TARIFFS.

(a) IN GENERAL.—Section 8(a) of the Shipping Act of 1984 (46 U.S.C. App. 1707(a)) is amended by—

(1) inserting "new assembled motor vehicles," after "scrap," in paragraph (1);

(2) striking "file with the Commission, and" in paragraph (1);

(3) striking "inspection," in paragraph (1) and inserting "inspection in an automated tariff system,";

(4) striking "tariff filings" in paragraph (1) and inserting "tariffs";

(5) striking "freight forwarder" in paragraph (1)(C) and inserting "transportation intermediary, as defined in section 3(17)(A),";

(6) striking "and" at the end of paragraph (1)(D);

(7) striking "loyalty contract," in paragraph (1)(E);

(8) striking "agreement." in paragraph (1)(E) and inserting "agreement; and";

(9) adding at the end of paragraph (1) the following:

"(F) include copies of any loyalty contract, omitting the shipper's name."; and

(10) striking paragraph (2) and inserting the following:

"(2) Tariffs shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations, and a reasonable charge may be assessed for such access. No charge may be assessed a Federal agency for such access.".

(b) SERVICE CONTRACTS.—Subsection (c) of that section is amended to read as follows:

"(c) SERVICE CONTRACTS.—

"(1) IN GENERAL.—An individual ocean common carrier or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of this Act. The exclusive remedy for a breach of a contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree. In no case may the contract dispute resolution forum be controlled by or in any way affiliated with a controlled carrier as defined in section 3(8) of this Act, or by the government which owns or controls the carrier.

"(2) FILING REQUIREMENTS.—Except for service contracts dealing with bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste, each contract entered into under this subsection by an individual ocean common carrier or an agreement shall be filed confidentially with the Commission. Each service contract shall include the following essential terms—

"(A) the origin and destination port ranges;

"(B) the origin and destination geographic areas in the case of through intermodal movements;

"(C) the commodity or commodities involved;

"(D) the minimum volume or portion;

"(E) the line-haul rate;

"(F) the duration;

"(G) service commitments; and

"(H) the liquidated damages for nonperformance, if any.

"(3) PUBLICATION OF CERTAIN TERMS.—When a service contract is filed confidentially with the Commission, a concise statement of the essential terms described in paragraphs 2 (A), (C), (D), and (F) shall be published and made available to the general public in tariff format.

"(4) DISCLOSURE OF CERTAIN TERMS.—

"(A) An ocean common carrier, which is a party to or is subject to the provisions of a collective bargaining agreement with a labor organization, shall, in response to a written request by such labor organization, state whether it is responsible for the following work at dock areas and within port areas in the United States with respect to cargo transportation under a service contract described in paragraph (1) of this subsection—

"(i) the movement of the shipper's cargo on a dock area or within the port area or to or from railroad cars on a dock area or within the port area;

"(ii) the assignment of intraport carriage of the shipper's cargo between areas on a dock or within the port area;

"(iii) the assignment of the carriage of the shipper's cargo between a container yard on a dock area or within the port area and a rail yard adjacent to such container yard; and

"(iv) the assignment of container freight station work and container maintenance and repair work performed at a dock area or within the port area.

"(B) The common carrier shall provide the information described in subparagraph (A) of this paragraph to the requesting labor organization within a reasonable period of time.

"(C) This paragraph requires the disclosure of information by an ocean common carrier only if there exists an applicable and otherwise lawful collective bargaining agreement which pertains to that carrier. No disclosure made by an ocean common carrier shall be deemed to be an admission or agreement that any work is covered by a collective bargaining agreement. Any dispute regarding whether any work is covered by a collective bargaining agreement and the responsibility of the ocean common carrier under such agreement shall be resolved solely in accordance with the dispute resolution procedures

contained in the collective bargaining agreement and the National Labor Relations Act, and without reference to this paragraph.

"(D) Nothing in this paragraph shall have any effect on the lawfulness or unlawfulness under this Act, the National Labor Relations Act, the Taft-Hartley Act, the Federal Trade Commission Act, the antitrust laws, or any other Federal or State law, or any revisions or amendments thereto, of any collective bargaining agreement or element thereof, including any element that constitutes an essential term of a service contract under this subsection.

"(E) For purposes of this paragraph the terms 'dock area' and 'within the port area' shall have the same meaning and scope as in the applicable collective bargaining agreement between the requesting labor organization and the carrier.".

(c) RATES.—Subsection (d) of that section is amended by—

(1) striking the subsection caption and inserting "(d) TARIFF RATES.—";

(2) striking "30 days after filing with the Commission." in the first sentence and inserting "30 calendar days after publication.";

(3) inserting "calendar" after "30" in the next sentence; and

(4) striking "publication and filing with the Commission." in the last sentence and inserting "publication.".

(d) REFUNDS.—Subsection (e) of that section is amended by—

(1) striking "tariff of a clerical or administrative nature or an error due to inadvertence" in paragraph (1) and inserting a comma; and

(2) striking "file a new tariff," in paragraph (1) and inserting "publish a new tariff, or an error in quoting a tariff,";

(3) striking "refund, filed a new tariff with the Commission" in paragraph (2) and inserting "refund for an error in a tariff or a failure to publish a tariff, published a new tariff";

(4) inserting "and" at the end of paragraph (2); and

(5) striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(e) MARINE TERMINAL OPERATOR SCHEDULES.—Subsection (f) of that section is amended to read as follows:

"(f) MARINE TERMINAL OPERATOR SCHEDULES.—A marine terminal operator may make available to the public, subject to section 10(d) of this Act, a schedule of rates, regulations, and practices pertaining to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public shall be enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions.".

(f) AUTOMATED TARIFF SYSTEM REQUIREMENTS; FORM.—Section 8 of that Act is amended by adding at the end the following:

"(g) REGULATIONS.—The Commission shall by regulation prescribe the requirements for the accessibility and accuracy of automated tariff systems established under this section. The Commission may, after periodic review, prohibit the use of any automated tariff system that fails to meet the requirements established under this section. The Commission may not require a common carrier to provide a remote terminal for access under subsection (a)(2). The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published.".

SEC. 107. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

Section 502 of the High Seas Driftnet Fisheries Enforcement Act (46 U.S.C. App. 1707a) is repealed.

SEC. 108. CONTROLLED CARRIERS.

Section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708) is amended by—

(1) striking "service contracts filed with the Commission" in the first sentence of subsection (a) and inserting "service contracts, or charge or assess rates,";

(2) striking "or maintain" in the first sentence of subsection (a) and inserting "maintain, or enforce";

(3) striking "disapprove" in the third sentence of subsection (a) and inserting "prohibit the publication or use of"; and

(4) striking "filed by a controlled carrier that have been rejected, suspended, or disapproved by the Commission" in the last sentence of subsection (a) and inserting "that have been suspended or prohibited by the Commission";

(5) striking "may take into account appropriate factors including, but not limited to, whether—" in subsection (b) and inserting "shall take into account whether the rates or charges which have been published or assessed or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs. For purposes of the preceding sentence, the term 'constructive costs' means the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade. The Commission may also take into account other appropriate factors, including but not limited to, whether—";

(6) striking paragraph (1) of subsection (b) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(7) striking "filed" in paragraph (1) as redesignated and inserting "published or assessed";

(8) striking "filing with the Commission." in subsection (c) and inserting "publication.";

(9) striking "DISAPPROVAL OF RATES.—" in subsection (d) and inserting "PROHIBITION OF RATES.—Within 120 days after the receipt of information requested by the Commission under this section, the Commission shall determine whether the rates, charges, classifications, rules, or regulations of a controlled carrier may be unjust and unreasonable.";

(10) striking "filed" in subsection (d) and inserting "published or assessed";

(11) striking "may issue" in subsection (d) and inserting "shall issue";

(12) striking "disapproved." in subsection (d) and inserting "prohibited.";

(13) striking "60" in subsection (d) and inserting "30";

(14) inserting "controlled" after "affected" in subsection (d);

(15) striking "file" in subsection (d) and inserting "publish";

(16) striking "disapproval" in subsection (e) and inserting "prohibition";

(17) inserting "or" after the semicolon in subsection (f)(1);

(18) striking paragraphs (2), (3), and (4) of subsection (f); and

(19) redesignating paragraph (5) of subsection (f) as paragraph (2).

SEC. 109. PROHIBITED ACTS.

(a) Section 10(b) of the Shipping Act of 1984 (46 U.S.C. App. 1709(b)) is amended by—

(1) striking paragraphs (1) through (3);

(2) redesignating paragraph (4) as paragraph (1);

(3) inserting after paragraph (1), as redesignated, the following:

"(2) provide service in the liner trade that—

"(A) is not in accordance with the rates, charges, classifications, rules, and practices contained in a tariff published or a service contract entered into under section 8 of this Act unless excepted or exempted under section 8(a)(1) or 16 of this Act; or

"(B) is under a tariff or service contract which has been suspended or prohibited by the Commission under section 9 of this Act or the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a);";

(4) redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively;

(5) striking "except for service contracts," in paragraph (4), as redesignated, and inserting "for service pursuant to a tariff,";

(6) striking "rates;" in paragraph (4)(A), as redesignated, and inserting "rates or charges;";

(7) inserting after paragraph (4), as redesignated, the following:

"(5) for service pursuant to a service contract, engage in any unfair or unjustly discriminatory practice in the matter of rates or charges with respect to any port;";

(8) redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively;

(9) striking paragraph (6) as redesignated and inserting the following:

"(6) use a vessel or vessels in a particular trade for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;";

(10) striking paragraphs (9) through (13) and inserting the following:

"(8) for service pursuant to a tariff, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage;

"(9) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any port;

"(10) unreasonably refuse to deal or negotiate;";

(11) redesignating paragraphs (14), (15), and (16) as paragraphs (11), (12), and (13), respectively;

(12) striking "a non-vessel-operating common carrier" in paragraphs (11) and (12) as redesignated and inserting "an ocean transportation intermediary";

(13) striking "sections 8 and 23" in paragraphs (11) and (12) as redesignated and inserting "sections 8 and 19";

(14) striking "or in which an ocean transportation intermediary is listed as an affiliate" in paragraph (12), as redesignated;

(15) striking "Act;" in paragraph (12), as redesignated, and inserting "Act, or with an affiliate of such ocean transportation intermediary;"

(16) striking "paragraph (16)" in the matter appearing after paragraph (13), as redesignated, and inserting "paragraph (13)"; and

(17) inserting "the Commission," after "United States," in such matter.

(b) Section 10(c) of the Shipping Act of 1984 (46 U.S.C. App. 1709(c)) is amended by—

(1) striking "non-ocean carriers" in paragraph (4) and inserting "non-ocean carriers, unless such negotiations and any resulting agreements are not in violation of the antitrust laws and are consistent with the purposes of this Act";

(2) striking "freight forwarder" in paragraph (5) and inserting "transportation

intermediary, as defined by section 3(17)(A) of this Act,";

(3) striking "or" at the end of paragraph (5);

(4) striking "contract." in paragraph (6) and inserting "contract;"; and

(5) adding at the end the following:

"(7) for service pursuant to a service contract, engage in any unjustly discriminatory practice in the matter of rates or charges with respect to any locality, port, or persons due to those persons' status as shippers' associations or ocean transportation intermediaries; or

"(8) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any locality, port, or persons due to those persons' status as shippers' associations or ocean transportation intermediaries;".

(c) Section 10(d) of the Shipping Act of 1984 (46 U.S.C. App. 1709(d)) is amended by—

(1) striking "freight forwarders," and inserting "transportation intermediaries,";

(2) striking "freight forwarder," in paragraph (1) and inserting "transportation intermediary,";

(3) striking "subsection (b)(11), (12), and (16)" and inserting "subsections (b)(10) and (13)"; and

(4) adding at the end thereof the following:

"(4) No marine terminal operator may give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person.

"(5) The prohibition in subsection (b)(13) of this section applies to ocean transportation intermediaries, as defined by section 3(17)(A) of this Act.".

SEC. 110. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.

Section 11(g) of the Shipping Act of 1984 (46 U.S.C. App. 1710(g)) is amended by—

(1) striking "section 10(b)(5) or (7)" and inserting "section 10(b)(3) or (6)"; and

(2) striking "section 10(b)(6)(A) or (B)" and inserting "section 10(b)(4)(A) or (B).".

SEC. 111. FOREIGN SHIPPING PRACTICES ACT OF 1988.

Section 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a) is amended by—

(1) striking "'non-vessel-operating common carrier'," in subsection (a)(1) and inserting "'ocean transportation intermediary',";

(2) striking "forwarding and" in subsection (a)(4);

(3) striking "non-vessel-operating common carrier" in subsection (a)(4) and inserting "ocean transportation intermediary services and";

(4) striking "freight forwarder," in subsections (c)(1) and (d)(1) and inserting "transportation intermediary,";

(5) striking "filed with the Commission," in subsection (e)(1)(B) and inserting "and service contracts,";

(6) inserting "and service contracts" after "tariffs" the second place it appears in subsection (e)(1)(B); and

(7) striking "(b)(5)" each place it appears in subsection (h) and inserting "(b)(6)".

SEC. 112. PENALTIES.

(a) Section 13(a) of the Shipping Act of 1984 (46 U.S.C. App. 1712(a)) is amended by adding at the end thereof the following: "The amount of any penalty imposed upon a common carrier under this subsection shall constitute a lien upon the vessels operated by that common carrier and any such vessel may be libeled therefore in the district court of the United States for the district in which it may be found.".

(b) Section 13(b) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)) is amended by—

(1) striking "section 10(b)(1), (2), (3), (4), or (8)" in paragraph (1) and inserting "section 10(b)(1), (2), or (7)";

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(3) inserting before paragraph (5), as redesignated, the following:

"(4) If the Commission finds, after notice and an opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Commission may request that the Secretary of the Treasury refuse or revoke any clearance required for a vessel operated by that common carrier. Upon request by the Commission, the Secretary of the Treasury shall, with respect to the vessel concerned, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).''; and

(4) striking "paragraphs (1), (2), and (3)" in paragraph (6), as redesignated, and inserting "paragraphs (1), (2), (3), and (4)".

(c) Section 13(f)(1) of the Shipping Act of 1984 (46 U.S.C. App. 1712(f)(1)) is amended by—

(1) striking "or (b)(4)" and inserting "or (b)(2)";

(2) striking "(b)(1), (4)" and inserting "(b)(1), (2)"; and

(3) adding at the end thereof the following "Neither the Commission nor any court shall order any person to pay the difference between the amount billed and agreed upon in writing with a common carrier or its agent and the amount set fourth in any tariff or service contract by that common carrier for the transportation service provided.".

SEC. 113. REPORTS AND CERTIFICATES.

Section 15 of the Shipping Act of 1984 (46 U.S.C. App. 1714) is amended by—

(1) striking "and certificates" in the section heading;

(2) striking "(a) REPORTS.—" in the subsection heading for subsection (a); and

(3) striking subsection (b).

SEC. 114. EXEMPTIONS.

Section 16 of the Shipping Act of 1984 (46 U.S.C. App. 1715) is amended by striking "substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce." and inserting "result in substantial reduction in competition or be detrimental to commerce.".

SEC. 115. AGENCY REPORTS AND ADVISORY COMMISSION.

Section 18 of the Shipping Act of 1984 (46 U.S.C. App. 1717) is repealed.

SEC. 116. OCEAN FREIGHT FORWARDERS.

Section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1718) is amended by—

(1) striking "freight forwarders" in the section caption and inserting "transportation intermediaries";

(2) striking subsection (a) and inserting the following:

"(a) LICENSE.—No person in the United States may act as an ocean transportation intermediary unless that person holds a license issued by the Commission. The Commission shall issue an intermediary's license to any person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.";

(3) redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(4) inserting after subsection (a) the following:

"(b) FINANCIAL RESPONSIBILITY.—

"(1) No person may act as an ocean transportation intermediary unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

"(2) A bond, insurance, or other surety obtained pursuant to this section—

"(A) shall be available to pay any order for reparation issued pursuant to section 11 or 14 of this Act, or any penalty assessed pursuant to section 13 of this Act;

"(B) may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities described in section 3(17) of this Act with the consent of the insured ocean transportation intermediary and subject to review by the surety company, or when the claim is deemed valid by the surety company after the ocean transportation intermediary has failed to respond to adequate notice to address the validity of the claim; and

"(C) shall be available to pay any judgment for damages against an ocean transportation intermediary arising from its transportation-related activities under section 3(17) of this Act, provided the claimant has first attempted to resolve the claim pursuant to subparagraph (B) of this paragraph and the claim has not been resolved within a reasonable period of time.

"(3) The Commission shall prescribe regulations for the purpose of protecting the interests of claimants, ocean transportation intermediaries, and surety companies with respect to the process of pursuing claims against ocean transportation intermediary bonds, insurance, or sureties through court judgments. The regulations shall provide that a judgment for monetary damages may not be enforced except to the extent that the damages claimed arise from the transportation-related activities of the insured ocean transportation intermediary, as defined by the Commission.

"(4) An ocean transportation intermediary not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.";

(5) striking, each place such term appears—

(A) "freight forwarder" and inserting "transportation intermediary";

(B) "a forwarder's" and inserting "an intermediary's";

(C) "forwarder" and inserting "intermediary"; and

(D) "forwarding" and inserting "intermediary";

(6) striking "a bond in accordance with subsection (a)(2)." in subsection (c), as redesignated, and inserting "a bond, proof of insurance, or other surety in accordance with subsection (b)(1).";

(7) striking "FORWARDERS.—" in the caption of subsection (e), as redesignated, and inserting "INTERMEDIARIES.—";

(8) striking "intermediary" the first place it appears in subsection (e)(1), as redesignated and as amended by paragraph (5)(A), and inserting "intermediary, as defined in section 3(17)(A) of this Act,";

(9) striking "license" in paragraph (1) of subsection (e), as redesignated, and inserting "license, if required by subsection (a),";

(10) striking paragraph (3) of subsection (e), as redesignated, and redesignating paragraph (4) as paragraph (3); and

(11) adding at the end of subsection (e), as redesignated, the following:

"(4) No conference or group of 2 or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to an ocean transportation intermediary, as defined in section 3(17)(A) of this Act, may—

"(A) deny to any member of the conference or group the right, upon notice of not more than 5 calendar days, to take independent action on any level of compensation paid to an ocean transportation intermediary, as so defined; or

"(B) agree to limit the payment of compensation to an ocean transportation intermediary, as so defined, to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a tariff and which are assessed against the cargo on which the intermediary services are provided.".

SEC. 117. CONTRACTS, AGREEMENTS, AND LICENSES UNDER PRIOR SHIPPING LEGISLATION.

Section 20 of the Shipping Act of 1984 (46 U.S.C. App. 1719) is amended by—

(1) striking subsection (d) and inserting the following:

"(d) EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.—All agreements, contracts, modifications, licenses, and exemptions previously issued, approved, or effective under the Shipping Act, 1916, or the Shipping Act of 1984, shall continue in force and effect as if issued or effective under this Act, as amended by the Ocean Shipping Reform Act of 1998, and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under this Act, as amended by the Ocean Shipping Reform Act of 1998.";

(2) inserting the following at the end of subsection (e):

"(3) The Ocean Shipping Reform Act of 1998 shall not affect any suit—

"(A) filed before the effective date of that Act; or

"(B) with respect to claims arising out of conduct engaged in before the effective date of that Act filed within 1 year after the effective date of that Act.

"(4) Regulations issued by the Federal Maritime Commission shall remain in force and effect where not inconsistent with this Act, as amended by the Ocean Shipping Reform Act of 1998.".

SEC. 118. SURETY FOR NON-VESSEL-OPERATING COMMON CARRIERS.

Section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721) is repealed.

TITLE II—AUTHORIZATION OF APPROPRIATIONS FOR THE FEDERAL MARITIME COMMISSION

SEC. 201. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1998.

There are authorized to be appropriated to the Federal Maritime Commission, $15,000,000 for fiscal year 1998.

SEC. 202. FEDERAL MARITIME COMMISSION ORGANIZATION.

Section 102(d) of Reorganization Plan No. 7 of 1961 (75 Stat. 840) is amended to read as follows:

"(d) A vacancy or vacancies in the membership of Commission shall not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the members serving on the Commission is required to dispose of any matter before the Commission.".

SEC. 203. REGULATIONS.

Not later than March 1, 1999, the Federal Maritime Commission shall prescribe final regulations to implement the changes made by this Act.

TITLE III—AMENDMENTS TO OTHER SHIPPING AND MARITIME LAWS

SEC. 301. AMENDMENTS TO SECTION 19 OF THE MERCHANT MARINE ACT, 1920.

(a) IN GENERAL.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876) is amended by—

(1) striking "forwarding and" in subsection (1)(b);

(2) striking "non-vessel-operating common carrier operations," in subsection (1)(b) and inserting "ocean transportation intermediary services and operations,";

(3) striking "methods or practices" and inserting "methods, pricing practices, or other practices" in subsection (1)(b);

(4) striking "tariffs of a common carrier" in subsection 7(d) and inserting "tariffs and service contracts of a common carrier";

(5) striking "use the tariffs of conferences" in subsections (7)(d) and (9)(b) and inserting "use tariffs of conferences and service contracts of agreements";

(6) striking "tariffs filed with the Commission" in subsection (9)(b) and inserting "tariffs and service contracts";

(7) striking "freight forwarder," each place it appears and inserting "transportation intermediary,"; and

(8) striking "tariff" each place it appears in subsection (11) and inserting "tariff or service contract".

(b) STYLISTIC CONFORMITY.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876), as amended by subsection (a), is further amended by—

(1) redesignating subdivisions (1) through (12) as subsections (a) through (l), respectively;

(2) redesignating subdivisions (a), (b), and (c) of subsection (a), as redesignated, as paragraphs (1), (2), and (3);

(3) redesignating subdivisions (a) through (d) of subsection (f), as redesignated, as paragraphs (1) through (4), respectively;

(4) redesignating subdivisions (a) through (e) of subsection (g), as redesignated, as paragraphs (1) through (5), respectively;

(5) redesignating clauses (i) and (ii) of subsection (g)(4), as redesignated, as subparagraphs (A) and (B), respectively;

(6) redesignating subdivisions (a) through (e) of subsection (i), as redesignated, as paragraphs (1) through (5), respectively;

(7) redesignating subdivisions (a) and (b) of subsection (j), as redesignated, as paragraphs (1) and (2), respectively;

(8) striking "subdivision (c) of paragraph (1)" in subsection (c), as redesignated, and inserting "subsection (a)(3)";

(9) striking "paragraph (2)" in subsection (c), as redesignated, and inserting "subsection (b)";

(10) striking "paragraph (1)(b)" each place it appears and inserting "subsection (a)(2)";

(11) striking "subdivision (b)," in subsection (g)(4), as redesignated, and inserting "paragraph (2),";

(12) striking "paragraph (9)(d)" in subsection (j)(1), as redesignated, and inserting "subsection (i)(4)"; and

(13) striking "paragraph (7)(d) or (9)(b)" in subsection (k), as redesignated, and inserting "subsection (g)(4) or (i)(2)".

SEC. 302. TECHNICAL CORRECTIONS.

(a) PUBLIC LAW 89–777.—Sections 2 and 3 of the Act of November 6, 1966 (46 U.S.C. App. 817d and 817e) are amended by striking "they in their discretion" each place it appears and inserting "it in its discretion".

(b) TARIFF ACT OF 1930.—Section 641(i) of the Tariff Act of 1930 (19 U.S.C. 1641) is repealed.

TITLE IV—MERCHANT MARINER BENEFITS

SEC. 401. MERCHANT MARINER BENEFITS.

(a) BENEFITS.—Part G of subtitle II, title 46, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 112—MERCHANT MARINER BENEFITS

"Sec.
"11201. Qualified service.
"11202. Documentation of qualified service.
"11203. Eligibility for certain veterans' benefits.
"11204. Processing fees.

"§ 11201. Qualified service

"For purposes of this chapter, a person engaged in qualified service if, between August 16, 1945, and December 31, 1946, the person—

"(1) was a member of the United States merchant marine (including the Army Transport Service and the Naval Transportation Service) serving as a crewmember of a vessel that was—

"(A) operated by the War Shipping Administration or the Office of Defense Transportation (or an agent of the Administration or Office);

"(B) operated in waters other than inland waters, the Great Lakes, other lakes, bays, and harbors of the United States;

"(C) under contract or charter to, or property of, the Government of the United States; and

"(D) serving the Armed Forces; and

"(2) while so serving, was licensed or otherwise documented for service as a crewmember of such a vessel by an officer or employee of the United States authorized to license or document the person for such service.

"§ 11202. Documentation of qualified service

"(a) RECORD OF SERVICE.—The Secretary, or in the case of personnel of the Army Transport Service or the Naval Transport Service, the Secretary of Defense, shall, upon application—

"(1) issue a certificate of honorable discharge to a person who, as determined by the respective Secretary, engaged in qualified service of a nature and duration that warrants issuance of the certificate; and

"(2) correct, or request the appropriate official of the Federal Government to correct, the service records of the person to the extent necessary to reflect the qualified service and the issuance of the certificate of honorable discharge.

"(b) TIMING OF DOCUMENTATION.—The respective Secretary shall take action on an application under subsection (a) not later than one year after the respective Secretary receives the application.

"(c) STANDARDS RELATING TO SERVICE.—In making a determination under subsection (a)(1), the respective Secretary shall apply the same standards relating to the nature and duration of service that apply to the issuance of honorable discharges under section 401(a)(1)(B) of the GI Bill Improvement Act of 1977 (38 U.S.C. 106 note).

"(d) CORRECTION OF RECORDS.—An official of the Federal Government who is requested to correct service records under subsection (a)(2) shall do so.

"§ 11203. Eligibility for certain veterans' benefits

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—The qualified service of an individual referred to in paragraph (2) is deemed to be active duty in the Armed Forces during a period of war for purposes of eligibility for benefits under chapters 23 and 24 of title 38.

"(2) COVERED INDIVIDUALS.—Paragraph (1) applies to an individual who—

"(A) receives an honorable discharge certificate under section 11202 of this title; and

"(B) is not eligible under any other provision of law for benefits under laws administered by the Secretary of Veterans Affairs.

"(b) REIMBURSEMENT FOR BENEFITS PROVIDED.—The Secretary shall reimburse the Secretary of Veterans Affairs for the value of benefits that the Secretary of Veterans Affairs provides for an individual by reason of eligibility under this section.

"(c) PROSPECTIVE APPLICABILITY.—An individual is not entitled to receive, and may not receive, benefits under this chapter for any period before the date of enactment of this chapter.

"§ 11204. Processing fees

"(a) COLLECTION OF FEES.—The Secretary, or in the case of personnel of the Army Transport Service or the Naval Transport Service, the Secretary of Defense, shall collect a fee of $30 from each applicant for processing an application submitted under section 11202(a) of this title.

"(b) TREATMENT OF FEES COLLECTED.—Amounts received by the respective Secretary under this section shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities, or in the case of fees collected for processing discharges from the Army Transport Service or the Naval Transport Service, deposited in the general fund of the Treasury as offsetting receipts of the Department of Defense, and shall be available subject to appropriation for the administrative costs for processing such applications.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 111 the following:

"112. Merchant mariner benefits.....11201".

TITLE V—CERTAIN LOAN GUARANTEES AND COMMITMENTS

SEC. 501. CERTAIN LOAN GUARANTEES AND COMMITMENTS.

(a) The Secretary of Transportation may not issue a guarantee or commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a liner vessel under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) after the date of enactment of this Act unless the Chairman of the Federal Maritime Commission certifies that the operator of such vessel—

(1) has not been found by the Commission to have violated section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876), or the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1701a), within the previous 5 years; and

(2) has not been found by the Commission to have committed a violation of the Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.), which involves unjust or unfair discriminatory treatment or undue or unreasonable prejudice or disadvantage with respect to a United States shipper, ocean transportation intermediary, ocean common carrier, or port within the previous 5 years.

(b) The Secretary of Commerce may not issue a guarantee or a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a fishing vessel under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) if the fishing vessel operator has been—

(1) held liable or liable in rem for a civil penalty pursuant to section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858) and not paid the penalty;

(2) found guilty of an offense pursuant to section 309 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859) and not paid the assessed fine or served the assessed sentence;

(3) held liable for a civil or criminal penalty pursuant to section 105 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375) and not paid the assessed fine or served the assessed sentence; or

(4) held liable for a civil penalty by the Coast Guard pursuant to title 33 or 46, United States Code, and not paid the assessed fine.

Mr. LOTT. Mr. President, today is a great day for America's maritime community; for those who sailed the high seas during the final days of World War II; for those who sail the seas today in the international container industry; and for those who will go to sea in the future.

Mr. President, I hope my colleagues will permit me to take a long view of the maritime issues being addressed by the Senate during the 105th Congress.

I am a product of the maritime industry. I grew up in a maritime community where my father built ships. The maritime world was the source of my first job as a lawyer. I still live in Pascagoula, Mississippi where the proud maritime tradition continues with Navy contracts to build DDG-51 Destroyers.

As I grew up on Mississippi's coast, an important lesson was learned. Our nation was founded as a maritime nation and remains one today. We are a nation that must continue to invest in this vital industry.

As you know, this is the International Year of the Ocean and tomorrow is Earth Day. As we celebrate the 28th Earth Day, we recognize the importance of the world's 4 oceans and 54 seas. Oceans cover more than 75% of our globe. Oceans provide us all with vast sources of food, medicine, and minerals. They provide a means for recreation, transportation, and commerce. Teaming with life and resources, oceans are where America's merchant maritime industry must be present. Oceans are where our government must make a conscious decision to maintain America's presence.

Many of our colleagues understand the importance of a strong, healthy maritime industry. This including ports, vessel owners, vessel operators, shipbuilders and the workers to run the ports, sail the high seas or build the latest ship. In a world of increasing international trade by sea, a strong maritime industry is essential to our national security and our economic strength. This is a simple but true equation.

To provide a context for today's action, I want to reflect on our work in the 104th Congress changed our maritime public policy. In the last Congress, the Maritime Security Act of 1996 was enacted into public law. It received overwhelming and bipartisan support. It was the first maritime policy change in over a decade. It was a profound change and has successfully reformed how our maritime industry supports our nation's defense.

This program now effectively ensures that efficient commercial ocean transportation services are available to the Department of Defense for national security purposes. The use of modern U.S.-flag commercial vessels saves DOD hundreds of millions of dollars that would otherwise be required to procure additional sealift capacity. As we enter the appropriation cycle, I hope my colleagues will support full funding of the Maritime Security Program.

Today, the Senate completed action on S. 414, the Ocean Shipping Reform Act of 1998.

This bill will increase competition in the ocean liner shipping industry and help U.S. exporters compete in the world's market. S. 414 was a bipartisan compromise. It was supported by all segments of the industry. Even U.S. businesses that use ocean liner services supported this legislative approach. The bill is a true compromise where the many diverse and competing interests benefited equally.

My good friend, Senator SLADE GORTON, wanted to get a little bit more for one of these segments, but in so doing jeopardized the Senate's ability to pass this important legislation during this Congress by taking the delicate compromise out of balance. This is why the amendment was defeated.

Just for the record, non-vessel-operating common carriers are not real common carriers. However, they can successfully compete with vessel operators. Also small shippers will continue to have equal access to the transportation systems.

Mr. President, S. 414, the Ocean Shipping Reform Act of 1998 is a major step forward in the 105th Congress' maritime reform agenda.

This year's maritime bill focuses on one part of the commercial segment while last year's bill dealt with the defense segment.

As with the maritime bill in the last Congress, competition is its hallmark. It will permit competition for the ocean liner shipping industry. This means that U.S. exporters will also enhance their competitiveness in the world's market. The majority of international trade is carried on ships and

that is why S. 414 is so important. The United States will now have an ocean liner shipping system that enables America to compete with other countries on a level playing field.

S. 414 is that level playing field.

This effort started back in the 104th Congress. It has taken the Senate a long time to develop a workable solution because the shipping industry includes so many different competing segments. Balancing their interests has been difficult and everyone made compromises.

S. 414 is solidly backed by U.S. shippers; U.S. and foreign ocean carriers; U.S. ports; and U.S. labor. Achieving such strong support from such a diverse group demonstrates that the entire maritime industry wants and needs this meaningful reform.

I call upon the House of Representatives to complete the legislative process and promptly adopt S. 414 this year. The nation's consumers, businesses, and maritime industry deserve to reap the benefits of a reformed ocean liner shipping system.

This bill is fair. This bill is needed.

S. 414 also contains a provision concerning World War II merchant mariner burial benefits, which was introduced separately as S. 61.

Mr. President, today the Senate also celebrates the passage of S. 61 another very important piece of maritime legislation which recognizes the sacrifices made by a group of merchant mariners.

This provision clarifies, once and for all, that those American merchant mariners who served our country in World War II between August 16, 1945 and December 31, 1946 are in fact eligible for veteran's funeral and burial benefits. Just like all other World War II merchant mariners.

This legislation, originally introduced last year as the Merchant Marine Fairness Act, has 71 cosponsors. I want to thank each cosponsor for their bipartisan support for mariners who ask to be recognized upon their deaths for service to our nation.

Mr. President, the overwhelming majority of World War II merchant mariners have already been awarded veteran status. However, through this 16-month extension, the Senate recognizes in a limited, yet meaningful, fashion those who stood, in harm's way, through the war's final day when on December 31, 1946 President Truman officially declared an end to hostilities.

Although Japan officially surrendered in August of 1945, the job was not complete for our nation's merchant mariners. In fact, more dangerous work awaited them, and their allies.

Harbors in Japan, Germany, Italy, France, and other parts of the world's maritime trade lanes were still filled with mines. This created many hazards as merchant mariners transported Allied troops home, or transported them to occupational duties. Axis stragglers also needed to be transported. When the men of the U.S. merchant marine were called to serve, they were ready and willing. Their duties were vital to consolidating the battlefield victory that our combat forces had just won.

Let me be clear. The services performed by these merchant mariners were extremely dangerous. Twenty-two U.S.-government-owned vessels—carrying military cargoes—were damaged or sunk by mines after V–J Day. At least four U.S. merchant mariners were killed and 28 injured aboard these vessels. Those American merchant mariners who served during this time did so with pride, professionalism and a dedication to their country. They deserve this simple, proper recognition.

I hope the House of Representatives will act swiftly on this legislation, too. Bills similar to S. 61 have passed in the House of Representatives three times in recent years. Already, H.R. 1126, the companion bill to S. 61, has more than 150 cosponsors.

Mr. President, our nation values the sacrifices of our veterans and so should Congress. The service's of these merchant mariners to America deserves recognition for a job well done.

The passage of the Merchant Mariner's Fairness Act confers the title of veteran to a small group of elderly, surviving mariners—an acknowledgment they richly deserve.

Mr. President, I remember one of these extraordinary mariners telling me why it was so important to receive this official recognition and why this delay has been so frustrating.

What that merchant mariner said, quite simply, was that he wants to tell his grandchildren that he too is a World War II veteran.

Mr. President, this particular merchant mariner and many other merchant mariners deserve our nation's profound gratitude for their WWII service.

Mr. President, there is yet another important maritime bill that the Senate must enact this year. S. 1216.

This legislation will ratify and implement the OECD Shipbuilding Agreement. It will eliminate foreign shipbuilding subsidies and provide a level playing field for our shipbuilding industry.

S. 1216 was approved by both the Finance Committee and the Commerce, Science, and Transportation Committee. It is ready to move to the Senate floor. The amendments added through separate committee actions address head on and completely the concerns identified by segments of the maritime community.

I am disappointed that a few maritime associations continue to oppose this bill despite its many changes. I am disturbed by their unfortunate misrepresentations.

Let me set the record straight on this bill. S. 1216 and the OECD Agreement do not threaten the Jones Act or the construction of Jones Act vessels. Period.

S. 1216 clearly excludes America's defense requirements and maritime features while ensuring that no country may illegally subsidize its commercial shipbuilding industry.

S. 1216 first equaled, then exceeded, the amendment offered by Representative BATEMAN in the 104th Congress to extend the current Title XI program's terms and conditions. The Senate bill provides an additional year. However, these associations moved the goalposts by demanding even more exemptions.

S. 1216 implements OECD. It does not speak to every individual argument that came up during its negotiations. That is water under the bridge. Rather, the bill recognizes that the United States cannot out-subsidize other countries' shipbuilding industries and should not try. It forces these other countries to give up their subsidies.

On a different legislative tract, but a related issue, the Senate showed that it will take steps to address shipyard subsidies. Through the International Monetary Fund bill, the Senate ensured that South Korean shipyards are not entitled to a bail out from American taxpayers.

S. 1216 is about ratifying this international agreement this year; however, it is clear these associations' aim is to scuttle OECD. I believe they want to shift funds from shipyards where only commercial vessels are built to those yards where naval vessel construction occurs because the level of military construction is decreasing. This is folly because America needs both types of shipyards for a healthy maritime community.

The U.S. must preserve its commercial shipbuilding base and that means ratifying the OECD agreement. That means adopting the implementing language in S. 1216 this year.

One last point—the Jones Act and other related cabotage related legislation. There is no secret that I am an ardent supporter of the Jones Act. I acknowledge that there are some members of Congress who do not see the wisdom of protecting our domestic water-borne maritime trade—just like every other coastal nation. I take it as my challenge to spread the wisdom and value of the Jones Act to my colleagues. I also realize that the current system is not meeting the needs of every domestic shipper and that is why I encourage the Jones Act maritime industry and the Administration to work closely with these shippers to solve their transportation needs. Still, I remain a firm believer that these needs can be served by U.S.-built, U.S.-owned, U.S.-flagged, and U.S.-crewed ships.

In summary, Mr. President, the Senate has made much progress in our maritime public policy agenda this

year, and I hope there will be more before the 105th Congress adjourns. Maritime issues are bipartisan and important to our economy and our national security.

Mr. President, thank you. I want to also thank all mariners who go to sea to face the elements and work. I also want to thank all who work on shore, at the dock and in the shipyard, to enable our nation's maritime transportation system to go to sea safely and profitably. It is a fitting tribute to pass the Ocean Shipping Act of 1998 during the International Year of the Ocean.

Mrs. HUTCHISON. Mr. President, I want to congratulate the Senate on its adoption of S. 414, the Ocean Shipping Reform Act of 1998. We have worked long and hard to achieve the consensus necessary to move this bill forward. The revisions that S. 414 would make to the Shipping Act of 1984 will help U.S. shippers, ports, and containership operators succeed in an increasingly competitive world of international trade.

I want to thank all Senators who worked on this bill for their key contributions, especially Senator LOTT, our distinguished Majority Leader; Senator MCCAIN, Chairman of the Commerce Committee; and Senators GORTON and BREAUX who ensured that all affected groups' concerns were thoroughly considered and addressed. I ask the leadership of the House to quickly adopt S. 414 without amendment so that the participants in the ocean liner shipping industry can turn their efforts toward reaping the benefits of these changes.

Mr. President, for the record, I now want to explain some of the key provisions of S. 414.

The most significant benefit of S. 414 is that it will provide shippers and common carriers with greater choice and flexibility in entering into contractual relationships for ocean transportation and intermodal services. It accomplishes this through seven specific changes to the Shipping Act of 1984. It allows multiple shippers to be parties to the same service contract. It allows service contracts to specify either a percentage or quantity of the shipper's cargo subject to the service contract. It prohibits multiple-ocean common carrier cartels from restricting cartel members from contracting with shippers of their choice independent of the cartel. It allows service contract origin and destination geographic areas, rates, service commitments, and liquidated damages to remain confidential. It eliminates the requirement that similarly situated shippers be given the same service contract rates and service conditions. It eliminates the current restrictions on individual common carriers engaging in discriminatory, preferential, or advantageous treatment of shippers and ocean transportation intermediaries in service contracts (while retaining those restrictions for groups of common carriers and strengthening prohibitions against refusals to deal or negotiate by individual common carriers). It allows groups of ocean common carriers to jointly negotiate inland transportation rates, subject to the antitrust laws and consistent with the purposes of the 1984 Act.

The Commerce Committee report on S. 414 dated July 31, 1997, includes in pages 12 through 17 a new legislative history for section 6(g) of the 1984 Act. Although a substitute amendment to the Commerce Committee reported version of S. 414 has been adopted by the Senate, the legislative history for section 6(g) and other sections of the 1984 Act affected by S. 414 contained in the Committee report remains intact, to the extent that the Committee reported provisions of S. 414 are not substantively amended by the substitute amendment, or the Committee report legislative history is not superseded by the below comments.

It is anticipated that members of ocean common carrier agreements will enter into individual service contracts with shippers and that, consistent with section 8(c) of the 1984 Act, as amended by S. 414, some of the terms and conditions of those service contracts will not, by agreement of the contracting parties, be publicly available.

Section 5(c) of the 1984 Act, as amended by S. 414, states that an agreement of ocean common carriers may not require its members to disclose any service contract negotiations they may have with shippers or the terms and conditions of any service contracts which they may enter into for the transportation of cargo. It is important to note that, while section 5(b) of the 1984 Act applies only to conference agreements, new section 5(c) would apply to all agreements among ocean common carriers, including conference agreements.

Any agreement requirement that members disclose confidential contract information would violate section 5(c) and subject agreement members to penalties under the 1984 Act, as amended by S. 414. In the event a member divulged confidential contract information, that member would likely be in breach of its contract with the shipper and could be held liable by the shipper under the contract. However, in the absence of any agreement requirement that disclosure be made, neither that carrier nor any other agreement member would be subject to penalties under the 1984 Act, as amended by S. 414. Section 8(c)(1) of the 1984 Act, as amended by S. 414, provides that the exclusive remedy for a breach of a service contract shall be an action in an appropriate court, unless the parties otherwise agree.

Section 8(c)(2) of the 1984 Act, as amended by S. 414, would continue to require that all service contracts be filed with the Federal Maritime Commission. The purpose of this requirement is to assist the FMC in the enforcement of applicable provisions of United States shipping laws. However, other Federal agencies have expressed concerns over how they are to ensure ocean carrier compliance with United States cargo preference law requirements concerning shipping rates in an era of service contract rate confidentiality. The FMC is encouraged to work with affected Federal agencies to address this concern.

S. 414 would add a new section 8(c)(4) to the 1984 Act that would allow a labor union with a collective bargaining agreement with an ocean common carrier to request information from the carrier with respect to cargo transported under a service contract entered into by that carrier to assist the union in enforcing its collective bargaining agreement and would require the carrier to provide that information. Section 8(c)(4) envisions the release of information not necessarily contained in the service contract. While the cargo transportation in question has to be made pursuant to a service contract, the carrier's response to an information request authorized by section 8(c)(4) may require the use of documents other than the service contract.

The purpose of section 8(c)(4) is to provide the requesting labor union with information concerning certain land transportation services and other services for which an ocean common carrier subject to a collective bargaining agreement with that labor union may be responsible pursuant to a service contract. The specific language of section 8(c)(4)(A) describing the work covered by that disclosure requirement is intended to ensure that the ocean common carrier is not able to avoid compliance with the disclosure requirement by narrowly interpreting the statutory language of the work covered by the disclosure requirement. Section 8(c)(4), however, has no other purpose but to require disclosure of specified information and is not intended to serve any other purpose.

The Senate understands that disputes have arisen, or may arise, concerning the assignment of certain off-dock and inter-dock transportation services at U.S. ports. We want to make it perfectly clear that nothing in this provision is intended to resolve or influence the outcome of any such dispute in any manner. The descriptions of work contained in section 8(c)(4)(A) should not be misinterpreted by a court or agency to imply a Congressional endorsement of any position in any such dispute. These issues are to be considered and determined by the appropriate agencies and courts taking into consideration existing provisions of the National Labor Relations Act, the Taft-Hartley Act, the Federal

Trade Commission Act, other provisions of the Shipping Act of 1984, as amended by S. 414, and other federal and state laws. Nothing in these disclosure provisions should affect or influence the outcome of the decisions of those courts or agencies, one way or the other.

The substitute amendment to S. 414 contains several significant changes with respect to the anti-discrimination provisions contained in sections 10(b) and 10(c) of the Commerce Committee reported version of S. 414 affecting shippers' associations and ocean transportation intermediaries that need to be clarified. These revisions by the substitute amendment remove limitations placed on these sections in the Committee reported bill with respect to shippers' associations and ocean transportation intermediaries and thus supersede the Committee's Report of July 31, 1997 at pages 28 and 29.

S. 414 is intended to promote a more competitive ocean transportation marketplace. In such a marketplace, it is anticipated that small to medium-sized shippers will increasingly rely upon non-profit shippers' associations and other forms of transportation intermediaries in order to obtain access to competitive economies of scale enjoyed by the largest shippers. Recognizing the important role that the small shipper plays in the competitiveness of the United States in the global economy, S. 414 contains several strong provisions to ensure that shippers who seek to combine their cargo with other shippers to obtain volume discounts in a shippers' association are not subjected to unreasonable discrimination due to their status as a shippers' association when entering into such service contracts.

As amended by S. 414, new section 10(b)(10) of the 1984 Act would make it unlawful for a common carrier to "unreasonably refuse to deal or negotiate." Previously, the prohibition against refusals to negotiate was limited to shippers' associations. The new section 10(b)(10) continues to provide a shippers' association or ocean transportation intermediary with protection against an unreasonable refusal to deal by one or more common carriers, and continues to provide the other protections included in section 10(b)(12) of the current law.

New sections 10(c)(7) and 10(c)(8) of the 1984 Act, as amended by S. 414, would protect individual shippers' associations and ocean transportation intermediaries against the type of conduct specified in those paragraphs which is due to such person's status as a shippers' association or ocean transportation intermediary. The FMC should direct its enforcement efforts with respect to unreasonable discrimination due to a person's status as a shippers' association or ocean transportation intermediary for other than objective, relevant economic transportation factors on those groups of ocean common carriers that have the greatest potential to economically harm a shippers' association or an ocean transportation intermediary. S. 414 does not require identical treatment of shippers' associations and affords ocean common carriers greater flexibility than the current 1984 Act to differentiate their service contract terms and conditions.

Section 10(c)(4) of the 1984 Act currently prohibits concerted action by ocean common carriers in negotiation of U.S. inland transportation rates and services with truck, rail, air, or other non-ocean carriers. Since the enactment of the 1984 Act, U.S. ocean common carriers have made very substantial investments in inland intermodal networks in reliance on the protections of section 10(c)(4).

S. 414 would amend section 10(c)(4) to remove the current per se prohibition on joint negotiation of inland transportation agreements. S. 414 would allow joint negotiations and agreements with respect to the inland portion of these ocean common carriers' intermodal movements, but retain protections to ensure that U.S. inland intermodal carriers are not harmed.

First, any such joint negotiations and agreements permitted under this section must be in conformity with the antitrust laws. There is no intention under this provision to permit or authorize any joint activity with respect to the negotiation of purchasing of U.S. inland services provided by non-ocean carriers that would not be permitted under the principles that apply to joint purchasing activities under the antitrust laws.

Second, the joint negotiations and agreements permitted under this section must be consistent with the purposes of the Act, as amended by S. 414 and as determined by the Federal Maritime Commission. For example, the ability of joint purchasing arrangements to contribute to efficiencies in the U.S. transportation system in the ocean commerce of the United States that are then passed on to shippers is a factor that may be considered in determining whether an arrangement is consistent with the purposes of the 1984 Act. Another purpose of the 1984 Act is the development of an economically sound and efficient U.S.-flag liner fleet capable of meeting national security needs. As stated above, U.S.-flag liner operators have made very substantial investments in affiliated inland intermodal providers, and harm to these providers resulting from the use of market power by conferences or other groups of ocean common carriers would be inconsistent with the 1984 Act's purpose of maintaining a sound U.S.-flag liner fleet.

Mr. MCCAIN. Mr. President, I am pleased that the Senate has adopted S. 414, the Ocean Shipping Reform Act of 1998. S. 414 was approved by the Committee on Commerce, Science, and Transportation on May 1, 1997. Over the past several months, the bill has been adjusted to address the concerns of several members.

S. 414 would instill greater competition within the U.S. international ocean liner shipping market by ensuring that every liner vessel operator has the right to enter into a service contract with any shipper without interference from other vessel operators. This will allow U.S. importers and exporters to contract with vessel operators of their choice, not as directed by ocean shipping cartels.

Also, S. 414 would allow vessel operators and shippers who negotiate service contracts to keep the rates and terms of service of those contracts private. The bill would also remove the requirement that vessel operators provide the same contract rate and terms to other similar shippers. This change, combined with the one I just described, will increase the responsiveness of ocean liner system to market forces.

The bill would also privatize the function of publishing ocean transportation tariffs, which should reduce the expense of this system. The bill would provide the Federal Maritime Commission adequate means to review and enforce tariff and service contract regulations.

The bill also includes a provision I added during the Commerce Committee markup. This provision would require the Secretary of Transportation to obtain certification from the Federal Maritime Commission that a liner vessel operator has not violated certain U.S. shipping laws within the past 5 years prior to the Secretary granting the operator a shipbuilding loan guarantee under title XI of the Merchant Marine Act, 1936.

I realize that S. 414 is not perfect. In my view, a lot more could be done to improve competition in this business. However, in this case the bill makes significant progress, and should not be held up in the hope that greater progress can be made in the future. I hope the other body will take action on S. 414 so that the bill may be enacted this year.

EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 2646, the Education Savings Act for Public and Private Schools.

The clerk will report the bill.

The legislative clerk read as follows:

A 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.

The Senate resumed consideration of the bill.

Pending:

Mack/D'Amato amendment No. 2288, to provide incentives for States to establish and administer periodic teacher testing and merit pay programs for elementary and secondary school teachers.

Glenn amendment No. 2017, to delete education IRA. expenditures for elementary and secondary school expenses.

Kennedy amendment No. 2289, to authorize funds to provide an additional 100,000 elementary and secondary school teachers annually to the national pool of such teachers during the 10-year period beginning with 1999 through a new student loan forgiveness program.

Coverdell (for Hutchison) amendment No. 2291, to establish education reform projects that provide same gender schools and classrooms, as long as comparable educational opportunities are offered for students of both sexes.

AMENDMENT NO. 2289

The PRESIDING OFFICER. The pending question is a motion to table the amendment to H.R. 2646 by the Senator from Massachusetts. There will be 4 minutes of debate equally divided.

Who seeks time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the issue that is before the Senate now is whether we are going to take the $1.6 billion and use it in such a way that is going to effectively help and assist the private schools—because that is where the majority of the money is going to be invested—or whether we are prepared to invest that money to increase the total number of teachers.

Again, Mr. President, the legislation that we have before us this morning will provide $1.6 billion. We have to decide whether we are going to use that money to create an IRA which will be primarily used to support private schools, or whether we will take that $1.6 billion and use to it create more teachers across this country. If we use the $1.6 billion, we will provide 100,000 new schoolteachers for the public schools across this Nation.

It is estimated that we are going to need 2 million new high school teachers. This will at least provide 100,000. It seems to me that if we are interested in academic achievement and accomplishment and we support our public schools, then getting highly qualified teachers to invest in those schools is the way to go. That is what this amendment does. It takes the $1.6 billion and uses it to create 100,000 more schoolteachers rather than to use it to create additional funds to support private schools.

We have a modest program in our higher education bill that will provide $200 million for 5 years, which is $40 million a year. That is bipartisan. I support it. But it is not enough. We have a major opportunity now to do something significantly for the public schools, and that is to increase the number of qualified teachers who will serve in our public schools.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, first, I am pleased that we are finally coming to a point where we can vote on these core issues. I have three things to say about the statements that have been made by the Senator from Massachusetts.

Mr. President, first, the Labor Committee has already addressed the issue of new teachers and done it in a more expeditious manner focusing new teachers on inner-city schools.

Second, the effect of the amendment of the Senator from Massachusetts is to gut and make moot the entire exercise we have been at here now for 6 months. He would in effect deny 14 million families and 20 million children the benefits of education savings accounts, the majority of which are public, not private. He would deny 1 million employees the opportunity for continuing education and 1 million students the opportunity and benefit of State prepaid tuition plans and 500 new schools through new school construction.

Later in the debate we will have another opportunity, through the Gorton amendment, which will be discussed later this afternoon, to free up from Federal regulation large sums of money, over $10 billion, which local communities and States can use to address teacher shortages, if indeed they have them.

I conclude by saying the effect of the amendment would be to make moot this 6-month debate.

Mr. BINGAMAN. Mr. President, I rise in support of Senator KENNEDY's amendment to the Coverdell bill, which would provide loan forgiveness to teachers in high need areas and subjects. Attracting well qualified teachers through the use of loan forgiveness is a terrific idea and one that I've introduced and supported in the context of the reauthorized Higher Education Act. Loan forgiveness for teachers ensures that teachers are not saddled by excessive debt during their first crucial years of teaching.

Just two days ago, a new report from the American Federation of Teachers on teacher salaries showed that, in part due to the low unemployment and tight labor market of recent months, teacher salaries are falling behind wages for other occupations and will make it even harder for schools to find qualified candidates.

Given all the other jobs that may be available, we as a nation have a serious problem in recruiting strong candidates for teaching. Clearly, loan forgiveness needs to be part of a comprehensive strategy to raise the quality of teachers and attract the best candidates to the classroom.

To help attract more teachers, this amendment proposes to provide up to $8,000 in loan forgiveness to teachers in high need areas or subjects, as determined by local school districts. While I strongly support the amendment and its intention, there are two issues that are worth raising. One is that the criteria for eligibility are too broad, especially given the amount of money associated with the legislation. More importantly, however, the amendment does not address the basic issue of teacher quality outlined in the findings that preface the legislation. I believe that, in order to be qualified to teach a subject area, particularly on the secondary level, a teacher should have a major in that subject or a related field.

According to a recently completed analysis of state-level student achievement data, states with more teachers holding full certification plus a major in their field do significantly better on National Assessment of Educational Progress (NAEP) reading and math examinations. Students of teachers who completed undergraduate academic majors and appropriate professional coursework achieve better than age peers whose teachers completed education majors, no matter how poor, what their ethnicity, or whether English is a second language.

For these reasons, I am glad to be working with Senator KENNEDY on efforts to raise the quality of teaching in our classrooms and reduce the financial burden on those who have entered this essential profession. If we expect higher standards from students, we need to provide them with teachers who have the documented content area preparation to help them meet those standards.

Mr. KENNEDY. Mr. President, I urge my colleagues to support this amendment to increase the nation's supply of qualified teachers. Investing in teachers is an investment in our children, an investment in the future, and an investment in America. If students in communities across the country are to be prepared to compete in the global marketplace, we must attract and retain the best and the brightest teachers.

We know that having a qualified teacher in the classroom is one of the most important influences on a child's academic success. Yet too many schools are already understaffed. During the next decade, rising student enrollments and massive teacher retirements mean that the nation will need to hire 2 million new teachers. According to the National Center for Education Statistics, between one-third and one-half of all elementary and secondary school teachers are 45 years old

or older. The national average age of teachers is 43 years old. The average age of Massachusetts teachers is 46 years old—tying the District of Columbia for having the oldest teachers in the Nation.

Boston alone expects almost half of the city's teachers to retire over the next decade. In addition, Boston already has acute teacher shortages in areas such as bilingual education and high school science. At the same time, Boston's student enrollment is growing by 900 students a year.

The teacher shortage has forced school districts to hire more than 50,000 under-prepared teachers each year, and to ask certified teachers to teach outside their area of expertise. One in four new teachers does not fully meet state certification requirements.

We need to do more—much more—to assure that quality teachers are available for each and every child and classroom.

This amendment provides for the forgiveness of federal student loans as an incentive to college students to become teachers. We know that qualified young men and women can often make more money in private industry. Many of them, burdened with heavy undergraduate and graduate debts from student loans, refuse to even consider teaching as their career. Reducing the burden of their debt can be a significant incentive to encourage them to become teachers, and to agree to teach in areas where the need is greatest.

Attracting more qualified teachers to the teaching field over the next ten years will help to address teacher shortages across the country and improve student achievement. This amendment will move us closer to that goal.

The Labor Committee has recommended a similar provision as part of the Higher Education Act Amendment. But it is entirely appropriate to consider this here as part of the pending bill as well.

Our goal is to recruit 100,000 additional teachers over the next 10 years, especially in high-need subjects such as math and science.

We should be doing all we can to encourage good students to become good teachers. It is one of our highest priorities in education. I urge my colleagues to support this amendment to help us meet that goal.

Mr. COVERDELL. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Massachusetts. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "no."

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 86 Leg.]

YEAS—56

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Graham	Murkowski
Biden	Gramm	Nickles
Bond	Grams	Roberts
Breaux	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Byrd	Hatch	Shelby
Campbell	Helms	Smith (NH)
Coats	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Stevens
Coverdell	Kempthorne	Thomas
Craig	Kyl	Thompson
DeWine	Lieberman	Thurmond
Domenici	Lott	Torricelli
Enzi	Lugar	Warner
Faircloth	Mack	

NAYS—41

Akaka	Feingold	Leahy
Baucus	Feinstein	Levin
Bingaman	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Bryan	Harkin	Murray
Bumpers	Hollings	Reed
Chafee	Jeffords	Reid
Cleland	Johnson	Robb
Conrad	Kennedy	Rockefeller
D'Amato	Kerrey	Sarbanes
Daschle	Kerry	Specter
Dodd	Kohl	Wellstone
Dorgan	Landrieu	Wyden
Durbin	Lautenberg	

NOT VOTING—3

Bennett	Inouye	Moynihan

The motion to lay on the table the amendment (No. 2289) was agreed to.

Mr. BYRD. Mr. President, I would like to briefly explain my vote on the motion to table the amendment offered by my distinguished colleague, Senator KENNEDY, to H.R. 2646, the Education Savings Act for Public and Private Schools. Despite my support for excellence in teaching and the need for more teachers—high-quality teachers—in the classrooms across America, I voted in favor of tabling the amendment.

Like many of my colleagues, I realize the importance of quality teachers in our nation's elementary and secondary schools. I started out in a modest two-room schoolhouse where I did not have high-technology equipment or much money for supplies, but what I did have were dedicated teachers who really cared about my future and my education. Today, our children and grandchildren are being taught mathematics by teachers who have no background whatsoever in the subject area—none at all! There are situations in which teachers who have been trained to teach physical science instead find themselves teaching mathematics! That is not right, and not fair to the teacher or—more importantly—to the students.

This amendment would provide a maximum of $8,000 of loan forgiveness over a five-year period to graduate students entering the teaching profession. Given the rising costs associated with a higher education, this certainly does not amount to much in the eyes of a student faced with loans totaling $50,000 or more. Nor does such an incentive help to bring in more teachers in demand subject areas, such as mathematics.

Mr. President, the issue and need is for more qualified teachers, not just more teachers. Teaching is a profession for which one must have a true passion as well as dedication and talent. As Aristotle stated so eloquently in his day,

> Teachers who educated children deserved more honour than parents who merely gave them birth; for bare life is furnished by the one, the other ensures a good life.

This amendment does not ensure that quality teachers will be brought into the classrooms. While ostensibly a targeted amendment designed to help provide better teachers for Title I schools and those schools which lack quality teachers in core subject areas, it would cover over ninety percent of all schools. Over ninety percent, Mr. President. I do not call this targeted.

While I support the amendment in principle, I believe that it is an unfocused proposal at best. The amendment relies heavily on the hope that limited student loan forgiveness will serve as incentive for graduate students to opt into a teaching profession in lieu of a higher paying job. Furthermore, it does not target the schools which are truly in need of better quality teachers, nor does it ensure that it will be quality teachers in the needed subject areas who make their way into the classrooms. For these reasons, Mr. President, I have voted to table the amendment.

The PRESIDING OFFICER. The pending business is amendment No. 2291 by the Senator from Texas to H.R. 2646. There will be 30 minutes of debate equally divided.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the vote scheduled for 2:15 today now be postponed to occur at 2:30 with all other parameters of the consent agreement in status quo. I further ask unanimous consent that following those votes, Senator MOSELEY-BRAUN be recognized to offer her amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

Mr. COVERDELL. Mr. President, the pending business is the Hutchison amendment. However, the Senator from Massachusetts has a short comment to make, as does the Senator from Missouri. I believe Senator HUTCHISON has agreed to that. So they will make the appropriate motion to set the amendment aside for a moment.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

Mr. KERRY. I ask unanimous consent that I be permitted to proceed for not to exceed 2 minutes.

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

Mr. KERRY. Mr. President, I just wanted to explain with respect to my vote cast on the Coverdell amendment that I respect the notion that having a savings account is not a bad one. I want to compliment the Senator from Georgia for his efforts to create it. The problem is that the numbers I have received from CBO and elsewhere on the distribution create problems, in my judgment, in terms of fairness of that distribution.

Secondly, because of the low-income reach of some of it, there are difficulties in the takeup on the available tax benefit as to whether or not it will really reach education.

And thirdly and most important of all, I think that to address the question of trying to improve people's opportunities for schools in a vacuum, not to include it in the context of the place where 90 percent of our children are going to school, which is the public school system, is a mistake. Every time we come at it in one of these marginal efforts that, in a sense, gives people an opportunity to make a choice in one component but we do not address it with respect to the school system as a whole, we are diminishing the opportunities for that other 90 percent, which now may become 88 percent, but it is still the vast majority of America's schoolchildren.

For that reason, while I compliment the Senator in addressing the question of savings accounts and choice—which I think is a critical element of the larger reform—we ought to be doing it in the context of a broad reform. I think until we do that, these kinds of efforts can actually wind up being harmful, well-intentioned as they are.

I thank my colleague for permitting me the time to make my explanation and my vote. I yield the remainder of my time.

AMENDMENT NO. 2291

The PRESIDING OFFICER (Mr. SANTORUM). The pending question is amendment 2291 by the Senator from Texas to H.R. 2646. There will be 30 minutes of debate equally divided.

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I wish to be notified at least 4 minutes before the end of my 15-minute allocation, with the intention of giving 2 minutes to the Senator from Georgia to argue in favor, and then I want to reserve the remainder of my time for the end of the debate following any debate opposing my amendment.

My amendment simply seeks to give the opportunity to public schools what private schools can now do, and that is offer an option of same-gender classes or schools. I seek to amend the allowable uses of title VI funds for education reform projects that provide same-gender schools and classrooms as long as comparable educational opportunities are offered for students of both sexes.

Mr. President, title VI is the place in our education code providing for reform of education to create new and innovative programs to try to improve our public education opportunities in this country.

I am offering this amendment to remove a cloud of doubt hanging over the education community about the Federal policy on whether we allow a local decision by a local public school district to operate same-gender schools and classrooms.

The amendment is very simple. It adds the establishment and operation of same-gender schools and classes to the allowable uses for funds under title VI. It is not a mandate; it is an option. The title VI program is so broad and flexible that I believe it already allows same-gender education programs. But due largely to the fear that many schools throughout our country have, believing that the Education Department's Office for Civil Rights would not allow same-gender education efforts, most States and school districts are reluctant to use their own money, much less Federal money, for these purposes. This is unfortunate.

Ask almost any student or graduate of a same-gender school, most of whom are from private and parochial schools, and they will almost always tell you that they were enriched and strengthened by the experience. Surveys and studies of students show that both boys and girls enrolled in same-gender programs tend to be more competent, more focused on their studies, and ultimately more successful in school as well as later in their careers. We are talking here about K through 12. Specifically, girls report being more willing to participate in class and to take difficult math and science classes that they otherwise would not have attempted. Boys also report less pressure of being put down by their classmates for wanting to participate in class and excel at their studies. Both sexes report feeling more of a camaraderie and sense of peer and teacher support than they do when they are in a coed environment. Teachers, too, report fewer control and discipline problems, something almost any teacher will tell you can consume a good part of class time.

Inevitably, these positive student attitudes translate into academic results. Study after study shows that girls and boys in same-gender classes, on average, are academically more successful and ambitious than their coed counterparts.

I also note that a recent well-publicized report by the American Association of University Women did not so much challenge the demonstrated benefits of same-gender schools as it called to implement these benefits into coed classrooms. That is exactly the point. For many students, the same-gender schools and classrooms is the most conducive environment for success, precisely because they are same gender. No one would dispute that schools and teachers should strive to maintain order, academic rigor, and treat boys and girls equally. The fact is that in some cases this tends to be easier in a same-gender environment.

Same-gender education has benefited students like Cyndee Couch, a seventh grader at Young Women's Leadership school in East Harlem. Cyndee and the other students at this all-girls school, located in a low-income, predominantly African American and Hispanic section of New York City, have an attendance rate of 91.8 percent—significantly above the New York City average. They also score higher on math and science exams than the city average. In fact, 90 percent of the school's students recently scored at or above the grade level on the standardized public school math problem solving test. The citywide average was only 50 percent.

Last year, Cyndee bravely appeared on the television show "60 Minutes" to talk about why she likes the all-girl public school. She told host Morley Safer, "As long as I'm in this school and I'm learning and no boys are allowed in the school, I think everything is going to be OK."

Unfortunately for Cyndee and for other students in fledgling same-gender public school programs around the country, everything is not OK. Opponents of same-gender education have sued to shut down the Young Women's Leadership school and other schools like it around the country. Mr. President, I can't imagine why they would do this. Why would they take away this option for parents in East Harlem of New York City? When they can't choose the environment that they find is more supportive and conducive to learning for their children, what are their options? Whose civil rights are being violated when parents and their children voluntarily enroll in same-gender programs in the hope that they will be able to get a better education and have a better chance at success in life? Who is harmed by that?

Mr. President, many of our Nation's public schools are failing in their jobs to adequately prepare our young people for the challenges that face them. After decades of rhetoric about who is to blame for this failure, it is time to

stop talking and give more options. We need to find out what works and use it. For many students, same-gender education works. It is certainly not the only answer to our public school woes, but it is one solution that should not be left out of the equation.

We are adding to the list of choices. We are not mandating anything. In education, one-size-fits-all is simply not going to work. We have to allow our local schools to have all the choices that can best fit the individual students in their school districts.

Some opponents of same gender education may also try to claim that it violates title IX of the Civil Rights Act or the equal protection clause of the Constitution. Both of those arguments are erroneous. Title IX was passed as part of the Education Amendment of 1972. It prohibits discrimination on the basis of sex at any school receiving Federal financial assistance. Title IX was never intended to prohibit same-gender K–12 education. In fact, with regard to admissions, the language of title IX applies only to higher education institutions that were not same-gender at the time of passage of the provision and to vocational and professional institutions. An earlier version of title IX that would have prohibited same-gender admissions policies, K–12, was specifically defeated in Congress.

The language of title IX as well as subsequent judicial interpretations of title IX make it clear that the law does not prohibit same-gender schools. What, then, about same-gender classrooms located at coed schools? Are they prohibited by title IX? The answer again is no. The overriding purpose and intent of title IX is to prohibit discrimination against individuals because of their sex, not to erase any consideration of the different educational needs of boys and girls. There simply is no discrimination if comparable educational opportunities are afforded to each sex, as my amendment requires.

Indeed, title IX itself recognizes a number of gender differences in allowing separate programs for physical education, organized sports, and sex education. Even the Department of Education sees same-gender classrooms as acceptable if the school is able to come up with a sufficiently convincing argument that it is doing so to overcome some past discrimination against one sex or the other with regard to that course offering, even though no such proof of past discrimination is required by the language of title IX.

I believe the only justification that schools should need to have to institute a single-sex classroom or school is that the school and the parents believe it will provide a better educational opportunity for the parents and children who choose the option. This reflects both the language and the intent of title IX, and what we would do today with this amendment is clarify that that is the will of Congress.

Mr. President, I will yield 2 minutes to the Senator from Georgia, after which I will reserve my final 2 minutes.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise in support of the amendment offered by the Senator from Texas. Federal funding should not discriminate in favor of same-sex education. Currently, it does.

Same-gender schools boast years of success. Studies have shown that single-gender education worked well in the inner city. Seventh graders who had attended Malcolm X Academy in Detroit, MI—an all-boys inner-city school—had the highest math scores among 77 Detroit schools and the second highest in Michigan among 780 schools. Cornelius Riordan, a professor at Providence University, found that African American and Hispanic students in single-gender schools outperform their coed peers by nearly a grade level.

This proposal simply rights a wrong without increasing burdens on the taxpayers. Right now, neither IX nor the equal protection clause prohibits single-sex schools. This is another example of how one size does not fit all. Parents and children should have the choice of single-sex education in public schools. As I said, I support the excellent work and the amendment offered by Senator HUTCHISON of Texas.

I yield back to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I would like to reserve the balance of my time for after any opponents who might appear.

Mr. COVERDELL. 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.

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

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

Mrs. HUTCHISON. Mr. President, it is my intention to finish the use of my time. I understand there will be no one speaking against it at this time. So we will close out this debate and go to the next amendment.

Mr. President, I just want to speak to the last point, which is the concern about the equal protection clause of the 14th amendment to the Constitution. The Supreme Court recently struck down the all-male admission policy of Virginia Military Academy on the grounds that it violated equal protection for female applicants because Virginia did not meet the constitutional requirement that there be a comparable facility for women.

My amendment clearly requires that there be comparable opportunities for both sexes. Mr. President, we are meeting the constitutional test of the 14th amendment. We are meeting the constitutional test of equal protection, and we are meeting the definition of title IX, and we are adding an option to title VI.

In short, what we are trying to do is say that the parents of children who go to public schools should have the option—not any kind of mandate, but the option—in grades K through 12 to allow same-gender classes or same-gender schools to be offered in their school districts.

We believe that for some children it is proven that they can excel academically in the lower grades when they are in a same-gender environment. This has been proven with both boys and girls. Why not allow our public schoolchildren to have the same opportunities that parents could choose if they could afford to send their children to private schools? Why not say our education system is failing and the way we are going to improve it and tailor it to individual boys and girls in this country so that they can meet their full potential with the best education that they can receive is to allow more options for our public schools?

I believe these options are available now. But because it is not absolutely clear, many public schools are afraid to go forward for fear they might be sued to shut down, which is exactly what is happening to the Young Women's Leadership School in East Harlem that is showing nothing but success. Someone has come in to sue and to say that this violates the Constitution. I argue that it doesn't violate the Constitution; it is required by our Constitution to give our children in our public schools the same opportunities that a child going to private school would have. Let's improve the education system and vote for this amendment.

Thank you, Mr. President.

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. COVERDELL. 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. COVERDELL. Mr. President, I ask unanimous consent that all time be yielded on the Hutchinson amendment No. 2291, and that a vote occur on or in relation to that amendment immediately following the two previously scheduled votes at 2:30. I further ask unanimous consent that no amendments be in order to amendment No. 2291 and, finally, that Senator MOSELEY-BRAUN be recognized to offer her amendment following those votes.

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

Mr. COVERDELL. Mr. President, I ask unanimous consent that there be 2 minutes of debate equally divided between each of the stacked votes at 2:30 today.

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

Mr. COVERDELL. Mr. President, I now ask unanimous consent that general debate be in order to the pending legislation until the hour of 12:30 today with the time equally divided in the usual form.

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

Who yields time?

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, I rise this morning to express my strong support for the Parent and Student Savings Account Act, or PASS Act, of which I am a cosponsor. I have listened over the last few weeks to the debate on this issue. It is about things bigger than just the Coverdell bill. It is about the philosophy of education in America. I am constantly astonished that the Coverdell bill has so exercised so many of my colleagues. I question why this is such a big deal.

The Coverdell bill is part of an overall philosophy about education. Yes; our future is our children, and our children's future is education. But this Coverdell bill should be part of the national debate about where we take education into the next century—this new, bold, dynamic competitive new century. For the first time we will ask our young people to compete in a new, competitive, international world.

After all, Mr. President, what is education about? What is education really about? It is not about debating amendments on the floor of the Senate. It should not be about whose money it is, or whose money it is not, nor about bureaucracy. It should be about our young people. It should be about educating our young people so that they are prepared to compete in this brave new world—this world full of immense opportunities. But there will not be opportunities if we do not prepare our young people to negotiate this new world.

Education is about something else. It is not just about science and math, and reading and writing—yes, that is important—and economics, history, and geography. It is also about developing young people so that we are producing happy, productive citizens—happy, productive citizens so that they, too, might contribute to our society and to our culture. But ignorance is the great enemy to productivity and to secure, happy lives. It is all connected. It is all connected.

If in fact you believe, as I do, that the Federal Government does not belong in education—in fact, if we will roll this back 200 years, you show me in the Constitution of the United States, or show me anywhere, where the Federal Government has the responsibility to educate our young people. It does not. It can't. We are overloading our circuits. We are overloading our system. We are asking the Government to do things that Government can't possibly do. Therefore, as we have done over the last 30 years, there has been a breakdown in confidence in our country and in government at every level, but especially Government at the Federal level.

What do we do about it? Let's step back for a moment and pause and be unemotional and sort this out. We sort it out this way. Who has the most to win or lose when it comes to education of our young people? Of course, the parents are the ones who care the most, and who should care the most. The parents are the connecting rod for our children in every facet and every aspect of our children's lives. Who also cares about our students and about their education? Teachers. Revelation—teachers—parents and teachers.

So we have a good combination going on here—not the Government, not the Federal Government, not the Department of Education, not the President, not Senator HAGEL nor Senator COVERDELL. Education belongs at the local level because that is where the issue is. This is not about books and textbooks, numbers, frogs, dissecting, and biology class. It is about people. It is about young people. It is about their lives. It is about the strains and stresses of young people. We have all been through it.

What is wrong with examining in some detail, as we are doing, the Coverdell bill? What is wrong with actually allowing parents to put aside after-tax income? By the way, after-tax income is not costing the public schools a dime. It is not costing the public schools a dime. We are allowing the parents who have the most to win or lose by the education of their children an opportunity to take their own money that they work for after they have paid their taxes and put it into a savings account. It is the same thing that we did last year. My goodness, President Clinton had a Rose Garden ceremony. He took great credit for allowing our parents to have education savings accounts to educate our children after they are out of high school.

All this does is allow the same parents to set aside money to help educate their children in K through 12. That is all we are doing here. We are not really breaking any new ground. What is so wrong with that? What is wrong with that concept? This Senator from the State of Nebraska doesn't think there is anything wrong with it. As a matter of fact, we need more of that. We need more. We need less government influence and more local parent-teacher influence in education.

So much misinformation has been spread around on this issue. We should set the record straight. As I said, this does not inhibit, damage, nor affect public schools adversely at all. As a matter of fact, it helps public schools because the parents who set up the savings account can draw from that savings account to help their students and their children if they are in public school just as if they are in private school. Those moneys can be used for transportation, tutors, equipment, supplies, tuition—anything that helps the student learn. After all, Mr. President, isn't that what this debate should be about? It shouldn't be about defending turf. It shouldn't be about, "Gee, I do not want to give that program up." It should be allowing the parents to have as much direct influence and responsibility, as well as teachers, as well as the local school board, the city, the county and State, in how our young people are educated.

That is what this debate is about. As we work our way through this Coverdell bill, expanding on what we already did last year in setting up education savings accounts, it should be a national debate, and it should reside in the arena of a philosophy about education.

I would also point out that in the more than 200-year history of this country, there is one point that has been unmistakably clear. And I go back to an earlier point I made. Governments do not change behavior. Young people are formed from the inside out. Young people are not formed from the outside in. Young people are formed from their parents, their religious mentors, their religion, their teachers, their coaches, and private voluntary organizations like Girl Scouts and Boy Scouts.

That is how young people are taught. That is how they develop standards. That is how they develop expectations and understand values. That is what this debate is about. I hope we can focus on what is really important here, and that is helping our parents and our teachers help our students learn, to prepare them for a hopeful, happy, productive educated life. Only then can this great Nation not only survive but be dominant well into the next century, a nation which has produced so much good not only in this country but in the world.

Think of what this country through freedom of expression, individual liberty, and our educational system has done for the world. That is our charge in this body. That is our responsibility—to assure that the next generations not only have the same opportunities but better opportunities and are better prepared than we were. The Coverdell bill is one way to help us get there.

I thank the Chair. I yield the floor.

Mr. COVERDELL. Mr. President, how much time is remaining on each side?

The PRESIDING OFFICER. The Senator from Georgia has 23 minutes under his control and 32 minutes on the other side.

Mr. COVERDELL. Mr. President, I thank the Senator from Nebraska for his passion on behalf of reform, breaking the status quo, not only on this but so many issues. I very much appreciate the comments that were made in the name of changing this system so that we can start turning around this horrible data we are receiving from our kindergarten through high school classes. We cannot prepare for the new century in this vein. Change has to occur. I appreciate very much the comments made by the Senator from Nebraska.

Mr. President, I suggest the absence of a quorum and ask that the time be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, I urge the Senate to oppose the anti-education Republican tax 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 the A+ bill, but it is anti-education and deserves an F. This Republican bill and its proposed Republican amendments are bad tax policy and bad education policy, and it clearly deserves the veto that President Clinton has pledged to give it.

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. Our goal is to help all children get a good education, not just the ones with wealthy parents. 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.

The underlying bill uses tax breaks to subsidize parents to send their children to private schools, and it is a serious mistake. It diverts scarce resources away from public schools that have the greatest need. The regressive Republican tax bill does nothing to improve public schools—it does nothing to improve public schools. It does nothing to address the serious need of public schools to build new facilities and repair the existing crumbling facilities.

This afternoon, we will have the excellent amendment of the Senator from Illinois, CAROL MOSELEY-BRAUN, who has really been the leader in this body and in the country in recognizing the challenges that so many of our schools are facing. They are old and crumbling, and we need to modernize them.

It is a powerful amendment because the amendment says we are prepared to put resources to reconstruct our schools, but it also has a subliminal message, and that is that we want our children to go into the best facilities. If we say to the young people of this Nation that education is a priority, and day after day they go to dilapidated schools or schools that have leaky ceilings or the windows are broken or they have inadequate facilities, we are sending a message to children that they are not a priority in this country and that education is not a priority.

When we ask our children to spend the time to do the hard and difficult work to master subject matters, they have to really wonder whether the message that is coming from an older generation has much merit. That is why the amendment of Senator CAROL MOSELEY-BRAUN is so important and why I think all of us are very hopeful that we can attain the objectives of that amendment and see that amendment approved.

I know she will have an opportunity to go into very considerable detail about the General Accounting Office study of the schools across the Nation. It estimates that $110 billion is needed to invest in our schools in order to bring them up to satisfactory condition. Her amendment is much more modest, but it is an important amendment, and it is one that deserves the support of all of us who are interested in making sure that at least the physical facilities are going to be first rate for the future generations of children. It just makes common sense.

In many of our communities, particularly older communities, whether it is in urban areas or rural communities, they just don't have the wherewithal to do that. But the amendment of the Senator from Illinois, CAROL MOSELEY-BRAUN, provides some help and assistance in providing interest-free loans to those communities so that they can themselves make the judgment, make the determination, but they will get some help and assistance in terms of borrowing those funds interest free.

It makes a great deal of sense. I think we will have an alternative and an opportunity to say whether that amendment is really where we want to go or, on the other hand, if we want to continue with the Republican proposal that will provide just some tax benefits for a certain group of Americans who are going to use those tax benefits to benefit children attending the private schools. That is going to be a very, very important debate and one where I hope our colleagues will find compelling reasons to support that amendment.

Second, Mr. President, the underlying Coverdell proposal does nothing to reduce the class size in our schools. I don't know how many more hearings we have to have in our education committee and how many other examinations of what is happening in a number of different States—in Kentucky and in many other communities across this country—to understand that when you have too many children in the class—you may have teachers who are able to handle it and do it very well, and we take our hats off to them—but when you are talking about having classes with 30 students, 25 students, 20 students, you are talking about an enormous demand on the teacher and also inappropriate lack of attention for the students. We will also have an opportunity to vote on that later in the course of this debate. That can make a major difference in helping and assisting local communities in having reduced class sizes. That, I think, is a higher priority than, again, providing the tax benefits for those who want to use those for private schools.

This underlying proposal does nothing to provide qualified teachers in more classrooms across the Nation. We had an opportunity to address that briefly in our debate earlier today. It was turned down. I welcome the fact that we had 41 Senators who supported our proposal that said, if we are going to spend $1.6 billion in education, let us make the decision that we want to invest it in more teachers for the 4 million additional children who are going to be attending our public school system, to help meet the gap, which we recognize is 2 million teachers that we are going to need for our public schools over the next 10 years; let us at least have 100,000 new, well-qualified teachers to teach in those schools. That is a preferable way of spending $1.6 billion rather than, again, spending this as a tax break, as a new entitlement—a new entitlement program—that is going to benefit, again, those who send their children to private schools.

It does nothing in this underlying amendment to help children reach high academic standards. I don't, again, know how many hours of hearings we have to have to say that children respond best when they are challenged. Most of us as human beings do. Our Nation does. It always has at a time of its greatest need. We should challenge children to raise the bar, rather than teaching down to them. We should create higher academic standards. We ought to be doing that.

There is nothing in this legislation that will do anything like that for the public schools in this country. It does

nothing to provide afterschool activities to keep kids off the street, away from drugs, and out of trouble. We know the value of afterschool programs.

We have some 5 million children in our country who this afternoon at 2 or 2:30 will go home to empty houses. They will be told by their parents, "Look, maybe have a little snack, and if you have to watch television, watch television on X station; try and get your homework done." But we know what happens in those circumstances. Too many of those children who are left alone, unsupervised, more often than not will find that the temptations of getting into trouble are increased dramatically.

This is not just a diversion from education, but it also has an important impact in terms of crime in our local communities.

A city that has made about as much progress as any city in this country is my city of Boston. It has gone 2 years and 4 months without a single youth homicide. And if you ask Paul Evans, who is the commissioner of the police department in Boston, MA, he will say, yes, dealing in an appropriate way with gangs, that is No. 1. No. 2, tracing various weapons that are used in gangs. But No. 3, afterschool programs. Afterschool programs keep kids out of trouble. That is very, very important.

Is there anything with the $1.6 billion that is being recommended on the floor of the U.S. Senate to try to develop programs that we know are tried and tested, that will provide an incentive for children to go to various community centers, to work with volunteers? The number of young people who are volunteering is increasing every single day to help children with their homework so that when they do go home and they see their parents, who have been working hard all day, they will have quality time with their parents rather than hearing from their parents, "Well, you ought to go upstairs and make sure you get your homework done." This is enormously important, and it is recognized by educators and those who are concerned about law enforcement across this country. There isn't a nickel in this program—not a nickel in this program—to try to address that particular issue.

So, Mr. President, we know where these benefits are going to go. They are going to go to the individuals who are going to invest those benefits in the private schools rather than investing in our public schools.

The challenge is clear. We must do all we can to improve teaching and learning for all of the students across the country. We must continue to support efforts to raise academic standards. We must test students early so we know where they need help in time to make that help effective. We must provide better training for current and new teachers so they are well-prepared to teach to higher standards.

We must reduce class size to help students obtain the individual attention they need. We must provide afterschool programs to make constructive alternatives available to students. We must provide greater resources to modernize and expand the Nation's school buildings to meet the urgent needs of schools for up-to-date facilities. We cannot stand by and let regressive tax policy pass to help private schools at the expense of the public schools.

In those items that I have just mentioned, every superintendent of schools, every schoolteacher, every department of education across this country would agree with those essential parts of a sound education program to help and assist the public schools in this country. Where in that list do we find "Let's have tax breaks. Let's have the creation of a new entitlement. Let's create a new entitlement that is basically going to be used in order to support the private schools in this country"? It makes no sense.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I yield myself 2 more minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. KENNEDY. We cannot stand by and let this regressive tax policy pass to help private schools at the expense of public schools. Parents across the country want real solutions, not token gestures in the name of education. We should not waste $1.5 billion of public tax dollars on a do-nothing tax break program. So I hope my colleagues will join us in opposing this bill. We should do all we can to help the public schools and not abandon them.

Finally, I just want to say that we will be under the close timeframe this afternoon, but I want to just add my strong support again to Senator MOSELEY-BRAUN's substitute for the Coverdell bill. It is well-designed to help communities across the country to modernize, repair, and expand their school facilities.

Schools across the Nation face the serious problem of overcrowding. Antiquated facilities are suffering from physical decay and are not equipped to handle the needs of modern education. Across the country, 14 million children, in a third of the Nation's schools, are learning in substandard buildings. Half the schools have at least one unsatisfactory environmental condition. It would take over $100 billion just to repair the existing facilities.

It is difficult enough to teach or learn in dilapidated classrooms but now, because of escalating enrollments, classrooms are increasingly overcrowded. The Nation will need 6,000 new schools in the next few years just to maintain the current class size given the expansion of the number of children who will be going to our schools.

Democrats have made this a top priority to see that America has the best education system in the world. Providing safe and adequate school facilities is an important step towards meeting that goal.

So, Mr. President, I hope that our Members will go and support the excellent amendment of the Senator from Illinois this afternoon and that it will be successful. It is far preferable to just providing a tax break for individuals who are going to use that to support the private schools.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio has 15 minutes remaining.

Mr. GLENN. Thank you, Mr. President.

AMENDMENT NO. 2017

Mr. GLENN. Mr. President, I offered an amendment yesterday to the COVERDELL educational IRA bill. The amendment I propose will simply delete the K–12—kindergarten through grade 12—expenses as an authorized deduction for education IRAs. The amendment will keep the increase in the annual allowable contribution from the current $500 to the maximum $2,000 a year. I think that is fine, that is good.

But deleting K–12 and increasing the allowable contribution returns education IRAs to their original purpose of providing incentive savings incentives for higher education purposes. That is what the Federal Government has basically taken responsibility for through all the many years that we have been around here.

We should be looking at this whole bill for what it is. It is tax support for private school education. I believe it is bad education policy. I believe it is bad tax policy. I also think it is probably going to pass. If it does, I think the President is going to veto it. He has indicated that that is his intention.

If we look back to the days of our forefathers when people were coming to this country, they came here to have the opportunity for education. They were used to only the rich or—kids from the castle—being able to have formal education.

There were basically two kinds of people. There were the educated and the uneducated. And that is another way of saying there were the wealthy and the poor. That is what education was all about. It was to enable everybody to move up, to have a chance, to use their God-given talents and capabilities and their own desires to move ahead, to make a better life for themselves. And in this country, in the United States, we knew that if a democracy was to succeed—we did not want to return to serfdom, and rule by

a few, and wealth for just a few—education was key to making a democracy succeed. It was not a choice in our democracy, it was a must, or our country was doomed.

And the freedom to be educated, that most important freedom to be educated, spread to communities and States. And they all formed and supported public schools for all—for all—of our people. And that is the important thing we are addressing here today—education for all of our people. It was a requirement that we have minimum education.

This is my 24th year as a U.S. Senator representing the people of Ohio. And in that time, I have seen many attempts to divert Federal funds from public to private education. The approaches to accomplish this goal have been many. We had tuition tax credits; we had the voucher system; school choice; now educational IRAs for elementary and secondary education.

The Coverdell IRA, I believe, is a backdoor voucher that will do nothing to improve public schools for our public schoolchildren. That is the responsibility of Government. If other people want to take money, for whatever reason, whether it is religious or whether they just want a different school for their kids, whether they want all boys or all girls schools—that was a choice we did not deny. We did not say that we are going to Federally subsidize that kind of educational choice. And we should not be trying to do it now.

The educational expenses that the Coverdell bill provides would include tuition and fees at public, private, and religious schools. The bill does not target needy families. And I believe here is one of the biggest reasons against what is being proposed here with the bill.

Mr. COVERDELL. Mr. President, I wonder if the Senator would yield for just one moment on an administrative matter.

Mr. GLENN. Yes, without losing my right to the floor.

Mr. COVERDELL. We have concluded that following your remarks we would use the balance of the remaining time as in morning business. Both sides agreed to that. I just wanted to make it clear, because I will be leaving the floor. I ask unanimous consent for that.

Mr. GLENN. Fine.

The PRESIDING OFFICER. Is there objection to the request to proceed to morning business after the Senator from Ohio completes his remarks?

Mr. GLENN. No objection.

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

Mr. GLENN. Mr. President, the point I was going to make is this: Families in the top 20 percent of income distribution, would receive 70 percent of the benefit of this bill—70 percent.

The Joint Committee on Taxation estimates that more than half the savings would go to families whose children would attend private schools anyway. So 70 percent of the money, 70 percent of the benefit, is going to go to those who already are fully capable of sending their kids to private schools. So the bill subsidizes the savings and spending patterns that already exist.

I do not think we should be heading back toward a bill that sends us back to the place where our forefathers started in Europe: where education is going to be best for the wealthy, where education is for those who have political connections, where education is available for the kids from the castle. That is not the way this country developed. Our country went ahead because we had programs that made education available for every single young person in this country—every single person. And that is what we should still be shooting for today.

Cleveland, OH, has one of only two voucher programs in the country. The other is in Milwaukee. In Ohio, this program permits State funds to be used to send low-income children to private schools. It is the only program that allows the children to attend religious schools, parochial schools, with taxpayer funds. It is being challenged now before the Ohio State Supreme Court on that basis. It is funded at $12.5 million over 2 years. It is just finishing its second year right now, and results have been very spotty.

As a matter of fact, there are other problems that have developed also. How about paying for taxicabs for the kids? They found out that the yellow schoolbuses that the school system depends on were not adequate to furnish the transportation for the young people that were going to be taking advantage of the voucher program. That wasn't foreseen. So student taxi rides account for more than half of the $4.8 million deficit in Cleveland's 2-year-old school voucher program. It shows how an unintended consequence can take over in some instances. The voucher program had to turn to taxi firms and provide payments to parents in lieu of transportation services. That is half the funding.

There is no strong evidence at the end of the second year of the program that the voucher program increases student achievement. We need to have a better understanding of what makes a school successful before we institute a program that benefits a comparatively few young people and takes money out of the public school system. That should be our major concern—our desire to have a good public school system.

Strengthening public education in this country is something we have to do. It is necessary if we are going to be competitive in the economic future of this country. Only by making high-quality education available to all American children —not a favored few, but all American children—will we help develop the skills they need to find meaningful high-wage jobs, while developing a capable and productive work force that is essential, literally essential, to the economic future of this country in this new worldwide economic environment in which we live.

Education reform is one of the top issues before the country now. It is talked about all over, in magazine articles, and is on the cover of magazines. One that I read last night talked about the education problem. That is why I continue to oppose attempts to encourage the use of Federal funds for nonpublic education, whether in the form of tuition tax credits or vouchers or school choice. I believe including K through 12 in educational IRAs is the first step toward establishing a permanent voucher system. It just bleeds off necessary money from the public schools.

We have a public school system of education in this country that is available to all children. If this educational system is not producing the high level of achievement this Nation now needs, we can't abandon them, we can't say we will just take less money and put it in the public school system. We can't abandon them. That is why I support the school construction amendment initiatives that will help reduce classroom size and directly benefit all our Nation's public schools by ensuring that all children attend safe and modern public schools. Senator KENNEDY mentioned that a moment ago, and I agree with his remarks on that.

I believe everyone should be saving for their children's education, but the difference between elementary and secondary education and higher education is important. Every child in this country is entitled to a free, appropriate, tuition-free education in every State. We have State laws in every State in our Union that require that. Higher education, going on to the college and university level, however, is optional and is tuition-based. It is hard for parents to save for college. I believe it is appropriate to provide incentives to help them do so. I have supported the prepaid tuition plans in the State of Ohio as a way that students can be assured of a quality education at one of Ohio's State universities or at one of their colleges there.

The amendment which I am offering returns the educational IRA back to its original purpose—higher education expenses only. The only change I make is to keep the increase that is proposed in the contribution limit for education IRAs from $500 to $2,000. I think that is fine. This increase in the contribution will enable parents to save more per year for higher education. I urge my colleagues to join me in supporting this amendment.

We have a lot of problems in this country. The old property tax that has

been around for a long time is no longer adequate to do the job. It may have been OK back in the days of Jefferson and Washington when we didn't have NASDAQ, the American Stock Exchange and the New York Stock Exchange, mutual funds and so on. Most of the wealth at that time was in property, so a property tax was very appropriate to support the schools. Particularly over the last four or five decades we have now developed into being a service economy where two-thirds of our wealth, two-thirds of our national income, comes from the service industry. So the old property tax is no longer adequate to do our schools. We have to get away from that.

Proposition 13 in California we are familiar with, did, in my view, wreck one of the finest education systems in the country. They are having a lot of problems that everybody else has around the country these days.

We are the only industrialized nation in the world that does not have a national education system. I am not here today to say we should go to a national education system. That would probably get me run down the front steps of the Capitol pretty fast. But we have to do more from the Federal level. We are only a tiny part of our K through 12 education. I think it is just around 5 percent now. Most of that is in school lunch programs and things like that and not directly on educational matters.

Our system in this country, as Lester Thurow pointed out in his last couple of books, our system is basically run by 15,000 independent school boards all saying, "We won't raise your taxes," and then they get together and decide what they will do in the local school districts. They get elected on "we won't raise your taxes," "We aren't going to vote on any other taxes; we will not raise your property taxes," so we at the Federal level are increasingly up against this as to what we should be doing.

What we see is we are becoming gradually less competitive in a worldwide environment. We can't let that happen. The answer is not, as in this Coverdell bill, to say we will siphon money off from the public school system and give it over to the private school system in the form of vouchers or IRAs or whatever, take it out and put it over there, away from the public school system and support them less instead of more. That doesn't solve our problems in this country. So we do have some other problems. We have to address those, but not this way and not with this particular piece of legislation.

I noted this morning in looking at the Los Angeles Times their lead editorial today was entitled "Don't Drain Public Schools." I ask unanimous consent to have this printed at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. GLENN. "Don't Drain Public schools." That is exactly what we are talking about. We will drain public schools to the benefit of private schools, and 70 percent of the money will go to people already capable of providing, to the top 20 percent of the people already capable of providing for private schools for their kids if they want it.

The insert in this article, and I will not read the complete article, the insert says, "Washington should help address the education deficits in the Nation's public schools, but shifting even a small amount of tax money to private schools is not the answer, at least not yet." That about summarizes everything that I want to make a point of this morning.

I think there is a vote on my amendment at 2:15 after our respective party caucuses. I hope people can think long and hard about this. I see this as a first step down a long slippery slope toward less and less support for our public school system, that which serves all America, that which enables people at the lowest level of economic advantage in this country to get opportunity through education and their own hard work to be a contributing member of society and make as much of a success of their lives as anybody else.

I reserve the remainder of my time.

EXHIBIT 1

[From the Los Angeles Times Editorials, Apr. 21, 1998]

DON'T DRAIN PUBLIC SCHOOLS

The White House and the Republican majority in Congress both talk about how much they want to improve education in the United States. But they have very different plans for doing it. President Clinton speaks of more teachers, more schools, more special programs and higher standards. Republicans would rather offer a small monetary reward to every parent who saves for educational expenses, including tuition for non-public elementary or high schools. The White House opposes this modest tax break because it would allow the use of federal funds to subsidize private and parochial schools. On this issue, Clinton is right.

Improving public education has become a top political priority from the District of Columbia, where public schools are in dismal shape, to Los Angeles, with its overwhelmed system and awful test scores. Washington should help address the yawning educational deficits in the nation's public schools, but shifting even a small amount of tax money to private schools is not the answer—at least not yet.

Clinton isn't personally against private schools; his daughter graduated from one last year. But rather than encourage an exodus from public schools at the expense of the taxpayer, he says he wants to fix the public schools to serve all children, including those whose parents cannot afford private or parochial schools with or without a new education savings account.

Fixing the schools is a tall order, as residents of Los Angeles know all too well, and parents can never be blamed for wanting the best for their children. But most educators and employers would agree that the White House is right.

The House of Representatives has approved a GOP bill that would create education savings accounts that work like individual retirement accounts for parents of students in kindergarten through 12th grade. Parents would be allowed to save as much as $2,000 a year in a special account. The interest would accrue tax-free, so long as the money was withdrawn only for education purposes, including books, computers, tutoring and, foremost, tuition. The Senate is expected to take up its version of the bill this week.

Though schools are traditionally a local responsibility, Washington has been increasingly willing to help. That help should be expanded, but care must be taken to avoid undermining public education. America's great economic engine was built on public schools that took all comers—poor, working-class, middle-class and beyond—and that same mix remains essential for a healthy educational system.

Tax savings under the bill would, according to an analysis by the Joint Tax Commission, average a paltry $7 to $37 a year per family. But the principle is big.

This national private-versus-public debate boils down to a difference of priorities. Clinton's ambitious wish list, unveiled during his State of the Union address, calls for spending $12 billion over seven years to pay for 100,000 new teachers, reducing class size to 18 students in the primary grades and creating 50 "education opportunity zones," patterned after urban enterprise zones, in high-poverty areas, plus funding to help build new schools. Republicans favor initiatives that would allow more parents to remove their children from public schools.

Neither side can expect to prevail while a Democrat sits in the White House and Republicans control Congress, but irreconcilable differences should not be allowed to lead to gridlock. Both sides agree that something needs to be done about public education.

Public schools, especially in cities, are in trouble. But there are promising reforms being tried, from a radical public school choice program in Seattle to a mayoral takeover in Chicago to L.A.'s focus on the 100 worst-performing schools. Playing on the frustration of parents in a way that undermines the whole system is not the cure.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I ask unanimous consent to speak for 10 minutes as in morning business.

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

Mr. SANTORUM. Mr. President, I felt compelled, while I was in the chair in the last hour, to comment on the statements of the Senator from Massachusetts and the Senator from Ohio. I found it quite remarkable, sitting and listening to what was laid out, I think, somewhat factually about the problems we have in education, that the educational system is not meeting the needs of our country in providing good citizens, the education necessary to be good citizens, and the education necessary to perform needed functions in our economy.

The response to the problem in education from the Senator who spoke,

and from others who oppose this bill, is two things. I hear two things. One, we need more bricks and mortar. If we had better looking schools and more nicely appointed schools, or even better equipment, somehow the problem would go away. On top of that, we need more teachers. So if we just did more of the same, only did it better, with nicer buildings and more people, things would improve.

I am not too sure that most Americans who are interfacing with the school systems in this country right now would accept that as the reasonable course, that what we need is just a few more teachers in the schools and better looking buildings. I have been to a lot of schools. I have been to about 120 public school districts in my State. I go to schools all the time. I spend a great deal of my time as I travel the State talking in the public schools. I have been to a few private schools, too. By and large, I would say that the public schools I went to were in much better condition than the parochial schools and private schools I went to. No comparison. Much better equipment, much more state-of-the-art, much better teacher ratios than the parochial schools I went to. So if the problem in the public schools was better buildings and more teachers, then the results that I would get in going to a public school in inner-city Pittsburgh, and one that is a parochial school, should be dramatically different based on this criterion that more teachers and nicer buildings make good school districts and educate children.

In fact, the results are just the opposite. It is not bricks and mortar. It is not numbers of teachers. It is structure, it is discipline, it is order, and it is caring and concern, it is love, it is involvement—all of those intangible things that have to do with families and people who are committed to educating children. So what those of us on our side believe is the answer is not to pump more money into bricks and mortar and existing structures, but to pump more money into the people who make a real difference in children's lives, and that is families—families, who can help their children by assisting them with some resources, help them in their public or private or parochial education. That is just a fundamental difference as to what we believe works in education.

I don't think that continuing to throw money at the system would work. This is truly remarkable. You would think this bill took money from the public schools. For the record, there is nothing in this bill that takes one dollar out of the Federal commitment to education. In fact, there is more money in this bill, but you would not know that. I have been here for the last hour and 15 minutes, and you would not know that by listening to the other side. You would think that this were stripping money out of Federal support for education in the public schools. That is not true. Not one penny. In fact, more money for school construction is in this bill. So there is not one dollar being taken away, not one dollar being diverted away. This is in fact "new Federal support" for education.

Where is it going? It is going to families. This is sort of funny. I almost feel bad saying, "Where is it going?" "To families." We are letting it stay there; we are just going to be benevolent enough to let them keep it if they do with it what we want them to do, which is to help support their children in education. It is saying that if you do what we want you to do with that money, we will let you keep it.

It is very nice of us to do this, isn't it? It is sort of nice to come around and say we will let you keep the money if you do what we tell you. What the other side wants to do is say, "No, we are not going to even let you have the choice to take that money. Excuse me, we are going to give it over here to build more schools and give it to more teachers." They say that is the problem, that we don't have nice schools and we don't have enough teachers.

Again, I don't think too many people really believe that. What we want to do is get at the heart of the problem, which is to give parents the opportunity to educate their children, not to give schools more money.

There is another remarkable thing here. When I say not to give schools more money, what we are talking about here with these A+ accounts is $100 million a year. You would think we were talking about huge amounts of money vis-a-vis what we spend on public education. We spend roughly one-quarter of a trillion dollars on public education per year. The Senator from Georgia told me that. This bill is $100 million per year. This is hardly a division plowing into the main line of the educational establishment; this is a sniper, at best, saying, "Look, we are here." This is a very moderate, very modest proposal, to say: Let's allow families to have some choices here. We do a great job.

This is another astounding thing. The amendment of the Senator from Ohio says that we should not allow this money to be used for K–12, let it be used for postsecondary education. I travel around the State of Pennsylvania a lot and around the country a little bit. I hear a lot of people complaining to me about the quality of K–12 education and the problems in primary and secondary education. I hear a lot of complaints about higher education, but it is not about quality. It is not about quality. It is somewhat about access and about costs, yes. But I think we are the envy of the world when it comes to colleges and universities and technical schools after primary and secondary school.

Yet, what do we want to do? We want to put more money where there isn't a problem as far as quality and producing good products, and not put it into the area where people think the biggest problem exists. Now, I am telling you, if I were running a company and I had two divisions, one that was doing well producing good product and the other that was not, and someone came forth and said they thought we could change the system by which we produce this product, look at a different approach, because we have been trying this old approach now for decades and it just isn't keeping up with the requirements of the new age that is out there, as far as the need for education, this product isn't keeping up with standards and we need to look at how to change it, some folks might come forward and say, "See these old machines here. We need to put more bells and whistles on to make them look nicer. We don't need to change the structure or how it works, it just needs to be run better and we need more people running it." That is what their answer is.

Some of us are saying, as well, that maybe we should try other machines or look to change this machine so it doesn't function a little differently than it has done in the past. We want to put some money in to do that. This board of directors is saying, "Oh, no, no. Leave this system just the way it is. Clean it up a little bit, put a few more operators on the machine, and put the money over here where we have the good product. Don't fix the old product."

I don't think that makes sense to most Americans. It certainly does not make sense to me. So what we are trying to do here in a very modest way is to say the future of education is going to be just like the future in everything we do, as we become more and more decentralized as an economy and as a country, with people demanding and expecting more choices and more freedom and needing it to be flexible enough to deal with the changing economy and the changing world. Instead of setting up institutions and structures that may or may not—in most cases, they will not—meet the changing needs of our economy and our educational needs, to invest that money into the flexible family, if you will, into the family that in my community in Penn Hills, PA, maybe have very different needs as to what their child needs to be educated for, given the capability of the child, given what the economy is in the area, given what skills are necessary in the region, whatever it is, than someone in Birmingham, AL, who may have a very different set of skills needed, a very different community, very different needs, but allow that family to make that decision, give

them the resources if they want to send the child to the public school and use that money to buy some software, or to buy a computer, or to buy other kinds of teaching aids, or to buy tutorial services, whatever it is, give them the flexibility to meet the needs of their child instead of putting more bricks in a school.

It is just common sense. It makes sense. It is so obvious on its face that, if we are going to do anything to allow the family and the individual student to have the flexibility to deal with this changing environment in education and our economy, it is the only direction we can take rather than put money into the old machine to just make it look nice and put more operators pulling the gadgets. I mean, it is just inconceivable that anybody thinks that is the answer to this dynamic educational marketplace that we have. We have a great opportunity here to show that we get it—that we in our hallowed Halls can walk outside and go into a community school to see what makes the difference in education is not nice buildings or small classrooms. Those are nice things. But it is committed families, committed teachers, and it is community involvement—someone going to a school where they can take part of something that is good for them, they can contribute to their well-being. That can only be done through families and giving them the resources to maximize their own children's future.

Thank you, Mr. President.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2:15 p.m.

There being no objection, the Senate, at 12:23 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The Presiding Officer, in his capacity as a Senator from Indiana, notes the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONDOLENCES OF THE SENATE ON THE DEATH OF FORMER SENATOR TERRY SANFORD

Mr. FAIRCLOTH. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 211, which I submitted earlier and is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 211) expressing the condolences of the Senate on the death of the Honorable Terry Sanford, former United States Senator from North Carolina.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. FAIRCLOTH. Mr. President, I note that all 100 Senators have joined me as cosponsors of this resolution.

This resolution is to honor a truly great American and a great North Carolinian, former Senator Terry Sanford, a man I knew since I was about 18, 19 years old. In fact, I joined him in managing the campaign for a candidate for Governor, a man named Kerr Scott, and with that election we changed the direction of politics in North Carolina.

We had a long friendship. As I say, it began with that campaign, and we went through many political campaigns together. He had a remarkable life. He managed two or three senatorial campaigns on which I had the pleasure of working with him.

Prior to that, Terry Sanford graduated from the University of North Carolina in the late thirties. During World War II, he was an FBI agent in the early part of the war, in the very beginning, but being an FBI agent was not exciting enough for Terry Sanford. He chose to join the 82nd Airborne and became an officer and a paratrooper. He was involved in five different battles during World War II, and he won the Bronze Star and the Purple Heart.

Terry Sanford was always a paratrooper. He was ready to go for it. He was ready to jump into the middle of whatever might be happening.

As I mentioned earlier, he managed and ran some political campaigns, but he was also a State legislator and took great interest when he was a State legislator in developing the Port of Wilmington, NC, and established the ports authority for North Carolina.

He ran for Governor and won. He was Governor from 1961 through 1965, and never did a man have greater vision for a State than Terry Sanford had for our State. He was a leader in education, but not just education in the sense of teaching young people to read and write and the fundamentals of education. He certainly did that and promoted that. But far more, he promoted a school of excellence for those children who were far more gifted. Then he established a school of the arts, which now exists in Winston-Salem, NC, and is one of the foremost training and teaching institutions in the country for young people who are entering the arts from dancing to moviemaking. This school is there because of him.

Although he did not technically start the community college system, he did more than any Governor we have had since or before to promote the community college system in North Carolina with 59 campuses. He really brought it to fruition.

Again, although he did not start, technically, the Research Triangle Park, he and his administration were deeply involved in bringing it about and setting it on the path it has taken.

I mentioned he was a lawyer for many, many years and started a couple of very prestigious law firms. After his tenure as Governor, he became president of Duke University and served there for some 15 years. It was a great school, a great university when he went there, but the changes, the improvements, the expenditures, the endowment, the doubling of the medical center all transpired and took place under the leadership of Terry Sanford as president of Duke. It became an internationally recognized university under his tenure.

He came to the U.S. Senate and left an admirable record here with many initiatives that he sought and worked toward. One of them is something we are still working on today, and that is to ensure the future and fiscal stability of Social Security.

Senator Sanford was married to Margaret Rose, his wife of 55 years. They had two children, Terry, Jr., and a daughter Betsy.

North Carolina and the Nation are better places today for all of us to live in because of men like Terry Sanford and because of Terry Sanford and his vision and tenacity to carry it forward. The country will miss him, the State will miss him and I will miss him as a friend.

Mr. President, I believe I said this, but I will note that all 100 Senators have joined me in cosponsoring this resolution.

Are there any other Senators wishing to speak?

Mr. KENNEDY. Will the Senator yield?

Mr. FAIRCLOTH. I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I join in expressing my sadness over the death of our former colleague, Senator Terry Sanford, and I commend the Senator from North Carolina for his eloquent statement. Senator Sanford was an extraordinary leader of many talents. He was an outstanding Member of this body, an outstanding educator, and an outstanding Governor of North Carolina.

Many of us had the privilege of serving with him in the Senate and of knowing him personally. We admired his great ability, his unusual eloquence, and his abiding commitment to the people of North Carolina and the nation.

In a sense, I inherited Terry Sanford from President Kennedy. He was one of the first Southern leaders to endorse my brother for President in the 1960 campaign. My brother had visited North Carolina as a Senator, and had been very impressed by Terry Sanford. I know the very high regard that my brother had for him as a voice of the New South, as a champion of education, and as a leader who understood the importance of bringing people together.

In July 1960, at a critical moment leading up to the Democratic Convention in Los Angeles, Terry Sanford endorsed my brother and then seconded my brother's nomination for President. It made an enormous difference. In a very real sense, Governor Sanford helped to lay the foundation for my brother's New Frontier.

Later, after serving with great distinction as Governor, Terry Sanford became a President himself—of Duke University, where he served for 16 years, and won world-wide renown as one of the pre-eminent educators of the century.

He won election to the United States Senate in 1986. All of us on both sides of the aisle held him in great respect—and in great affection as well. In so many ways, Terry Sanford was a Senator's Senator. He was fair-minded and warm-hearted, and he knew the issues well. Above all, he impressed us with the power of his commitment, the eloquence of his words, the remarkable moral authority of his leadership, and his dedication to excellence in all aspects of public service. We admired him for his statesmanship, and we loved him for his friendship. We will miss him very much. He was truly a profile in courage for our time.

I ask unanimous consent that an article from the New York Times of April 19 on Senator Sanford may be printed in the RECORD.

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

[From the New York Times, Apr. 19, 1998]

TERRY SANFORD, PACE-SETTING GOVERNOR IN 60'S, DIES AT 80

(By David Stout)

WASHINGTON.—Terry Sanford, who lowered racial barriers as Governor of North Carolina in the 1960's, setting the style for a new kind of Southern politician, and later became a United States Senator and Presidential candidate, died today at his home in Durham, N.C. He was 80.

The cause was complications from cancer, said Duke University, where Mr. Sanford was treated and where he was president from 1969 to 1985.

Until his cancer was diagnosed in December. Mr. Sanford had taught government and public policy at Duke and practiced law. He was president of the university, in Durham, after serving as Governor and before his term in the Senate. Mr. Sanford was at various times a lawyer, a member of the North Carolina State Senate, from 1953 to 1955, and, in the early 1940's, an agent of the Federal Bureau of Investigation.

Mr. Sanford was Governor from 1961 to 1965, a time when civil rights demonstrations were frequently met with violence. In a speech on Jan. 18, 1963, he called for an end to job discrimination against blacks and announced the creation of a biracial panel, the North Carolina Good Neighbor Council, to work toward that end.

"Despite great progress, the Negro's opportunity to obtain a good job has not been achieved in most places across the country," Mr. Sanford said. Opening more opportunities would be good for the state's economy, he said, but there was a far more compelling reason. "We will do it because it is honest and fair for us to give all men and women their best chance in life," he said.

By today's standards, those words seem unremarkable. But in January 1963, when Gov. George C. Wallace of Alabama delivered his "segregation forever" inaugural address, Mr. Sanford's stand for civil rights was seen as particularly courageous for a governor from the old Confederacy.

Mr. Sanford established himself as one of the most liberal Southern governors—too liberal, in the eyes of some constituents—as he named black people to high state positions, pushed state lawmakers to raise more money for schools and started a state antipoverty program that was a forerunner to President Lyndon B. Johnson's War on Poverty.

In some ways, Mr. Sanford was a contradictory politician. He seemed to have good timing but bad luck. He had shrewd instincts, yet he seemed to lack burning desire. His changes of mind and heart confounded ally and rival alike.

Mr. Sanford was an early supporter of John F. Kennedy's quest for the Presidency, and so enjoyed easy access to the White House in the early 1960's. The President's personal secretary, Evelyn Lincoln, later wrote in a book that President Kennedy had told her he was thinking of Mr. Sanford as his running mate for 1964.

His own liberal programs notwithstanding, Mr. Sanford preached the virtues of "state responsibility," if not states' rights, as an antidote to creeping "big Federal Government." Under state law, Mr. Sanford could not succeed himself as Governor.

He tried for the White House in 1972 and in 1976, while he was president of Duke University, offering himself as a candidate for those disenchanted with the political system and those who were part of it.

Mr. Sanford, who had declared his support for school integration, was beaten in the 1972 North Carolina Democratic Primary by Governor Wallace of Alabama. That humiliating loss in his home state effectively ended his candidacy.

Four years later, Mr. Sanford ran for President again but dropped out early. He said he had found it impossible to gain enough news coverage and to raise enough money, and that he was sick of campaigning.

In 1986, having left Duke, Mr. Sanford ran for the Senate. When President Ronald Reagan made several appearances on behalf of his opponent, Mr. Sanford knew better than to criticize a President. So he suggested instead that North Carolina did not need a "go-along Senator." Mr. Sanford won a narrow victory.

In the Senate, Mr. Sanford gained a reputation for intelligence, personal decency and, in one celebrated instance, indecision. In 1987, after President Reagan had vetoed an $87.9 billion highway bill, Mr. Sanford changed his mind three times: first voting simply "present" on a vote to override the veto, then voting to sustain the veto and finally, under tremendous pressure from other Democrats, switching again and voting to override it. His vote made the count 67 to 33, the precise margin required to override.

"Nobody in the Senate thinks I caved in," he said later.

In fact, his colleagues on both sides of the aisle were saddened at seeing him buckle.

"He's a gentleman," said Senator Alfonse M. D'Amato, Republican of New York. "Maybe that's his problem. He's such a beautiful man."

In 1992, Mr. Sanford appeared at first to be in good position for reelection, but he was hospitalized with a heart problem during the campaign. His opponent, Lauch Faircloth, a former Democrat and one-time friend, tried to tar him with the brush of liberalism. And Mr. Faircloth deftly made an issue of Mr. Sanford's health by publicly wishing him a speedy recovery.

Mr. Faircloth's narrow victory ended Mr. Sanford's political life, one that had begun when he was 11: in a 1928 parade in his hometown, Laurinburg, N.C., Terry Sanford carried a sign for Alfred E. Smith, the Democratic Presidential candidate.

Terry Sanford was born on Aug. 20, 1917. His father was a merchant and his mother a schoolteacher.

He graduated from the University of North Carolina at Chapel Hill in 1939. After a brief stint in the F.B.I., he joined the Army in 1942. That year, he married Margaret Knight of Hopkinsville, Ky.

Besides his wife, he is survived by a son, Terry Jr., of Durham; a daughter, Elizabeth, of Hillsborough; two sisters, Mary Glenn Rose of Pennsylvania, and Helen Wilhelm of Bern, Switzerland, and two grandchildren.

As an Army private, Mr. Sanford served as a paratrooper, taking part in the invasion of Southern France and later in the Battle of the Bulge, for which he received the Bronze Star and a Purple Heart.

After the war, mustering out as a first lieutenant, he received his law degree from the University of North Carolina at Chapel Hill and became active in the North Carolina Democratic Party.

Whether working for himself or on behalf of other Democrats, he was known as a tireless campaigner, and a cool one. While he was running for governor, the pilot of his small plane seriously misjudged a short landing strip and came within inches of touching down in a cornfield.

Unruffled, Mr. Sanford stepped out and, grinning, helped several ashen reporters down the steps.

"Start picking corn, boys," he said before walking away.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

The Chair would note there are just 32 seconds or so remaining before the vote.

Mr. BAUCUS. I thank the Chair.

Mr. President, I want to join my friends and colleagues in paying tribute to Terry Sanford. I did not serve on any committee with Terry, but in the few years that we served together, he immediately struck me as a wonderful

man, a good man, with a ready smile, a very thoughtful, very wise, very good, very deep person, the kind of Senator that not only North Carolina, I know, is very proud of, but the kind of Senator that I think most Americans would want their Senator to be.

I cannot, as I am standing here thinking of Terry Sanford, think of another person whom I respected more and loved more and appreciated more, going through all the history, Research Triangle of North Carolina, the Governor, president of Duke University. But the main point I want to make is, working with Terry personally, and talking with him, and working through issues, he was a man who will be very difficult to replace. And, as I said, I can think of no Senator whom I would hold in higher esteem or regard than Terry Sanford.

The PRESIDING OFFICER. Without objection, the resolution and preamble offered by the Senator from North Carolina are agreed to.

The resolution (S. Res. 211) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 211

Whereas Terry Sanford served his country with distinction and honor for all of his adult life;

Whereas Terry Sanford served his country in World War II, where he saw action in 5 European campaigns and was awarded a Bronze Star and a Purple Heart;

Whereas as Governor of North Carolina from 1961–1965, Terry Sanford was a leader in education and racial tolerance and was named by Harvard University as 1 of the top 10 Governors of the 20th Century;

Whereas as President of Duke University, Terry Sanford made the University into a national leader in higher education that is today recognized as 1 of the finest universities in the United States; and

Whereas Terry Sanford served with honor in the United States Senate from 1987 to 1993 and championed the solvency of the social security system: Now, therefore, be it

Resolved, That the Senate—

(1) has heard with profound sorrow the announcement of the death of the Honorable Terry Sanford and expresses its condolences to the Sanford family, especially Margaret Rose, his wife of over 55 years; and

(2) expresses its profound gratitude to the Honorable Terry Sanford and his family for the service that he rendered to his country.

SEC. 2. TRANSMITTAL.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to the family of the Honorable Terry Sanford.

Mr. FAIRCLOTH. The preamble and resolution have been agreed to?

The PRESIDING OFFICER. That is correct.

Mr. FAIRCLOTH. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2017

The PRESIDING OFFICER. The Senate now turns to the amendment No. 2017 offered by the Senator from Ohio. Under the previous agreement, there will be 2 minutes of debate equally divided followed by a vote on that amendment.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I think this Nation of ours came to be what it is, more than anything else, for one reason, and that is public education in this country was not what it had been in Europe. It had not been just for the kids from the castle. It had not been just for the rich kids or the wealthy young people. It had not been just for those who were politically well connected, who knew somebody.

In this country, education came to be for every single person, and that grew as a national interest. It was implemented then for the K–12, as we know it now, through the States and localities and communities across this country. They formed local school boards, and we have school districts. Now every single State has a requirement for public education.

We did not preclude other people who had parochial school ideas for their children, or whether they wanted to send their kids to boys schools or girls schools or a special interest of some kind, from forming those schools and from sending their children to those schools. But we looked at the public responsibility as being to the public schools that gave a good education to every single young person in this country.

Ms. LANDRIEU. Mr. President, I would like to lend my strong support to the efforts of my colleague from Ohio, Senator GLENN. Our colleague from Georgia has introduced a bill which he claims will improve savings for education. Unfortunately, the evidence from economists seems to disagree with him. The average American family would save only $37 under Senator COVERDELL's approach.

The reason for this is simple to understand. In order to experience real economic benefit from a tax free savings plan, the principle and interest must stay untouched for significant periods of time in order to have a chance to grow. With H.R. 2646, parents would be allowed to deposit up to $2,000 into an educational IRA, which is a significant increase over the $500 they are currently allowed to contribute. However, Senator COVERDELL would also allow these families to withdraw funds from the education accounts for the annual costs of elementary and secondary education. So in essence, you would have families depositing $2,000 into an educational savings account, accruing some limited tax savings, and withdrawing it the next year.

Under this scenario, there are no long terms savings, no accumulated interest and none of the real benefits that we are attempting to create with these educational IRAs. That is why I am so pleased with the approach taken by my friend, JOHN GLENN. Through Senate Amendment 2017, families would be able to contribute more to their tax free savings accounts, however, it would be reserved for higher education expenses. By increasing the contribution limit to $2,000, Americans can all reap the benefit of increased savings for education. They will see their principle grow with compound interest and Congress will preserve the true intention of this newly created IRA.

Mr. President, I ask unanimous consent that this table be printed in the RECORD.

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

SAVINGS GROWTH THROUGH COMPOUND INTEREST

Year	Less than—			
	$10 per week at 6% yield	$10 per week at 12% yield	$40 per week at 6% yield	$40 per week at 12% yield
1	530	560	2,120	2,240
2	1,091	1,187	4,367	4,748
3	1,687	1,889	6,749	7,558
4	2,318	2,676	9,274	10,705
5	2,987	3,557	11,950	14,230
6	3,696	4,544	14,787	18,178
7	4,448	5,649	17,794	22,599
8	5,245	6,887	20,982	27,551
9	6,090	8,274	24,361	33,097
10	6,895	9,827	27,943	39,309
11	7,934	11,566	31,739	46,266
12	8,941	13,514	35,764	54,058
13	10,007	15,696	40,030	62,785
14	11,137	18,139	44,551	72,559
15	12,336	20,876	49,345	83,506
16	13,606	23,941	54,425	95,767
17	14,952	27,374	59,811	109,499
$8,500	$14,952	$27,374	$34,000/$59,811	$109,499

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time in opposition?

Mr. GLENN. I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator from Ohio is recognized for an additional minute.

Mr. GLENN. Mr. President, what my amendment would do is say we could keep the $2,000 that is in the bill now, but we would move that just to be used for post-12th grade education. In other words, we move from $500 up to $2,000, but we say it cannot be used for private schools, for private school vouchers, and so on.

I think when we start down this track, we start toward the ruination or start opening the door, a toe in the door, for a ruination of our public school system. I want the finest public school system we can have. Voting a

voucher system or taking public money off to support private schools is not the way to go about it. I urge support for my amendment.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. GRAMM. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. How much time do we have on each side?

The PRESIDING OFFICER. Two minutes are equally divided under the previous agreement.

Mr. GRAMM. I thank the Chair.

The PRESIDING OFFICER. The Chair notes that the time for those who would speak in opposition to the amendment is currently running with 35 seconds remaining.

Mr. GRAMM. Mr. President, our leader on this issue, Senator COVERDELL, is at a press conference out on the steps. We have no further requests to have speakers on our side. If the distinguished senior Senator from Ohio is through with his portion of the debate, I would be happy, on behalf of Senator COVERDELL, to move to table the pending amendment.

Mr. GLENN. Fine.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. GRAMM. Mr. President, I move to table the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment No. 2017. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

Mr. FORD. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

The result was announced—yeas 60, nays 38, as follows:

[Rollcall Vote No. 87 Leg.]

YEAS—60

Abraham	Faircloth	Mack
Allard	Feinstein	McCain
Ashcroft	Frist	McConnell
Biden	Gorton	Murkowski
Bond	Gramm	Nickles
Breaux	Grams	Roberts
Brownback	Grassley	Roth
Burns	Gregg	Santorum
Byrd	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	Lieberman	Thurmond
Domenici	Lott	Torricelli
Enzi	Lugar	Warner

NAYS—38

Akaka	Ford	Leahy
Baucus	Glenn	Levin
Bingaman	Graham	Mikulski
Boxer	Harkin	Moseley-Braun
Bryan	Hollings	Murray
Bumpers	Inouye	Reed
Cleland	Johnson	Reid
Conrad	Kennedy	Robb
Daschle	Kerrey	Rockefeller
Dodd	Kerry	Sarbanes
Dorgan	Kohl	Wellstone
Durbin	Landrieu	Wyden
Feingold	Lautenberg	

NOT VOTING—2

Bennett	Moynihan

The motion to lay on the table the amendment (No. 2017) was agreed to.

AMENDMENT NO. 2288

The PRESIDING OFFICER. The question now occurs on amendment No. 2288, as amended, offered by Senators MACK and D'AMATO.

Under a previous order, there will be two minutes equally divided for debate followed by the vote.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the next votes in this series be limited to 10 minutes in length.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

If neither side yields time, the time will be charged equally to both sides.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Mr. President, our amendment provides incentives for teacher testing and merit pay.

We see that competition in the 21st century will be based on knowledge, and that if our children and our grandchildren are going to be able to compete in this next century, they must have an education second to none.

Quality teachers produce quality students. We believe this amendment will increase the number of quality teachers in the school system today.

With that, I yield to my colleague for his comments.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me simply say that the objective of these reforms is to put our children first, to promote excellence in education, to reward the truly outstanding teachers who create magic in the classroom, give them merit pay, and see to it that we have a level of competence in terms of teaching what our children require.

Mr. President, let me say that we do not mandate that States and local districts come into this with the funds that will be provided for merit pay and teacher testing.

The PRESIDING OFFICER. Who yields time? If no time is yielded in opposition to the amendment, the time will run.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the time be yielded and that we proceed to the regular order.

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

The question occurs on amendment No. 2288, the Mack-D'Amato amendment, as amended.

The yeas and nays have not been ordered.

Mr. COVERDELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

Mr. FORD. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

The result was announced—yeas 63, nays 35, as follows:

[Rollcall Vote No. 88 Leg.]

YEAS—63

Abraham	Feinstein	Lugar
Allard	Frist	Mack
Ashcroft	Gorton	McCain
Bond	Gramm	McConnell
Boxer	Grams	Murkowski
Breaux	Grassley	Nickles
Brownback	Gregg	Roberts
Burns	Hagel	Roth
Byrd	Hatch	Santorum
Campbell	Helms	Sessions
Chafee	Hollings	Shelby
Coats	Hutchinson	Smith (NH)
Cochran	Hutchison	Smith (OR)
Collins	Inhofe	Snowe
Coverdell	Jeffords	Specter
Craig	Kempthorne	Stevens
D'Amato	Kohl	Thomas
DeWine	Kyl	Thompson
Domenici	Landrieu	Thurmond
Enzi	Leahy	Torricelli
Faircloth	Lott	Warner

NAYS—35

Akaka	Feingold	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Murray
Bryan	Harkin	Reed
Bumpers	Inouye	Reid
Cleland	Johnson	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
Dodd	Kerry	Wellstone
Dorgan	Lautenberg	Wyden
Durbin	Levin	

NOT VOTING—2

Bennett	Moynihan

The amendment (No. 2288), as amended, was agreed to.

Mr. COVERDELL. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator will withhold.

The Senate will please come to order.

The Senator from Georgia is recognized.

AMENDMENT NO. 2291

Mr. COVERDELL. Mr. President, I ask for the yeas and nays on the amendment offered by the Senator from Texas.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. KENNEDY. Mr. President, as I understand, under the rules, we have a brief time for explanation of the amendment and in opposition. Two minutes.

Are those who favor the amendment going to speak? Because I would like to speak briefly in opposition.

Mr. COVERDELL. The protocol has been, those opposing the amendment have taken the first 2 minutes, proponents for the amendment the last 2 minutes.

Mr. KENNEDY. That is rather unusual. I will be glad to follow. Usually those who propose it make the case for it; those opposed to it speak in opposition. So I will reserve the time and wait until those who favor the issue speak in favor of it.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Who yields time?

Mrs. HUTCHISON. Mr. President, I will take 30 seconds to explain the amendment, and then if the Senator would like to take his time, and then I will reserve the last 30 seconds for Senator COLLINS to close.

Mr. President, I ask unanimous consent that Senator HELMS of North Carolina be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, so ordered.

Mrs. HUTCHISON. Mr. President, my amendment offers the opportunity, the option to local school districts and parents to choose single-sex classrooms or schools if there are comparable opportunities for both sexes. "Comparable" is the word used by the Department of Education and the Supreme Court in the VMI case to determine if there is equal protection under the law.

I hope we will allow all of the parents of our country to have this as an option. We have to break out of the box in public education to give options to our parents for what is best for their child.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, if the purpose of the amendment of the Senator from Texas is to permit separate classrooms for different genders, you can already do that. We already have it. So there is no purpose in this. If the purpose is to set up schools which are separate and allegedly providing, as the amendment says, "comparable," all you have to do is look at the court opinions and what "comparable" means, and it fails to meet the constitutional standard in terms of real equality.

We don't have to learn in this country again that, when you have either minorities in separate facilities or women in separate facilities, it is second-level education or treatment. We can debate that at another time. That is the history. If you just want to have separate classrooms, you can already have them, and it is constitutional.

There is a much more sinister and real issue of constitutionality that is raised by this. We virtually had no hearings. If you don't want to undermine the whole movement of trying to get equal treatment for women in the classrooms and education, vote in opposition to the amendment of the Senator from Texas.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Thank you, Mr. President.

Mr. President, I am pleased to support the amendment offered by the Senator from Texas. There is a wonderful example of what she is talking about in Presque Isle, ME. There is an all-girl's math class. They produce wonderful results. I have been in that classroom, and the learning there is absolutely terrific. But they had to go through all sorts of regulatory hoops in order to be able to do that. They would not have to under the amendment of the Senator from Texas. I am pleased to join her in support of it. Thank you, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KENNEDY. Mr. President, I have 15 seconds left. I ask that the Senator from Illinois be permitted 15 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. Thank you very much. I thank the Senator from Massachusetts. I will be brief. As both a minority —the only minority Member of this Chamber—and a woman, I fit both bills. Quite frankly, we have been down the road of separate but equal and unequal in this country. Unless it is equal, it winds up being unequal. The discrimination that is possible by this legislation for girls is too frightening to support it. I rise, therefore, in opposition. I ask there be hearings on this matter so that we can visit with the parents and see what direction they would like to take. Thank you.

Mr. DOMENICI. Mr. President, I ask unanimous consent for 3 seconds to ask the Senator a question.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from New Mexico is recognized.

Mr. DOMENICI. Is there anything sinister about your amendment?

Mrs. HUTCHISON. I am so pleased to have the question asked because, of course, this is to allow local school districts to have the option. We are not forcing this on anyone. But where an individual child can best perform in a single-sex classroom, why not let them try it? Are we not going to open our minds and be creative with our public education system? If it is good enough for private education, it should be good enough for public education, and everyone should have the opportunity to do the best in the circumstances that fit them best. I thank the Senator for the question.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2291. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

Mr. FORD. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 29, as follows:

[Rollcall Vote No. 89 Leg.]

YEAS—69

Abraham	Faircloth	McCain
Allard	Feinstein	McConnell
Ashcroft	Frist	Mikulski
Bingaman	Gorton	Murkowski
Bond	Graham	Nickles
Boxer	Gramm	Reid
Breaux	Grams	Robb
Brownback	Grassley	Roberts
Bryan	Gregg	Rockefeller
Burns	Hagel	Roth
Byrd	Hatch	Santorum
Campbell	Helms	Sessions
Chafee	Hutchinson	Shelby
Coats	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Jeffords	Snowe
Conrad	Kempthorne	Specter
Coverdell	Kyl	Stevens
Craig	Landrieu	Thomas
D'Amato	Lieberman	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Torricelli
Enzi	Mack	Warner

NAYS—29

Akaka	Ford	Lautenberg
Baucus	Glenn	Leahy
Biden	Harkin	Levin
Bumpers	Hollings	Moseley-Braun
Cleland	Inouye	Murray
Daschle	Johnson	Reed
Dodd	Kennedy	Sarbanes
Dorgan	Kerrey	Wellstone
Durbin	Kerry	Wyden
Feingold	Kohl	

NOT VOTING—2

Bennett	Moynihan

The amendment (No. 2291) was agreed to.

Mrs. HUTCHISON. Mr. President, I want to take this opportunity to thank John Danforth, the former Senator

from Missouri, for initiating the ultimately successful effort to create greater opportunity in public schools to have same-gender classes schools.

I was a freshman in 1994. I remember the compelling argument made by Senator Danforth about what an opportunity this would be for a girl like Cyndee Couch, the seventh grader at the Young Women's Leadership school in East Harlem, NY, to have a safe haven where she could learn without worrying about her safety, or her ability to speak out without being made fun of, or in any way not able to be secure in feeling that she could ask questions and participate in the classroom.

He also thought about the young girls in the classroom in Maine that were spoken about by Senator COLLINS today where the school had to go through hoop after hoop after hoop to be able to have an all-girl math class. When they were able to finally do it and break down all the bureaucratic barriers, the test scores have shown that this has been an outstanding success for the girls in that class, without any detriment whatsoever to the other students in that school.

What we want and what the Senate has done today is to help pave the way to ensure that every child in America has this same option. This amendment is not a mandate. We are not saying that same-gender classes are best for everyone. But it has been proven that they are good for some, especially for girls and minority boys, who have demonstrated higher test scores and higher grades when they are allowed to concentrate on their studies, free from the distractions of a coed environment.

I am very proud that the Senate has spoken so clearly today in favor of this option for our public school students, an option that I might say is available at private schools, for parents who can afford it. Should this amendment ultimately become law, this same option will become available for many thousands of parents and their children who may not be able to afford private school tuition. In short, the amendment expands the proven benefits of private, same-gender education to the public school system.

I am very pleased the Senate has spoken so decisively today on this issue, and I am confident Congress will include it in the final version of this important bill. And this success would not have been possible but for the hard work, vision, and leadership of Jack Danforth, who took-up this cause and in whose footsteps I proudly follow. When he left the Senate and said he would not seek reelection, I told him I would take up the mantle on this issue, and that I would continue his fight to ensure that our nation's schools pursue excellence wherever they may find it. The parents and students of this nation now await the completion of this job, and I urge my colleagues to continue to work for expanded educational opportunities and choices for all Americans.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, shortly I will offer an amendment on behalf of myself and 18 others to submit a plan to help rebuild and modernize our schools for the 21st century. The amendment creates a simple and effective partnership between the Federal Government, State and local governments, and the private sector to provide the financial backing communities need to upgrade and modernize our schools.

This legislation will help modernize classrooms so that no child misses out on the information age. It will also help ease overcrowding—again, so that no child is subjected to what Jonathan Kozol in his landmark book called "Savage Inequalities" that are created by school environments that are unsuitable for learning. It will help local governments patch the roofs, fix broken plumbing, and strengthen the facilities that provide the foundation for our children's education.

Just last month the grades were posted on a set of international math and science tests. Though results of those tests were profoundly disturbing—American students placed at or near the bottom of every one of the math and science tests offered, below countries like Cyprus, Norway, Iceland and Slovenia—these results should be a clarion call to every policymaker at every level that we need to do more to support public education in this country.

Our amendment does exactly that. It creates a new category of zero interest bonds for States and school districts to issue to finance capital improvements. States and school districts will be able to issue some $21.8 billion worth of these bonds over the next 2 years. Purchasers of the bonds would receive Federal income tax credits instead of interest. By using this innovative mechanism, this plan cuts the costs of major school repair and construction by at least a third, and in many cases by up to 50 percent. Over a 5-year period of time, this plan will cost the Federal Government only $3.3 billion. We pay for the amendment with several tax proposals from the President's budget, several of which have already been approved by the Finance Committee. So this bill is paid for, it is in the President's budget, and it will allow the leveraging of substantial amounts of money to help rebuild our crumbling schools.

The interesting thing about it, even at $21.8 billion, this amendment only scratches the surface. According to the U.S. General Accounting Office, it will cost $112 billion just to bring the schools in this country up to good overall condition. That is just the basics, just bringing them up to code. That does not equip them with computers and fancy cosmetics but just to address the toll of deferred maintenance. The GAO found that crumbling schools are to be found in every corner of America. According to the General Accounting Office, 38 percent of schools in urban areas are in the worst condition, 30 percent of rural schools are in the worst condition, and 29 percent of suburban schools are in the worst condition. So it is about a third, a third, a third. This is not just an inner-city phenomenon. Crumbling schools can be found in every kind of community in every part of our country.

In my home State of Illinois, school construction and modernization needs top $13 billion. Many of our school districts have a difficult time even buying textbooks and pencils, let alone financing major capital improvements.

I will share some pictures. I think everybody who is listening to this debate has probably seen some crumbling schools, but for those who have not been in a local school recently, I show a picture of a hallway in a school in my city. Nobody is proud to show pictures like this, but this is just reality. As you can see, it looks like they have a new fire alarm, but given the hallway, the infrastructure, they need a new wall. They probably should replace the whole building, but the point is the deferred maintenance is clearly evident.

Here is another picture showing the same school. We see the peeling paint and the water damage. Here is the floor and the wall. It looks like someone tried to cover up parts of the hallway, but the efforts were obviously not good enough.

Our children should not have to learn in these kinds of conditions. This is a picture of a school in a suburb of Chicago. Again, this is a suburban school. These are the kinds of classes kids are required to learn in during these times. A couple of weeks ago, President Clinton came to Chicago and toured the Rachel Carson Elementary School. That school has two buildings, an old one and a brand new one. In the old building, classrooms are unusable because of many years of water damage, and the windows have turned opaque. In the new building, students can learn in modern and bright facilities. According to the students and teachers, the new facility affords a much greater opportunity to learn. And the teachers were so pleased because it afforded them an opportunity to teach, again, without regard to the threat of falling plaster.

Mr. President, our amendment will allow for school districts to build and modernize more than 5,000 new schools across the country. It will also give communities the power to relieve overcrowding. We have the largest number of children in our schools in the history of our country.

According to the Department of Education, enrollment will continue to grow over the next 10 years. Just to maintain current class sizes, we will need to build 6,000 new schools over the next 10 years. Now, again, the problem of overcrowding, in addition to the problem of deferred maintenance and neglect, is a serious one. I have visited schools in my home State of Illinois where study halls are held in hallways because there is no other classroom space. I have seen stairway landings converted into computer labs, and cardboard partitions used to turn one classroom into two. There was one school where the lunch room had been converted into two classrooms so that the students would have to eat in the gymnasium instead of having gym class where they have "adaptive physical education," where they stand next to their desks because the gymnasium is now a lunch room. I was tickled to listen to the young people talk about this problem and this issue. One young man talked about a phenomenon called "hall rage." He said, "it happens when you are in the halls trying to get to class and it is so crowded that you can't go anywhere." They are experiencing violence in the hallways because of overcrowding.

These conditions directly affect the ability of children to learn and, again, the research has backed up the intuition, what people know intuitively, which is that we cannot expect our children to learn tomorrow's skills in buildings that are crumbling down around them.

The problem is so widespread and pervasive, and I submit to anyone listening that this really is a direct and foreseeable result of our archaic school funding system. The current system of school funding was established over a century ago when the Nation's wealth was measured in terms of landholdings. Wealth is no longer accumulated just in land, and the funding mechanism of relying primarily on the local property tax is no longer appropriate, nor is it adequate. The current school finance budget works against most American children and mitigates most families' best efforts to improve local schools.

Again, according to the General Accounting Office, in another study they did, poor and middle-class school districts really make the greatest tax effort, but the system works against them. In some 35 States, poor and middle-class districts have higher tax rates than the wealthiest districts, but they raise less revenue because there is, of course, less property wealth to tax. In 11 States, this unfair system has led the State courts to rule that their State school finance systems are unconstitutional. In nearly every case, States complied by raising property taxes or sales taxes to finance school improvement. By the way, litigation is pending in 16 other States. The odds are that many of those lawsuits will in fact result in higher local property taxes.

Mr. President, our amendment can break this cycle of crumbling schools and higher local taxes. Our amendment breaks the mold of school financing and creates a new partnership for the 21st century where the Federal Government, by giving tax benefits for investment, allows States and local governments to leverage $22 billion worth of investment in school infrastructure. I urge my colleagues to take a close look at the needs of the schools in their States and decide what they stand for—higher property taxes and crumbling schools, or lower property taxes and a new partnership to improve our schools for the 21st century. Our students should learn about gravity in a science lab, not from falling ceiling tiles. Our schools should be wired for computers, not just metal detectors. Our classrooms should be comfortable, not just crowded like rush hour commuter trains.

I believe that the American public understands this issue. According to a bipartisan poll released earlier this year, 76 percent of registered voters would support a $30 billion, 10-year Federal commitment to rebuilding and modernizing our schools.

I want to submit for the RECORD a letter from the President of the United States, which is on every Member's desk, I believe, in support of this amendment, the last lines of which say:

> Our children deserve schools they can be proud of. I urge you to help our schools provide a learning environment that will prepare our children for the challenges of tomorrow by supporting the Moseley-Braun amendment, and opposing the expanded Education IRA's.
>
> Sincerely,
>
> BILL CLINTON.

I ask unanimous consent that the entire letter be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, April 20, 1998.

Hon. THOMAS A. DASCHLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: As you consider H.R. 2646 this week, you will have the opportunity to vote for the first time on a version of my proposal to help build and modernize more than 5,000 schools across America. I am writing to ask for your support in this important effort and for your opposition to the expanded Education IRAs in the bill.

Never before have the education infrastructure needs of the Nation been so great. In order to accommodate record enrollments, move to smaller class sizes, repair aging buildings, take advantage of new technologies, and better educate children with disabilities, States and localities are faced with unprecedented construction and renovation needs. The Federal Government helps build roads, bridges, and other infrastructure projects, but none of that will matter much if we let the education infrastructure come crumbling down on our children. We must be part of the solution.

I understand that Senator Moseley-Braun will offer an amendment that would replace the IRA provisions with a proposal to allow communities to issue nearly $22 billion in bonds for modernizing public schools. Because bond purchasers would receive interest payments through a Federal tax credit, communities' costs would be reduced by one-third or more. A vote for this amendment is a vote for safer, state-of-the-art schools that will open doors to the future for our children.

The IRA provisions, which provide tax benefits for elementary and secondary education expenses, are both bad education policy and bad tax policy. Instead of targeting limited Federal resources to build stronger public schools, this proposal would divert needed resources from public schools. In addition, the expanded IRAs provide little financial assistance to average families, disproportionately benefiting the highest-income taxpayers. For these reasons, and because of other potential amendments that may be adopted, I would veto this bill.

Our children deserve schools they can be proud of. I urge you to help our schools provide a learning environment that will prepare our children for the challenges of tomorrow by supporting the Moseley-Braun amendment, and opposing the expanded Education IRAs.

Sincerely,

BILL CLINTON.

Ms. MOSELEY-BRAUN. Mr. President, I would not be here as a Member of the U.S. Senate if it were not for a system of quality public education when I came through the system. It breaks my heart that we have failed to maintain that level of quality public education across this country for every child that wants to access it.

It seems to me that as we go into the next century, it is the responsibility of our generation to give every child the opportunity to learn and to give every child at least the basic tools with which that individual would not only be able to provide for themselves, but really provide for our country's well-being. As we go into the next century, there is no question that in this international global competition, in this information age and age of technology, unless we educate every child and give every child the ability to access a quality education, to go as far as their talents will allow them, we will be undermining our Nation's ability to maintain its standard as a leader in this world economy. How and whether or not we train our work force may well come down to something as simple as providing an environment that is suitable for learning.

Our kids cannot learn if they are put in environments that are not suitable for learning, in which they cannot access the new technology. I submit to my colleagues that this is a very, very serious matter. I find it interesting that even the columnists and the cartoonists have drawn cartoons about this. But this is certainly no laughing matter. If anything, this issue goes to the heart of our generation's commitment to provide the next generation of

Americans with at least as much as we inherited from the last generation. We inherited from them a school system that was quality, that was adequate, in which people like me could get an education and ascend to the U.S. Senate. I am afraid that unless we tackle this problem and create a partnership to help modernize the schools, we will fail the next generation of Americans. I therefore call upon my colleagues to put partisanship aside and support this amendment.

I yield to the Senator from Rhode Island.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, just an administrative technicality. Under the unanimous consent agreement, we agreed that the amendment to be offered by the Senator from Illinois would have an hour equally divided. We have endeavored to accommodate the Senator from Illinois. I don't believe the amendment is technically prepared, but I assume that the Senator from Illinois agrees that the time we are spending now would operate under the 1 hour equally divided time.

Ms. MOSELEY-BRAUN. Absolutely. I thank the Senator from Georgia. He is exactly right. It was my assumption that in light of the fact that there was a technical glitch in the amendment as prepared, the time used at this point would come off of that.

Mr. COVERDELL. I thank the Senator.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I rise in strong support of the amendment offered by the Senator from Illinois. I commend her for her incisive amendment, which will aid the children of America and the parents of America. I appreciate very much her effort today.

Does the Senator from Delaware wish to say something? I will be happy to yield temporarily.

Mr. ROTH. Mr. President, I believe that, in the normal order of things, as the manager of the bill, I would be next to address the amendment proposed by the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois had control and yielded to the Senator from Rhode Island, which was her right to do.

Mr. REED. Mr. President, let me continue by again commending the Senator from Illinois. It goes right to the heart of what we do materially to aid the States and localities in the United States in providing for excellent public education and excellent education overall.

The statistics that we have seen about crumbling schools in the United States is staggering. Just recently, the American Society of Civil Engineers concluded that our schools are in the worst condition of any of America's infrastructure. We know that because we go back to our States and to our communities every weekend and we see these buildings.

Just yesterday I was in the Providence Street Elementary School in West Warwick, RI. The reason I went there is because this is an excellent elementary school, one of two elementary schools in Rhode Island accredited by the New England Association of Schools and Colleges. I was talking to the principal and his staff. They do wonderful things. I asked them: What is the biggest problem in this school? They said, without hesitation, the facilities. The main building of the Providence Street School was built in 1914 onto a wooden structure. But in 1969 the school department acquired a parochial school across the street. The classes are operating in both of these schools. Schoolchildren—first graders, second graders, third graders, and fourth graders—have to cross a busy thoroughfare each and every day to change classes. There is no room in the old building, the 1914 building, to accommodate the new technology. The heating system does not work. Yet, this is a wonderful school.

That is just an example of one school in my State. I could go on and on and on. In Woonsocket, the Harris School was built in 1876, the year that George Custer met his fate at Little Bighorn. It is still operating. The Thompson Middle School in Newport, RI, part of it was built in 1898.

These schools need help. These communities need help. This is not just about improving the academic quality, which I think it could do dramatically; it is also assisting taxpayers. More and more of our constituents are coming up to us and telling us they cannot afford to support increased property taxes that support schools in their communities.

If we want to do anything constructive, pragmatic, and useful to help not only the schools of America but the taxpayers of all the towns and cities of America, then we will support this legislation because it will directly assist them in their efforts. The proposal that Senator MOSELEY-BRAUN has submitted is an ingenious way to use Federal resources to promote public education at the local level.

Once again, we require the initiative of the locality. They will have to decide what schools will be fixed up. They will have to go to their communities and ask for bond authority to do it. But we would by paying the interest to allow these communities to get the resources to make the investment to fix the schools, to provide the education which we know is at the heart not only of the individual progress of the next generation of Americans but the progress of our Nation, because without good schools, without schools that are at least sanitary, that at least have the ability to accept modern equipment, without this minimal level of adequacy, we cannot expect children to learn to be not only productive members of our economy in the 21st century but to be productive citizens of the 21st century. This is the way to proceed—not by disseminating Federal resources in tax plans to aid private schools but by allowing the local communities to use their initiative to issue bonds with Federal help to fund, repair, and renovate schools.

This is what our constituents want. This is what we must do to improve public education in this country.

I thank the Senator for her recommendation of this amendment. I urge my colleagues to support it.

I yield my time.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I yield myself 10 minutes.

Mr. President, I oppose the amendment offered by the distinguished Senator from Illinois for two reasons. First, it is important to understand that the amendment strikes section 101 of the Coverdell bill. This section is the very heart of the legislation, for it is the provision that provides the most widespread benefits for American families. This section increases the maximum contribution to an education IRA from $500 to $2,000. It permits the education IRA to be used for elementary and secondary school expenses, and it permits the education IRA to be used for public and private schools.

I have already spoken numerous times about the importance of making these changes to the education IRA. In fact, the Senate has already endorsed these changes as they were all included in the Senate version of the Taxpayer Relief Act of 1997. The provisions made sense at that time, and they continue to make sense today. Our students and our families need these resources and the benefits of an education IRA to help them meet the cost and realize quality education. I hope my colleagues continue to recognize just how important this tool can be for the American people.

Mr. President, a second reason I oppose this amendment is that, in effect, it would create a massive Federal mechanism whose stated purpose is to spur the construction and rehabilitation of public schools. It appears to be the same proposal contained in the administration's fiscal year 1999 budget, and it would create a new type of bond called a "qualified school modernization bond." Unlike regular tax-exempt bonds, like those already in the Coverdell bill where holders receive tax-exempt interest payments, the holders of these new "qualified school modernization bonds" would receive a Federal

tax credit in an amount to be set by the Treasury Department. This amendment provides that a total of $19.4 billion worth of these school modernization bonds could be issued around the country over the next 2 years. It also increases the amount of qualified zone academy bonds by $2.4 billion over 2 years.

Even more massive than the amount of bonds to be issued under the proposal is the bureaucracy that would be created to administer this program. The Treasury would need to establish a formula to allocate the school modernization bonds. The amendment calls for half of the bonds to go to the 100 largest school districts with the largest number of low-income children. The other half of the bonds would go to the States and Puerto Rico divided in proportion to their share of Federal assistance. This would be according to the basic grant formula of the Elementary and Secondary School Act of 1965. Then all of this would be readjusted for allocation to the 100 largest school districts.

This runs contrary to President Clinton's promise that the "era of big government is over." It runs contrary to our objective to strengthen schools by empowering families and communities. It consolidates ever-increasing power in the hands of a few Federal bureaucrats while it robs our families and communities of local control over their schools and precious financial resources.

Not only does the Moseley-Braun amendment create more bureaucracy in the way that it requires the Federal Government to sift through the criteria and bond allocation process, but it calls on the Federal Government to oversee another massive program.

According to this amendment, a bond would only be deemed to be a qualified school modernization bond if the Federal Department of Education signs off on it. The Federal Department of Education would have to approve the school construction plan of the States or eligible school districts. By giving its OK, the Federal Department of Education is supposed to consider whether—I am quoting from the administration's description of its proposal:

> The school construction plan must, one, demonstrate that a comprehensive survey of a district's renovation and construction needs has been completed; and, two, describes how the jurisdiction will assure the bond proceeds are used for the purposes of this proposal.

If we are to meet the education needs of our children and the challenges of the future, we need less bureaucracy, not more. We need greater involvement in oversight from our parents and communities, not less. We need a Federal Government that supports the best and most innovative programs and policies implemented by our States and local school boards, not one that takes them over.

The bond proposals in this amendment are modeled after a much more limited measure that was included in the 1997 tax bill at the request of Congressman RANGEL and the administration. The 1997 bill created "qualified zone academy bonds." The purpose of these bonds was to provide additional incentives for private entities to get involved in school construction.

Holders of the qualified zone academy bonds, all of whom have to be in the business of lending money, are to receive a tax credit instead of an interest payment, and the amount of qualified zone academy bonds for 1998 and 1999 was capped at $400 million per year.

The qualified zone academy bond program was deliberately kept small for several reasons. First, there was a fundamental concern about the Federal Government taking on the traditional State and local responsibility for school construction. Second, it was unclear whether the academy bond program would place funds where they need to be, in the hands of local schools.

Nevertheless, here we are, less than 1 year later and the push is on for a massive expansion of what is nothing more than an untested proposal.

The attempt with this amendment is to authorize almost $22 billion in all-school bonds, and this attempt is being made without any data that the bond mechanism in the amendment is the most efficient or beneficial way to help States and localities deal with school modernization. It is simply unclear whether issuing a new type of bond, no matter how catchy its name, will ultimately result in schools being modernized. What is clear is that it once again falls back on the failed notion that Washington knows best. It assumes that creating layer upon layer of unneeded bureaucracy within the Department of Education is a far greater solution than giving parents and local communities greater control over the education of their children.

Under the proposal, the Department of Education would be required to approve the school construction plan of a State or eligible school district. This means that the bureaucrats from Washington would be micromanaging a local school district's renovation plans—in effect, second-guessing and even directing the decisions of State and local officials. It also means that parents, local leaders, and school districts would have to watch as their vital financial resources are commandeered by Washington, DC, and sent out to build and renovate schools elsewhere despite the fact that they themselves might desperately need improvements in their own community schools.

This amendment strikes right at the heart of local control. It gives the Department of Education the final say about how a school district should address its construction and renovation needs. It allows the Department of Education in Washington to tell local officials that they have misjudged the needs of their district. This is wrong. Local officials are the people who are on the front lines every day. They know the needs of their students. They are directly accountable to parents. It seems only a matter of common sense that they are the ones who best understand the need of their district and the best ways to fix any problems.

Yet this amendment would set up a structure whereby the availability of this Federal tax benefit is controlled by Washington and not by the localities. As the Department of Education would be required to monitor whether the bond proceeds were being used for the stated, appropriate renovation plan, Washington bureaucrats would have an ongoing supervisory role.

It just does not make sense for the Department of Education to get involved at this level. President Clinton himself stated in 1994 that "the construction and renovation of school facilities has traditionally been the responsibility of State and local governments, financed primarily by local taxpayers." And in that respect I agree with the President.

I remind my colleagues that the approach in the Moseley-Braun amendment is not risk free. The costs are substantial. The Joint Tax Committee estimates that the revenue loss to the Federal Government for a program like this would be about $3.26 billion over 5 years and $9 billion over 10 years.

The Coverdell bill offers better government. I oppose the Moseley-Braun amendment, and I urge my colleagues to join me.

I yield back the floor.

The PRESIDING OFFICER (Mr. GORTON). Who yields time?

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair.

I say to my chairman, Senator ROTH, that in the first instance the Senator misread the bill. This plan provides for minimal administrative requirements on the State and local authorities charged with school repair and construction. The State and local school districts need meet only two main requirements for issuing these new school bonds. First, they have to document their school facility need. Second, they have to describe how they intend to allocate the bonding authority to assure that the schools get the benefit of it.

End of story. There is no reapplying for money. There is no continuous oversight. There is no getting individual projects approved by the Federal agency. There is nothing about having

to deal with big Government at all in this legislation.

I would add also that no school district, no State is required to take this. This is for those school districts that want to issue these bonds. It is a matter of engaging the private sector, engaging communities, engaging local governments in helping to rebuild their schools.

I yield 5 minutes—he wants 7.

Mr. ROTH. Will the distinguished Senator from Illinois yield on my time for 60 seconds?

Ms. MOSELEY-BRAUN. Yes, of course.

Mr. ROTH. First of all, I think it is important to point out that we have not been graced with a copy of the amendment so that we are not in a position to state specifically what it says. But my comments are based on the administration's proposal, which specifically spells out these requirements and would result in a major buildup of a Federal bureaucracy. I would just like to point out that this local approach is, indeed, contrary to what the President himself said in 1996. I point to this chart here which says:

The construction and renovation of school facilities has traditionally been the responsibility of State and local governments, financed primarily by local taxpayers.

It goes on to say:

We are opposed to the creation of a new Federal grant program for school construction.

With that I 100 percent agree, and it is because of that kind of thinking I think it is important that this amendment be defeated.

AMENDMENT NO. 2292

(Purpose: To amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools, and for other purposes)

Ms. MOSELEY-BRAUN. I say to my chairman, again, I apologize if he has not had a copy of the amendment. It has just been cleaned up. We had a technical modification, as you know.

I send this amendment to the desk so it is formally offered and ask the clerk to dispense with the reading of it.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Ms. MOSELEY-BRAUN], for herself, Mr. MOYNIHAN, Mr. DASCHLE, Mr. KENNEDY, Mrs. MURRAY, Mr. DODD, Mr. BINGAMAN, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. REED, Mr. ROBB, Mr. GLENN, Mr. REID, Mr. LEVIN, Mr. KERRY, Mrs. FEINSTEIN, Mr. DURBIN, Mr. KERREY, and Mr. HARKIN proposes an amendment numbered 2292.

The PRESIDING OFFICER. Without objection, the reading of the amendment is dispensed with.

The amendment is as follows:

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Ms. MOSELEY-BRAUN. I yield 7 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

Mr. President, yesterday I attended the groundbreaking ceremony for a new elementary school in Richmond, VA. It was an important occasion for the city of Richmond because the last groundbreaking for a new public school in the capital city of my State was 13 years ago, in 1985, the last year I had the privilege of serving as Governor. Today, the average age for all public schools in the Richmond system is 55 to 60 years, and two of them have portions of their facilities that date back to 1888, 110 years.

Last month, Education Secretary Dick Reilly and I visited Chantilly High School in Fairfax County. Even though Chantilly High is a new school, its enrollment is already 20 percent over capacity. Classes are being taught in 17 trailers that have no bathrooms, bad ventilation and are not wired to the Internet. Some classes have student-teacher ratios as high as 27 or 28 to 1.

I am an enthusiastic cosponsor of the school construction amendment of the Senator from Illinois because this legislation gives important Federal help to cities like Richmond and counties like Fairfax to help build and renovate public schools. It not only addresses one of the most pressing needs our schools face—the urgent need for school construction money—it also represents an eminently appropriate and constructive role for the Federal Government in education.

If we had unlimited resources, there is much more I would like to do for education, and I support many of the provisions in the underlying bill. But because Federal dollars are limited, we are forced to make decisions on what is most important, on how best to spend the limited Federal dollars we have.

To me, the provisions of the underlying bill simply do not meet this test.

In truth, the simple question before us today is this: How can we best invest $1.6 billion on education? Do we help States face their urgent construction needs? Do we give States additional money to help reduce class size? Do we help States incorporate technology into their classrooms and curriculum? If we look into the language of the underlying bill, the answer to every question is no.

But if we look at the language in the pending amendment and we ask this question—will we help States and localities build and renovate public schools?—the answer is an emphatic yes.

Mr. President, there is no question the need is great. The Government Accounting Office has estimated that our national school repair and construction needs are $112 billion. Fourteen million children attend public schools that are in need of major repair or complete replacement. In addition, far too many young Americans attend woefully overcrowded public schools. We need to help States repair and modernize existing facilities.

In order to hire new teachers and reduce class size, we need additional classrooms in which to place those teachers. In order to increase student access to computers and technology, we need to help some existing facilities undergo complete electrical upgrades to support the use of that technology, and as we debate this bill, we cannot be confused about what this bill is and is not.

Just because the word "education" is in the name, that does not mean that the bill gives money to schools. In truth, this legislation will not build a single school or hire a single teacher or help incorporate technology into a single classroom.

Despite all the rhetoric, this bill is really nothing more than a tax cut for the few when what we so urgently need is a new roof for the many. Encouraging individuals to save their own money is a noble intention, but like every decision we face, we have to acknowledge that there is a cost, and the real cost of the underlying bill lies in every school we don't help build, every teacher we don't help hire, every leaking roof we don't help fix and every classroom we don't help wire for the Internet.

Again, we have two choices: We can invest $1.6 billion in support of school construction with the pending amendment, or we can spend $1.6 billion on tax cuts, disguised as education money, with the underlying bill. I hope the Senate will support school construction.

I thank the Chair and yield back any time to the sponsor of this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. Sixteen minutes 34 seconds to the Senator from Georgia; 5 minutes 23 seconds to the Senator from Illinois.

Mr. COVERDELL. Mr. President, I yield myself 10 minutes of our time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, first, I have the utmost respect for my good colleague from Virginia, but I do want to correct one statement that he made. He said that the underlying bill provides no provisions for school construction. That is not accurate. The underlying bill embraces the provisions of the Senator from Florida on the other side of the aisle that does have a significant expansion of funding for

schools at the local level and, without creating a new bureaucracy, leaving all the decisions to be made at the local level rather than at the Department of Education.

In the debate between the chairman and the Senator from Illinois, it is suggested that this does not carry that traditional, onerous Federal intervention with prevention. But I would just like to share with you that under this legislation, the Federal Government is required to establish a formula to allocate the school modernization bonds.

The Federal Government would need to ensure that half the bonds go to the 100 largest school districts with the largest number of low-income children, and the other half of the bonds would go to the States and Puerto Rico divided in proportion of shares of Federal assistance according to the basic grant formula for the Elementary and Secondary School Act of 1965.

The Federal Government would not only scrutinize the criteria and figure out who gets what, it would be required to do more.

Under these provisions, a bond would only be deemed to be a qualified school modernization bond if the Department of Education signs off on it.

The Department of Education would also have to approve the school construction plan of the State—that is a key one—or eligible school district.

In approving the construction plan, the Department of Education is supposed to consider whether a comprehensive survey of the district's renovation and construction needs have been completed, et cetera; expansion of the Federal oversight, the master principle envisioned over local control.

The chairman of the board of education in my State accepts the President's admonition that construction of schools is a responsibility of local government. There is already Federal relief in terms of financing, but that leaves all the decisions at the local level, like the President wanted to do in 1996.

My State is spending over nearly $5 billion in school construction; $186 million last year for 57 brand new schools and for modifications in 110 additional schools.

This proposal rewards failure, because it moves to where the job has not been done. Those States and communities that have been doing what the President appropriately said here, they do not meet the criteria anymore because they have eliminated the criteria.

Mr. President, we have heard a lot during the course of this debate about how a modest tax relief for 14 million families is inappropriate tax policy. I reminded the other side that the definition of the tax relief is identical to the IRA we passed last year and signed by the President for college education, and all we have done is taken that proposal and expanded it to $2,000 instead of $500 and have allowed it to be used for grades kindergarten through high school.

This amendment eliminates that proposal and that modest tax relief, which is about $500 million over 5 years and a little over $1 billion over 10 years, and creates tax relief of $9 billion—for whom? Banks, insurance companies and very, very successful people are going to be the recipients of this $9 billion. So we just take these little folks making $75,000 or less, $150,000 or less, mop that out—that's not good policy—and create tax relief on these bonds that would go to banks and insurance companies, and we all know who buys these kinds of bonds, these tax-exempt bonds. Out goes the little guy, in comes the big guy.

Mr. President, school construction and quality of schools and the facilities are important. For as long as we have known, that has been a duty of the State and the local government. A lot of States and a lot of local communities have fulfilled that requirement. They will be on the short end of this proposal.

The underlying proposal for school construction expands financing for schools, gives additional options, but it keeps the decision apparatus at the local level. And it does not create another Federal outreach, another Federal intervention, into the local process of school construction.

I oppose the amendment on those grounds. But I am particularly concerned that it eliminates the heart of the underlying proposal, which is to create a modest—the families will not be taxed on an interest buildup, such a modest proposal that creates such a big response in America where 14 million families come forward and save $5 billion in the first 5 years, up to $10 billion over 10 years, and there is not a single tax dollar involved. These are voluntary dollars, an enormous infusion, frankly, larger than this proposal, behind the student—not the building, but the student. Those billions of dollars will buy computers and tutors and deal with special learning disabilities and cost the Federal Government, in terms of taxes not collected, a very modest amount.

But this will go to buildings, and this will cost the taxpayers $9 billion. Conversely, this little proposal, the education savings account, creates $10 billion. There is no school board that has to raise its property tax base. There is no State that has to raise its income tax. There are no new taxes from the Federal Government. It is people doing it on their own, simply because we have said, we will allow you to keep your investment, your principal, and we will not tax you on the interest if you use it to help your child in school wherever they happen to be.

The other side has repeatedly said this is for private schools. And 7.5 percent of the underlying cost of the underlying bill could help somebody who has a child in private schools; 90-plus percent goes to children and helps people in the public school system. So it is just incorrect—and the Senator from Illinois has not been part of that, but all morning long I have heard this business that the underlying proposal is for private schools. It is just not the case.

Seventy percent of the families who use these savings accounts have children in public schools. Half the money that is generated—and it is their money—would go to support children in public; half of it would go to support children in private. Tax relief that would be associated with private is about $200 million over 5 years, or about 7 percent of the cost of this bill.

Mr. President, I yield back whatever is left of my 10 minutes.

The PRESIDING OFFICER. Who yields time?

Ms. MOSELEY-BRAUN. Mr. President, I yield 2 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, it is important to note that under the Moseley-Braun amendment the provision dealing with the construction, the Graham amendment, is not struck, it is preserved, as well as the tuition assistance programs. What is struck is the Coverdell proposal. And the Coverdell proposal, according to the Joint Tax Committee, provides that the majority of its money is going to go to private schools. Now that is a fact.

You have the choice of whether you want that or whether you want to have a downpayment in our public schools to try to help ensure that we are going to free our public schools from asbestos, from boilers breaking down, and from leaky pipes.

Mr. President, I want to just mention a case here that is right on point. And this is the Revere public schools. That is a blue-collar area in Massachusetts. It has increased by 25 percent the enrollment over the past 5 years in the elementary schools. Revere recently passed a $2.2 million referendum to repair roofs in three schools and to remove the asbestos panels and modernize the fire alarm system in the high school. Since then, the high school roof has begun to leak, threatening to ruin the new fire alarm system. The town estimates it will cost $1 million to repair the roof. The mayor says: We would repair the roof if we had the Carol Moseley-Braun amendment.

What I hear from the mayors all over Massachusetts, in the old towns and communities, as well as in the rural areas, is that interest on some of these bonds runs up to 40 percent of the burden and the debt, in many instances, if they are not attended to in a prompt way.

This provides a helping hand to those needy communities. And it is an essential part of the President's program. I commend the Senator from Illinois for making this strong case and hope our colleagues will support her.

Mrs. FEINSTEIN. Mr. President, today I am pleased to support two construction initiatives to help our public schools reduce overcrowding. The first is included in Senator ROTH's substitute bill that is before us and the second is an amendment by Senator CAROL MOSELEY-BRAUN.

The two proposals combined mean that California could issue tax exempt bonds totaling $2.8 billion. They differ in their approach and help two different types of districts. The Roth proposal will help suburban high-growth areas. The Moseley-Braun proposal will target disadvantaged, inner city districts, while also providing the state with authority to address the needs of other districts.

THE ROTH PROPOSAL

The school construction provisions of Senator ROTH's education bill provide $2.4 billion per year for new tax-exempt bonds and allocate them according to a state's population, at $10 per person. It targets funding at the school districts with a 20 percent enrollment growth between 1990 and 1995. Under this proposal, California could issue tax-exempt bonds totaling $322 million and as many as 77 high-growth school districts in California could take advantage of these bonds. This means that using these bonds, we could build 40 elementary schools, 8 middle schools and 2 high schools in my state. We could build schools in high-growth school districts like Clovis, Capistrano, Tustin, Elk Grove, Modesto, Palo Alto, Lancaster, Culver City, and Fontana.

The Roth proposal creates a new category of tax exempt facility bonds to encourage innovative public-private partnerships for school construction, but the ownership of the school building would stay with the public school district. This approach could brings some innovative financing to school construction, in my view.

While in terms of California's enormous needs, the amount of bonding authority in this proposal is modest, it does offer a new financing tool for our schools.

THE MOSELEY-BRAUN AMENDMENT

I also will vote for the school construction amendment to be offered by Senator MOSELEY-BRAUN, which will provide $22.6 billion in authority for state and local governments to issue bonds to construct and rehabilitate schools. In addition, her amendment will make more qualified zone academy bonds available by increasing the national bond cap from $400 million to $1.4 billion and by allowing them to be used for school construction. Bondholders would get federal tax credits in lieu of interest.

Under this proposal, California could get $2.5 billion in bonds, the most of any state. Thirty-five percent of these bonds would be used by the 100 largest school districts based on their ESEA Title I funding, which assists disadvantaged children. Sixty-five percent would be distributed by states based on their own criteria. In addition, the Secretary of Education could designate 25 additional districts based on the state's share of ESEA Title I grants, excluding the 100 largest districts.

Under this amendment, the following school districts could receive the following allocations:

Bakersfield City Elementary, $19 million;
Compton Unified, $30 million;
Fresno Unified, $56 million;
Long Beach Unified, $48 million;
Los Angeles Unified, $481 million;
Montebello Unified, $22 million;
Oakland Unified, $35 million;
Pomona Unified, $18 million;
Sacramento City Unified, $31 million;
San Bernardino City Unified, $32 million;
San Diego City Unified, $68 million;
San Francisco Unified, $28 million;
Santa Ana Unified, $27 million; and
Stockton City Unified, $24 million.

In addition to these, the state would get $1.2 billion to allocate among needy school districts.

In my state, these two proposals provide two approaches to address the school construction needs in two different types of California school districts. The Roth-Coverdell proposal helps districts with enrollment growth exceeding 20% between 1990 and 1995, high-growth districts. The Moseley-Braun proposal helps the large, urban, poor districts, districts that also have pockets of escalating enrollments and dilapidated and crowded buildings.

CALIFORNIA'S CRITICAL NEEDS

My state faces severe challenges.

SOARING ENROLLMENT GROWTH

California's public school enrollment between 1997 and 2007 will grow by 15.7 percent, triple the national rate of 4.1 percent. California's schools will see the largest enrollment increase of all states during the next ten years.

Each year between 160,000 and 190,000 new students enter California classrooms.

California's high school enrollment is projected to increase by 35.3 percent by 2007. Approximately 920,000 students are expected to be admitted to schools in the state during that period, boosting total enrollment from 5.6 million to 6.8 million.

California needs to build 7 new classrooms a day at 25 students per class between 1997 and 2001 just to keep up with the growth in student population.

OVERCROWDING

California needs to add about 327 schools over the next three years just to keep pace with the projected growth. Yet these phenomenal construction rates would only maintain current use and would not even begin to relieve current overcrowding.

We have the largest class sizes in the nation. Students are crammed into every available space and in temporary buildings. Los Angeles Unified School District, for example, has 560,000 seats for 681,000 students.

Here are a few other examples:

At Horace Mann Year-Round School in Oakland, increasing enrollment and class size reductions require some teachers and students to pack up and move to a new classroom every month.

At John Muir Elementary School in San Bruno, one class spent much of the year on the stage of the school's multipurpose room as it waited for portables to arrive.

Anaheim City School District has a 6 percent enrollment growth rate, double the state average and recently approved the purchase of 10 portable buildings, at a cost of $235,000 to relieve overcrowding.

Los Angeles Unified School District has 195 schools on a nontraditional, year-round schedule and is bussing 11,000 students away from their neighborhoods because of overcrowding. Garfield High School in East Los Angeles was built for 2,500 students but now has almost 5,000. Many classes have 40 or more students per teacher.

In order to build it's way out of overcrowding, Oceanside School District in San Diego, would need to build four elementary schools, two middle schools and a high school at an estimated cost of $110 to $140 million.

OLD SCHOOLS

60 percent of our schools are over 30 years old.

Today's schools need a modern infrastructure, including updated wiring for computers.

In California, 87 percent of the public schools need to upgrade and repair buildings, according to the General Accounting Office,

HIGH COSTS

The California Department of Education estimates that the state needs $22 billion during the next decade to modernize our public schools and an additional $8 billion to meet enrollment growth.

Here's what it costs to build a school in California:

An elementary school (K–6), $5.2 million;

A middle school (7–8), $12.0 million; and

A high school (9–12), $27.0 million.

Our schools must be built to withstand earthquakes, floods, El Nino and myriad other natural disasters. California's state earthquake building standards add 3 to 4 percent to construction costs.

The cost of building a high school in California is almost twice the national cost. The U.S. average is $15 million; in California, it is $27 million.

CLASS SIZE REDUCTION

Our state, commendably, is reducing class sizes in grades K through 3 because smaller classes improve teaching and learning.

We have the largest pupil-teacher ratios in the country and fortunately, we are beginning to reduce class sizes. Small classes bring more individual attention to students, but smaller classes mean more classrooms.

In short, California's needs are immense and states and local communities need the federal partner.

CONCLUSION

These new bond programs will provide important assistance for school districts across America. Some of the bonds can especially help small and low-income area school districts, because low-income communities with the highest school rehabilitation and construction needs may have to pay the highest interest rates in order to issue the bonds, if they can be issued at all.

These approaches are similar to the bill I introduced on March 12, the Expand and Rebuild America's Schools Act, S. 1753. My bill would provide a tax credit for bond holders of school construction bonds and includes criteria to address high growth areas and older schools in need of modernization.

School overcrowding places a heavy burden on teachers and students. Studies show that the test scores of students in schools in poor condition can fall as much as 11 percentage points behind scores of students in good buildings. Other studies show improvements of up to 20 percent in test scores when students move to a new facility.

The point is that improving facilities improves teaching and learning. School overcrowding undermines the health and morale of students and teachers, disrupting education. Overcrowded schools prevent both teachers and students from reaching their full potential.

Our nation's school districts face huge challenges as we move toward the 21st century, with a record 52.2 million children this year and a booming school population forecast well into the next century. The legislation proposes modest, targeted federal support for school bonds in growth areas, offering important assistance to school districts, teachers, parents and students.

In the end, it is improved student achievement is what this is all about and in the end, that is the goal of this Senator.

Mr. AKAKA. Mr. President, I rise in support of the amendment offered by my colleague from Illinois, Senator MOSELEY-BRAUN. The Senator's amendment would authorize over $22 billion in essential bonding authority to the 50 States and territories to improve our Nation's public school system.

The Moseley-Braun school construction amendment would provide direct assistance to states to improve and construct school facilities for our nation's children. The amendment before us will help thousands of schools across the country modernize their facilities to meet increasing technological demands. It will also provide assistance to local school districts to build additional facilities for the growing number of students.

Hawaii's schools, particularly our rural schools on the neighbor islands, are in great need of improvement and modernization. The inclusion of modern technology in our education curriculum requires extensive renovations in older school buildings to ensure that all children have equal access to today's technological advancements. Hawaii's schools could receive an estimated $53 million for school construction under this amendment. This would greatly assist my state in meeting the increased educational demands of our children.

Mr. President, as a former teacher, I have taught in both the private and public school systems, and I recognize the advantages and disadvantages of both systems. However, I believe that the Federal Government has a moral obligation to ensure that all our children are provided a quality education, and diverting potential resources away from our public schools is a disservice to the majority of American children who attend public schools. The underlying proposal does not focus on those who need the most help. The bill before us provides an average tax break for families with public school children of only $7 over five years, while families with children in private schools would receive a $37 benefit. This proposal provides a disproportionate share of benefits to wealthier families who do not need the additional Federal assistance.

I urge my colleagues to support the Moseley-Braun school construction amendment and provide all our nation's children an equal opportunity to learn in safe, clean, modern school facilities. Thank you, Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Ms. MOSELEY-BRAUN. Mr. President, I will close. How many minutes do I have left?

The PRESIDING OFFICER. Three minutes 18 seconds.

Ms. MOSELEY-BRAUN. I will close briefly by saying this: The choice, unfortunately, here is between a new and complicated tax cut that is disguised as education policy—and I say "new and complicated;" it is all of $7 to a maximum of $37 a year tax cut that nobody really asked for. It will not fix a single school. It will not deal with an existing problem. It will not reduce a single dollar of property taxes.

I point out that the quote from the administration that was made in 1996 makes it very clear: Traditional responsibility, financed by local taxpayers. We are trying to provide a partnership to break the cycle of crumbling schools and high property taxes by providing a partnership that allows us to fix crumbling schools, to fix up the schools, provide an environment suitable for learning, and reduce the property tax burden, and bring the Federal Government, in cooperation and collaboration—not a lot of bureaucracy, but as a helping hand.

The Federal Government is not the problem here. It is not the solution here. It can only help and assist local efforts. That is all this amendment does. I urge my colleagues to support the Moseley-Braun amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield myself 3 minutes.

Mr. President, the statement was made by the distinguished Senator from Illinois that her legislation would not require the creation of the type of bureaucracy of which I spoke in my opening remarks. I have since then, for the first time, received a copy of the amendment. But I have to say that exactly as I spelled out in my statement, this legislation requires very detailed action on the part of the Department of Education and the Treasury in allocating and granting the funds provided for under this agreement.

Let me just give you one or two illustrations of what I speak. On page 17, in paragraph 5, it says:

> APPROVED STATE APPLICATION.—For purposes of paragraph (1), the term "approved State application" means an application which is approved by the Secretary of Education and which includes—
>
> (A) the result of a recent publicly-available survey (undertaken by the State with the involvement of local education officials, members of the public, and experts in school construction and management) of such State's needs for public school facilities, including descriptions of——

I will not read on. But I want to reemphasize that this legislation is putting control of school construction in the hands of Washington, of the Federal bureaucracy. And that is exactly contrary to what the President himself said in the justification of an appropriations estimate.

I think it is important too, because I agree with what he says here:

> The construction and renovation of school facilities has traditionally been the responsibility of state and local governments, financed primarily by local taxpayers; we are opposed to the creation of a new federal grant program for school construction.

That is exactly what I am saying today. We are opposed to the creation of a new Federal program with a bureaucracy. We think the control of our schools, including the construction of new facilities, should be in the hands of the State and local government.

I yield the remainder of my time to the distinguished Senator from Georgia.

Mr. COVERDELL. How much time remains?

The PRESIDING OFFICER. Four minutes and 14 seconds, and the Senator from Illinois has 2 minutes.

Mr. COVERDELL. Mr. President, I reiterate in the underlying proposal there is a concern about school construction. In that sense, there is a sharing of concern with the Senator from Illinois. We have a different view about how to come to it.

I believe, as I said, this proposal moves to failure. A State that has met its responsibilities and kept schools up to the level they should be doesn't meet the criteria in the amendment for the funding.

The second point, and probably for me the most significant, is that this amendment obviates and destroys the education savings account that we have been discussing now for almost 6 months. This education savings account offers modest tax relief, which causes Americans to do very big things. About $500 million-plus tax relief on the interest buildup in the savings account will cause 14 million families, according to the Joint Tax Committee, to open such an account and save, of their own money, $5 billion in 5 years, over $10 billion in 10 years, all of which comes to the direct support of a child's need—tutor, computer, transportation, afterschool program, uniform; it goes on.

So with just a modest incentive offered from the Federal Government, we cause Americans to step forward and give massive support to education.

Now, that is taken out of the bill and exchanged for something that takes $9 billion of Federal money, doesn't create a dime on the part of these families, and this tax relief goes to the financiers. A certain segment of it can only be managed by banks and insurance companies, and the balance of it certainly will gravitate to the wealthiest of our society.

So we kick out these average families—middle-income families. They cannot open a savings account and save this modest tax on their interest. That goes in the trash can. But the big dollars for big investors comes forward. The net exchange is, the Federal Government expends $9 billion instead of $1 billion and creates no investment versus $10 billion in investment. That is not a very good exchange. The little guy gets shortchanged. He or she cannot open a savings account, but the big institutions have an incentive to come forward.

So I repeat, this proposal rewards failure, it creates a massive new Federal reach, new Federal intervention into what even the President says should be a local decision, and wipes out those 14 million savings accounts.

I just say, one of the important features of that savings account that I think never gets talked about is the fact that every time the family opens it, from that point on, every month when they get the statement—not with their billions, but with their hundreds of dollars—every month they get it, they will be reminded of what that child needs for the school they attend.

The PRESIDING OFFICER. The time of the opponents has expired.

The Senator from Illinois has 2 minutes.

Ms. MOSELEY-BRAUN. I fear somehow that in parts of this debate we are talking at each other. That is unfortunate.

Everybody, of course, supports increased savings. That is not the issue. The question is whether or not this is education policy and whether or not we are responding to a very real need.

The relief provided in the Coverdell proposal, the $7 a year, is not going to fix a single broken window or roof. It is not going to address this issue of public schools at all. That is where this issue is joined, unfortunately.

In closing, I ask unanimous consent to have printed in the RECORD a list of the supporters of this proposal, along with a representative sample of letters, including one from a teacher in downstate Illinois.

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

LIST OF SUPPORTERS

AFL-CIO. American Association of School Administrators. American Federation of State, County and Municipal Employees. American Federation of Teachers. Children's Defense Fund. Council of Chief State School Officers. Hispanic Education Coalition. National Coalition for Public Education. National Education Association. National School Boards Association. National PTA. National Urban League. Rebuild America's Schools. United Auto Workers. Union of Needletrades, Industrial and Textile Employees.

LETTER FROM DOROTHY STRICKLER

I am a teacher in a public high school in Illinois, as is my husband. We are very concerned about the physical condition of the schools in downstate Illinois, especially. My husband's school is in rural Stark County. The building is almost 80 years old. It is completely inaccessible to the handicapped. His classroom has windows which will not stay open and having an open window in a classroom with no air-conditioning is important. In order to have fresh air in the room he must climb on a chair and onto the window sill to prop a stick in the window. This is just one example of the poor conditions he must face every day when he goes to work.

As for my situation, the worst problem I face is the lack of air-conditioning. My school is in Peoria County. Our school year begins August 15 and at times the room in which I teach has a temperature of 95+ degrees. We have state-of-the-art computer technology, but no air-conditioning.

I hope the federal government can pass legislation to help school districts in this country bring their buildings up to livable standards. We have brand new jails going up all around us, but our children and teachers in the schools are trying to work in conditions no one in any other part of society would tolerate.

Sincerely,

DOROTHY STRICKLER.

NATIONAL EDUCATION ASSOCIATION,
Washington DC, March 11, 1998.

UNITED STATES SENATE,
Washington, DC.

DEAR SENATOR: On behalf of the 2.3 million members 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.

NATIONAL PTA,
OFFICE OF GOVERNMENTAL RELATIONS,
Washington, DC, April 20, 1998.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: The 6.5 million-member National PTA opposes H.R. 2646, expected to be taken up during the week of April 20th. There are two amendments the National PTA urges you to support because they would eliminate the problem of funneling public dollars into tax breaks for private and religious school participation. One of the amendments will be offered by Senator Moseley-Braun and would substitute Senator Coverdell's tax package for a proposal to

fund school construction projects designed to modernize public schools. The other amendment we urge you to support will be offered by Senator Glenn. His proposal would strike the language that allows for a tax subsidy for K–12 education, so that the tax breaks would go toward higher education accounts only.

The substitute package authorizes a tax credit for desperately needed construction and renovation. Instead of investing taxpayers' money in savings accounts that would primarily reward wealthy families, the substitute would direct federal resources to build and modernize public schools across the nation. By paying for the interest on nearly $22 billion in state and local bonds, the substitute will help ensure that children across the nation will be able to learn in safe, modern, well-equipped schools and get preparation they need to succeed in the 21st Century.

The amendment eliminating the K–12 language would still allow parents to invest $2,000 in higher education savings accounts, thus providing greater long-term financial benefits to families. According to The Joint Committee on Taxation, families who withdraw funds from the accounts to pay for primary and secondary school education will only receive an average tax benefit of $7 if their child goes to public school and $37 if their children attend private schools.

If either the substitute or the amendment do not pass, we urge you to oppose passage of H.R. 2646. Instead of using investing taxpayers' money to help a few children, we implore you to support investments in public schools that serve approximately 90% of K–12 students.

Sincerely,

SHIRLEY IGO,
Vice President for Legislation.

REBUILD AMERICA'S SCHOOLS,
Washington, DC, April 20, 1998.

Re: Moseley-Braun School Modernization Amendment to H.R. 2646 (S. 1133)

DEAR SENATOR: Rebuild America's Schools is a coalition of school districts and national organizations organized to help local communities in their efforts to modernize and build the school facilities needed to prepare our nation's students for the 21st century.

Rebuild America's Schools supports the Moseley-Braun, Moynihan, Daschle, Kennedy, School Modernization substitute amendment to H.R. 2646 (S. 1133). This amendment provides tax incentives to assist local communities in offering school construction bonds. The Qualified School Construction Bonds will enable states and school districts to offer $9.7 billion in school construction bonds in FY '99 and 2000. The Qualified Zone Academy Bonds established in the 1977 Taxpayers Relief Act also are expanded.

The need to repair, modernize and build new schools to meet rising enrollments is well documented in virtually every community in the nation. The Government Accounting Office report on the condition of America's schools established the alarming fact that over $112 billion must be invested to repair and modernize existing school facilities. State and local communities are struggling to finance school modernization programs. It cannot be done without federal support. The students educated in the local public schools of today will be tomorrow's political, economic and social leaders.

Federal support through the tax incentive programs presented in the Moseley-Braun, Moynihan, Daschle and Kennedy amendment will provide federal support in a magnitude which will help local communities renovate and build the schools they need. Decision making prerogatives and local responsibility for management of school facilities will remain at the local level. Proposals such as exempt facility bonds or private activity bonds for public schools do not provide enough resources to provide real assistance to the broad range of rural, urban and growing school districts straining to provide modern and safe school facilities for their students.

The Moseley-Braun, Moynihan amendment can generate more than $20 billion in school construction bonds. This will reach every state at a cost to the federal government of $3.3 billion over five years, according to the Joint Committee on Taxation.

The Moseley-Braun Substitute amendment to H.R. 2646 (S. 1133) commits significant federal incentives to help state and local communities provide educational facilities to enable students to thrive and prosper in the society and economy of the 21st century.

We urge your support of the substitute amendment.

Sincerely,

ROBERT CANAVAN,
Chair.

AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS,
Arlington, VA, April 16, 1998.

Hon. CAROL MOSELEY-BRAUN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: The American Association of School Administrators (AASA), representing more than 14,000 public school superintendents nationwide, urges you to oppose the "A+ Savings Accounts" championed by Senators Coverdell and Torricelli. If enacted into law, this cleverly packaged voucher scheme would mark a landmark shift of the federal role in elementary and secondary education. It represents the first step in an effort to shift federal aid away from public schools, where 90 percent of American children are educated, and towards private and religious schools.

As you know, and as research and testing prove, most of the challenges that public education currently faces are related to poverty. AASA's members believe that, because of this, it is illogical for Washington to create new education programs that only wealthy taxpayers will be able to effectively utilize. As you know, AASA has designed a bold reform plan specifically aimed at impoverished local schools which incorporates ideals championed by Republicans and Democrats. AASA's members support strong, decisive, and innovative action at the federal level to improve public education; however, the Coverdell-Torricelli plan is none of these things.

We understand that Senator Dodd will offer an amendment to spend the money that would be spent on the Coverdell-Torricelli plan on the Individuals With Disabilities Education Act (IDEA). As you know, the federal government has never come close to meeting its fiscal responsibilities under IDEA. Senate Republicans have stated, and included in their budget resolution, their intent to fully fund IDEA before embarking on new education spending. AASA strongly supports fully funding IDEA, and AASA's members believe that the Dodd amendment offers an excellent opportunity to move the federal government towards meeting its commitment.

AASA also strongly supports Senator Moseley-Braun's amendment to modernize American schools and Senator Glenn's amendment to modify the Education Individual Retirement Accounts. Considering the Joint Tax Committee's estimate of the benefit to public school families from the Coverdell-Torricelli plan, the contrast between the Moseley-Braun school modernization initiative and this thinly disguised voucher plan could not be more stark.

Thank you for considering our views. AASA stands ready to assist you however we are able. Please do not hesitate to call on us.

Sincerely,

ANDREW ROTHERHAM,
Legislative Specialist.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, March 17, 1998.

DEAR SENATOR: The AFL–CIO strongly urges you to oppose motions to invoke cloture and final passage of S. 1133, the Parent and Student Savings Account Plus Act. The provisions of this bill amount to nothing more than subsidized private education for children of wealthy Americans paid for by the tax dollars of the working public.

The simple truth is that the average working family will never benefit from the IRA accounts created by S. 1133. Ninety percent of American children grades K–12 attend public schools and will never benefit from IRA accounts. Because S. 1133 can be used by wealthy taxpayers making up to $160,000, 70% of the benefits from the new IRA accounts will go to 20% of the nation's wealthiest families. The average American working family with children under the age of 18 cannot accumulate the savings necessary to use the new IRA. The Joint Committee on Taxation found that 60% of taxpayers would not establish such an account.

S. 1133 does nothing to achieve educational goals that are widely agreed upon. There is no funding to facilitate higher academic standards, improved teacher training and safer schools. Instead, the bill allows scarce federal funds to be used for undefined "tutors" (including babysitters or family members) and transportation, which according to the Joint Committee on Taxation, could mean using the IRA to buy a car for a student. Equality of educational opportunity cannot be achieved by diverting funding from public schools attended by many to private schools benefiting few.

S. 1133 amounts to little more than a voucher program to defray private education costs for the children of a very small number of wealthy Americans. The AFL–CIO urges you to oppose motions to invoke cloture and final passage of S. 1133, and work with us to address the educational needs of all our children.

Sincerely,

PEGGY TAYLOR,
Director, Department of Legislation.

AMERICAN FEDERATION OF TEACHERS,
Washington, DC, April 15, 1998.

DEAR SENATOR: On April 20, 1998, the Senate will return to H.R. 2646. On behalf of 950,000 members of the American Federation of Teachers (AFT), I again urge you to vote against H.R. 2646, The Parent and Student Savings Account Plus Act, commonly called the Coverdell bill. H.R. 2646 provides a $2,000, IRA-like investment account, whose tax-free proceeds can be used to pay for private K–12 educational expenses. The American Federation of Teachers strongly opposes this bill because it is an indirect form of educational voucher that would undermine support of public schools.

H.R. 2646 will not benefit working families because they do not have the necessary discretionary income. It is an expensive bill that would provide tax breaks primarily to the wealthiest families. The Treasury Department estimated that 70 percent of the benefits will go to the wealthiest 20 percent of the nation's families, and as drafted, will increase the administrative problems of the IRS. Further, the Joint Tax Committee estimates the average benefit for public school families would be only $7 by the year 2002, and $37 for private school families.

The bill ignores the fact that almost 90 percent of K–12 students go to tuition-free public schools. For this reason, the Coverdell bill can be described as a "voucher-like" tax-free savings account that for the most part will benefit wealthy families who send their children to private schools.

While AFT does not oppose the right of parents to choose private education, we strongly oppose the direct or indirect use of publicly funded vouchers, tax credits, IRAs, or other such mechanisms to pay for private K–12 educational expenses. It is essential to have an effective public education system to realize equality of opportunity for all Americans. The way to help all schools become more effective is by implementing high academic standards, high behavioral standards, and investing in needs such as new or improved school buildings.

AFT does support the Democratic school modernization substitute for the Parent and Student Savings Account Act. The school modernization substitute would provide federal tax credits for the interest on special school modernization bonds, at a five-year cost of $5 billion. This would leverage approximately $22 billion of school modernization bonds—a modest federal contribution to the $112 billion school construction shortfall projected by the GAO.

We also support Senator Glenn's amendment to strike K–12 from the Coverdell IRA. If the Glenn amendment were adopted, the Coverdell IRA would be exclusively for higher education and not undermine support for K–12 public education.

If the Democratic School modernization amendment and the Glenn Amendment fail, the American Federation of Teachers urges you to oppose H.R. 2646.

Sincerely,

GERALD D. MORRIS,
Director of Legislation.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA

Washington, DC, March 11, 1998.

DEAR SENATOR: This week the Senate may take up the proposed Parent and Student Savings Account Plus Act (S.1133), sponsored by Senator Coverdell. The UAW strongly opposes this legislation; we urge you to vote against this measure and to oppose and attempt to invoke cloture when it is taken up by the Senate.

The Coverdell bill would allow individuals to contribute up to $2,000 per year to tax-free IRA type accounts for elementary and secondary school expenses, including the expenses associated with attending private and parochial schools. In our judgment, these tax subsidies are simply private school voucher by another name. This bill would disproportionately favor privileged families who are more likely to have money to put into their IRA type accounts than are families with lower incomes. In addition, the legislation would divert urgently needed funds from public schools, thereby undermining our system of public education and encouraging well to do families to send their children to private and parochial schools.

The UAW understands that a substitute package may be offered to S. 1133 that would fund school construction projects designed to modernize public schools the UAW supports this initiative to ensure that children across the nation are able to learn in a safe, modern, well-equipped school environment. We believe that federal policies should direct limited resources into public schools where over 89 percent of American children are educated, not divert funds to private and parochial schools.

For these reasons the UAW urges you to vote against the Coverdell bill (S. 1133) and to oppose any attempt to invoke cloture on this measure. We also urge you to support the substitute proposal providing additional funds for school construction. Thank you for considering our views on these important issues.

Sincerely,

ALAN REUTHER,
Legislative Director.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL–CIO,

Washington, DC, March 13, 1998.

DEAR SENATOR: On behalf of 1.3 million members of the American Federation of State, County and Municipal Employees (AFSCME), I strongly urge you to oppose the "education IRAs" for private schools in S. 1133 and urge you to vote against passage of this bill. Instead, we urge you to vote for a substitute to be offered by Senator Carol Moseley-Braun to provide tax credits to subsidize $22 billion for 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 equipped to prepare students for the future.

The provision in S. 1133 creating 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 disproportionately benefit wealthy families who already send their children to private and religious schools.

This tax subsidy does nothing to raise academic standards for all children, provide safe learning environments for children, provide more teacher training, or increase parent involvement in schools. Tax subsidies are private school vouchers by another name. They would divert public resources to support private education at a time when we need to do all we can to improve our public schools. Please vote against S. 1133 and for the Moseley-Braun substitute.

Sincerely,

GERALD W. MCENTEE,
International President.

HISPANIC EDUCATION COALITION,

April 20, 1998.

DEAR SENATOR: On behalf of the Hispanic Education Coalition (HEC), an ad hoc coalition of national organizations dedicated to improving educational opportunities for Hispanics and other interested organizations, we are writing to urge you to strengthen our educational infrastructure as you begin debate and votes on S. 1133. In passing transportation legislation, the Senate signaled that transportation infrastructure is of vital national interest, crucial to the economy and future development. Education is equally important. Socially, politically, and economically, education will be the determining factor in the quality of life in our nation.

Please support Sen. Carol Moseley-Braun's amendment, in the nature of a substitute, to provide critical federal resources to help states and local education agencies modernize schools and reduce class sizes. There is little disagreement that across the nation, many of our public schools are in terrible physical shape, placing our children's safety in jeopardy and cheating them of access to critical educational tools. Likewise, there is broad consensus that we are facing an acute teacher shortage that will worsen as the current teaching corps ages and the student population grows. Not surprisingly, the schools that are in the worst condition and suffer the most from teacher shortages are located in our most disadvantaged and fastest growing communities. As a nation, we can ill afford to poorly educate large segments of tomorrow's workforce. Sen. Moseley-Braun's amendment will move us toward resolving these pressing problems by leveraging local resources to build, repair and modernize schools and providing incentives that will help put more qualified teachers in our classrooms.

We also encourage you to support Sen. Jeff Bingaman's amendment to focus national attention on drop out prevention. As stated in the Hispanic Dropout Project's final report, *No More Excuses,* "For students, dropping out forecloses a lifetime of opportunities—and in turn makes it far more likely that their own children will grow up in poverty and be placed at risk. For business, this means a lack of high skilled employees, fewer entrepreneurs, and poorer markets. For communities, this cumulates the risk of civic breakdown." For the Hispanic community, with a drop out rate of nearly 30 percent, this issue is of paramount importance.

Unfortunately, two amendments that will be offered would significantly undermine our education system and could do real harm to many low-income students. Individual tax credits will not improve our educational infrastructure, put quality teachers into classrooms, nor improve the educational achievement and attainment for our students. Secondly, Federal resources that are carefully targeted are most effective. Federal education programs were created to fill gaps that local and state governments allowed to occur. Block grants would dilute the positive impact many of these programs have made in providing opportunities for disadvantaged students. Although these proposals may spark interesting political debates, they do little to help us accomplish the task at hand—ensuring that all children have access to quality education.

Sincerely,

PATRICIA LOERA,
HEC Co-Chair, National Association for Bilingual Education.

RAUL GONZÁLEZ,
HEC Co-Chair, National Council of La Raza.

On behalf of: Hispanic Association of Colleges and Universities, League of United Latin American Citizens, Mexican American Legal Defense and Educational Fund, National Association for Migrant Education, and National HEP-CAMP Association.

Ms. MOSELEY-BRAUN. This chart is a "report card" for America's infrastructure, which was put together by the American Society of Civil Engineers—not exactly a probureaucracy

group. We can see mass transit got a C; bridges, a C-minus; solid waste, a C-minus; waste water, a D-plus; roads, a D-minus; but schools got an F. We clearly have a problem.

A minimum $112 billion only begins to set up a partnership. Again, it is not the grant program that the administration opposed several years ago but a bureaucracy-free tax credit. We give local governments the help we can best give them, which is access to the tax benefits that this legislation provides. And from that assistance, from that modest assistance that we as a national community give these local governments, we will be able to go to the private sector, go to the capital markets, and raise the money to begin to grapple with this problem.

We have an "F" on schools in this country in terms of infrastructure needs. I daresay the real tragedy here is that we have not reached consensus yet that it is appropriate as a national community that we come together in a partnership, that we work together, instead of pointing fingers about what is wrong and pointing the blame and saying it is this group's fault or the local property taxpayer. We ought to work together to make certain issues like this get resolved in behalf of the children of our country and the future of this country.

The PRESIDING OFFICER. All time has expired.

Mr. COVERDELL. Mr. President, I move to table the amendment offered by the Senator from Illinois.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Illinois.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

Mr. FORD. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—56

Abraham	Cochran	Grams
Allard	Collins	Grassley
Ashcroft	Coverdell	Gregg
Biden	Craig	Hagel
Bond	DeWine	Hatch
Brownback	Domenici	Helms
Burns	Enzi	Hutchinson
Byrd	Faircloth	Hutchison
Campbell	Frist	Inhofe
Chafee	Gorton	Jeffords
Coats	Gramm	Kempthorne
Kyl	Nickles	Snowe
Lieberman	Roberts	Stevens
Lott	Roth	Thomas
Lugar	Santorum	Thompson
Mack	Sessions	Thurmond
McCain	Shelby	Torricelli
McConnell	Smith (NH)	Warner
Murkowski	Smith (OR)	

NAYS—42

Akaka	Feingold	Lautenberg
Baucus	Feinstein	Leahy
Bingaman	Ford	Levin
Boxer	Glenn	Mikulski
Breaux	Graham	Moseley-Braun
Bryan	Harkin	Murray
Bumpers	Hollings	Reed
Cleland	Inouye	Reid
Conrad	Johnson	Robb
D'Amato	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
Dodd	Kerry	Specter
Dorgan	Kohl	Wellstone
Durbin	Landrieu	Wyden

NOT VOTING—2

Bennett	Moynihan

The motion to lay on the table the amendment (No. 2292) was agreed to.

Mr. COVERDELL. Mr. President, I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Wellstone and Gregg amendments no longer be in order under the consent agreement of March 27 and prior to third reading Senator WELLSTONE be recognized for up to 15 minutes under his control and Senator GORTON for up to 15 minutes under his control and Senator HARKIN for up to 15 minutes under his control.

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

Mr. BIDEN. Mr. President, will the Senator yield for a minute?

Mr. COVERDELL. I yield.

Mr. BIDEN. Mr. President, I wanted to explain the reason I voted the way I did on the last amendment. I strongly support Senator MOSELEY-BRAUN's amendment and approach.

The PRESIDING OFFICER. The Senate will be in order so the Senator from Delaware can be heard.

The Senator from Delaware.

Mr. BIDEN. Once again, Mr. President, as often occurs here, we are presented with Hobson's choices. As I said, I have strongly supported and continue to support the school construction initiatives of Senator MOSELEY-BRAUN, but her amendment should have been added to the bill, not given as an alternative to it. In order to vote for her amendment, I would have had to vote against the guts of the Coverdell bill. I support the essence of what Senator COVERDELL is doing. So I voted against Senator MOSELEY-BRAUN's amendment, although I strongly support it and think we need to invest considerable amounts of money in school construction.

I conclude by saying I only wish it had been an add-on to the Coverdell bill, not in place of the Coverdell bill.

I thank the Chair.

Mr. COVERDELL. Mr. President, I thank the Senator from Delaware for his remarks.

Mr. President, I ask unanimous consent that debate only be in order for the remainder of the session of the Senate today to be equally divided between the majority and minority leaders or their designees.

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

Mr. COVERDELL. Mr. President, in light of this agreement, I announce on behalf of the majority leader there will be no further votes this evening.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I say to my colleagues that I will try to be relatively brief.

I wish to speak to the agreement that the Senator from Georgia had announced. Senator GREGG had an amendment that he wanted to bring to the floor dealing with IDEA. Many of us were concerned about his amendment. From my point of view, this was an amendment that I believe threatened to undercut some of what I think has really been rich and important about IDEA.

That is my own view. Many people in the disabilities community, many parents of children are worried about it as well. IDEA is really a pretty wonderful breakthrough for many families because up until the mid seventies—I know Senator HARKIN will speak about this later—there were about 8 or 9 million children, many of whom felt shut out from the schools. The concern we had was that this amendment might turn the clock back. We did not want that to happen. It was our view it wasn't a question of it might turn the clock back; we were worried that it would. I guess the agreement we have reached is that now Senator GREGG is going to withdraw the amendment.

I now want to speak about the amendment I am withdrawing. I want to say to parents and people in the disabilities community, especially in my State of Minnesota, that I have withdrawn this amendment reluctantly, but I understand their concern, and people really kind of got to my heart because there was a tremendous amount of concern about this amendment and I care fiercely about IDEA. I thought last year we had reached a good bipartisan consensus. I think this amendment by Senator GREGG is mistaken. I am glad it is now withdrawn. And when Senator HARKIN—who is one of my really close friends here, somebody whom I have a tremendous amount of respect for and who has been probably, I think, just a giant in the Senate when it comes to issues that affect the disabilities community—said that he thought this

agreement would put his mind at ease, then I so agreed.

Mr. President, I will therefore offer the amendment that I had initially had to the Coverdell bill to the higher education bill, which makes a great deal of sense because that is really what this is about. I think we can get a majority vote for this because this amendment is very reasonable. Some Senators, such as Senator FORD from Kentucky, Senator LEVIN from Michigan, Senator DURBIN from Illinois, who are among the original cosponsors, voted for the welfare bill. I voted against the welfare bill, but that is not what this amendment is about. What this amendment says is that we really have to fix the welfare bill. We have to make a modification here because what's happening around the country is that too many States are put in a position, in order to meet the work participation requirements, of essentially saying to single parents, almost all of them women with small children, you have to leave school and take a job even if that job is maybe a $6-an-hour job, and then a year later they will be worse off because they don't receive any health care benefits.

This is shortsighted, and I do not think anybody intended this to happen. What this amendment will say, I say to my colleague from Georgia, is it will leave it up to States. There is no mandate at all. It will just say that if the State of Minnesota—and I think my State certainly wants to do this, or the State of Georgia or the State of Kentucky so decides—the States can say to us, "Look, we would like to be able to give these parents, these women, 2 years of higher education because they are on the path to economic self-sufficiency." Why would you want to take them off that path?

These are the parents who have the best chance of completing at least 2 years of school and then obtaining a living wage job and doing better for themselves and their children, and that this would not count against the work force participation requirements that States now have to meet. It would leave it entirely up to the States, but it would at least give States that option.

I think my colleagues will be hearing from a lot of Governors and a lot of States and the higher education community. I think it makes all the sense in the world.

This surely is not what we intended. I do not think we intended, under the framework of what is called welfare reform, to put States in a position where States have to say to all too many women, "Look, you have to leave school." We ought to let these parents complete the school and, therefore, they are going to do much better for themselves and much better for their children as well.

Mr. President, I, therefore, want to make it clear that I will offer this amendment. I see my colleague, the chairman of our Labor and Human Resources Committee, Senator JEFFORDS, here. I wanted to do it on this bill, but we got into this impasse. I care about IDEA. I didn't want us to have some acrimonious debate and a lot of ill will. So I am withdrawing the amendment; Senator GREGG is withdrawing his amendment. Therefore, I will look for another vehicle.

The higher education bill is going to come before us. It is a good bill, a bipartisan bill. This amendment, I promise colleagues, is as reasonable as it can get. There is no reason in the world why we would want to put States in a position and put too many parents in a position of not being able to complete 2 years of education. It certainly would make a huge difference to them.

Just one other word. I gather that we are going to talk about IDEA, and Senator GREGG or Senator GORTON is going to want to come to the floor and speak about that, and Senator HARKIN can respond to what they have to say. For my own part, I thought we had a really strong agreement on IDEA. I think we should stick to that. It is a bipartisan agreement. It is important to make sure that children who are disabled have equal opportunities. I would hate to see us weaken this very, very important step that we have taken as a Senate. We will not be dealing with that debate tonight. But this amendment on higher education will be there.

I also want to say one other thing to my colleagues, and then I will finish.

Again, please look at the evidence that is coming in. What you are going to see with the welfare bill is that in all too many cases, we have now seen a reduction in the caseload, that is true, but it does not equal the reduction of poverty, which is where we should be heading. Too many of these parents are finding jobs, but they pay barely minimum wage without any health care benefits.

In addition, the child care arrangements are really rather frightening, and too many small children, prekindergarten children, are not receiving good developmental child care. Too many children who are age 4 are home alone, and too many children are going home from school alone.

We really have to look at what is happening, because a year from now or 2 years from now or 3 years from now, depending on the States, there is going to be a drop-dead date certain, and there will be no assistance. We have to know whether these families are reaching economic self-sufficiency, and the best way these families can do that is for that mother to be able to get an education.

If we want real welfare reform or we want to reduce poverty or we want to have a stable middle class in our country, there is nothing more important to do than to make sure that we focus on a good education and a good job. That is what this amendment is about.

I thank my colleague from Georgia for his graciousness. I hope when I offer this amendment there will be good, strong support. I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mr. Smith of Oregon). The Senator from Georgia.

Mr. COVERDELL. Mr. President, I appreciate the comments by the Senator from Minnesota and the accord and cooperation by all parties concerned in facilitating the debate on this education proposal. I thank my colleague for his comments.

Because of the large number of amendments on this measure, it has been difficult at times for Senators to know when they might make a comment. Senator GRAMS has been here most of this afternoon. Now that we are in this open period—and I know Senator JEFFORDS also was here—I hope that some accord can be shown our two colleagues who have been waiting to make a comment.

Mr. President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Thank you, Mr. President. I wanted to take a few minutes this afternoon to rise and speak in support of Senator COVERDELL's education bill, S. 1133.

Mr. President, today the Senate continues its debate on this very important bill, a bill that is really out to promote education alternatives. It is a far-reaching bill which advances educational options, one which promotes quality education where it can best be achieved and that, Mr. President, is at the local level and by family involvement. It is sound policy, and I believe it is long overdue.

S. 1133, the Parent and Student Savings Account Plus Act, is a modest bill, but it is a very important step forward for restoring decisionmaking authority in the hands of parents and families and, again, this is where that authority belongs.

The heart of this bill is simply a measure that would allow families to save for their children's education and without tax penalty.

S. 1133 is the Senate's version of the education IRA which has already passed in the House. The bill, commonly referred to as the A+ savings accounts, would expand the college educational savings accounts established in the Taxpayer Relief Act of 1997, and that would then include primary and secondary education as well.

A+ accounts would also increase the maximum allowable annual contributions from $500 to $2,000 per child. The money could be used without tax penalty to pay for a variety of education-related expenses for students in K through 12, as well as college expenses.

A number of mega-dollar, pumped-up political Band-Aids are being offered in the form of amendments to the A+ accounts legislation. It would be nice to think that we could solve the problem of education by just spending more and more money, but unfortunately, that does not work. The United States is the world leader in national spending per student.

Again, the United States is the world leader in national spending per student. Yet, our test scores show that our system is failing our children. Test results released in February show that American high school seniors scored far below their peers from other countries in math and science. Education Secretary Riley called the scores "unacceptable" and indicated that schools are failing to establish appropriate academic standards.

Legislation like A+ accounts would help direct responsibility and accountability, again, where it belongs—at the family level where families can make decisions and take responsibility for their children's education. The A+ accounts legislation includes many important legislative initiatives beyond the savings accounts. For instance, it fosters employer-supported education for employees by extending the tax credit to the year 2002. I hear time and time again employers are desperate for well-trained employees, and this legislation allows them to continue to provide that training.

Graduate level courses would be permitted under this exclusion as well as undergraduate courses. If we are ever going to be able to tackle the shortage of high-tech employees, this tax incentive is very crucial.

Additionally, the A+ accounts bill would assist local governments in issuing bonds for school construction by increasing the small-issuer exemption from $10 million to $15 million, provided that at least $10 million of the bonds are issued to finance public schools.

It is estimated that 600 schools would be improved under this legislation. Our bill also provides tax-free treatment for students who receive National Health Corps scholarships. Students can thereby exclude the scholarship value from their taxable income. That would provide further important education assistance when it is most needed.

A complimentary amendment to the A+ accounts is the Investment in America's Future bill. That was Senator GORTON's block granting amendment. Under this bill, most federally funded K–12 programs, except for special education, would have been consolidated and the dollars sent directly to local school districts—free from the usual Washington red tape. This would have ensured our education dollars would go to students, as opposed to going to bureaucrats. The Gorton amendment was not a cutting measure.

The bill maintained that if Federal funding were to fall below the levels agreed to in the 1997 budget agreement, then the program would revert back to funding categorical programs.

Mr. President, there are a number of additional amendments, crucial for education, which greatly enhance the core A+ accounts legislation. The teacher testing and merit pay amendment would serve to retain competent teachers by providing incentives to States to implement programs geared at rewarding successful, high-quality teachers.

The Coats amendment would increase to 110 percent deductions that individuals and families could take on charitable contributions to schools and programs aimed at poor children.

Another important amendment would expand literacy programs that are so important to assist in poverty areas. So this simple and modest bill fosters education through families, through employers, and through local governments. We could accomplish so much through the A+ accounts package.

Common sense would have had us pass these measures a long time ago. But, unfortunately, tired, groundless attacks continue to hang on. And the charge I hear most frequently is that "education savings accounts and tax breaks for parents would shift tax dollars away from public schools." That simply is not the case.

More education dollars under parental control would actually promote education by encouraging parents to save, to invest in, and support programs and materials that facilitate and help provide the right option for a child's education. Nothing, Mr. President, would be taken away from public education resources—nothing.

The A+ accounts help working families by encouraging savings and enabling families to make plans which shape a child's future. They are directed at low- and middle-income families, not at the wealthy families which currently have more educational options for their children.

It seems ironic to me that some of the loudest opponents of these savings accounts are high-income and high-option individuals who can now afford to send their own children to private schools—and often do.

According to the Joint Committee on Taxation, the great majority of families expected to take advantage of the education savings accounts are families that have incomes of $75,000 or less. These are the families who need those savings options and need the incentives the most.

So, Mr. President, the bill provides educational alternatives for working families. These are very important options to improve the education of our children. I urge my colleagues to join in and support this very important education initiative.

Thank you very much, Mr. President. I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. JEFFORDS. Mr. President, we just finished a vote on the controversial Moseley-Braun amendment related to school construction. There is no question about the tremendous school infrastructure needs throughout this Nation. Well over $180 billion are necessary to bring the schools up to some appropriate standard.

However, as was very aptly pointed out, and no doubt was one reason that the amendment was defeated, it is States that have the primary responsibility for that construction. It is not a constitutional responsibility of this body.

I just bring to the attention of the body a chart that was discussed earlier today. Quoting the words of the Clinton administration:

> The construction and renovation of school facilities has traditionally been the responsibility of state and local governments, financed primarily by local taxpayers. We are opposed to the creation of a new Federal grant program for school construction.

I want people to keep that in mind when they consider what I have to say.

Under the Constitution, the District of Columbia, the Capital of the United States, is, in the view of Congress, at least in the writings, are our responsibility as a state legislature is to a State. We, the Members of the Congress of the United States, are responsible for the infrastructure of this city and its school system. And we should be ashamed of our negligence in that regard. The neglect did not occur over a few years; it has occurred over decades.

So, the deficit in the school infrastructure is the responsibility of all of those who have been in power, whether it was the local governments to whom we gave the power in the 1970s and 1980s or whether it was the Congress that was in power before that. Everyone has neglected the school infrastructure. There is no question that the Nation's Capital, for which Congress is responsible, has one of the worst school infrastructures in the Nation.

Again, this fall, the DC schools did not open on time. How that happened is another story that could be discussed some other time. But the bottom line is that it was because of the dilapidated conditions of the schools. The students marched to make us all aware of what was happening.

I now show you a chart that appeared as a photograph in the Washington Post on Wednesday, October 8th, in which the students say, "Why should students suffer for adult incompetence?" It should be "For congressional incompetence," because we are

responsible for those schools being closed. The question is, what should we do about it?

I voted against the Moseley-Braun amendment because I felt that that money, which would be more than adequate to fix up the D.C. schools, should be utilized for that purpose. I am not pushing this issue right now for this reason: Last year, I raised the issue of funding the construction of the DC public schools to bring them up to standard. I almost got $1 billion in the Finance Committee. That effort failed by one vote. We did end up with $50 million coming out of the Senate. But in the reconciliation bill, even the $50 million was dropped.

Why? Because it was said that there were better programs to be financed by the Federal Government to help the District of Columbia than to help the school system. I violently disagree with that. At the same time, the Director of OMB said that he would work with me this year to find the money for the schools, as did other members of the Finance Committee. The members of the conference committee also said that they would help. Thus I have formed a working group with the OMB Director, Frank Raines, and other Members of both the House and the Senate, and we will be working over the next month or two to be able to try to find out what we can do to make sure that these schools get brought up to proper standards.

Congress is not meeting its obligation. The infrastructure repair requirements—just to bring schools up to modern standards—is $2 billion. That is with a "b," $2 billion, to give the students in this city the necessary funds to fix up the schools. The District is the size of a small State—population-wise, about the size of Vermont. That we are not able to help these kids is a travesty. There is no excuse for that.

Also, if you want to look at the D.C. schools compared to the rest of the country, we have a chart. The red bar is where D.C. is on critical areas in need of repairs, and the yellow is the national average.

The national total is $180 billion necessary to bring schools up to proper standards—not very good. But if you compare the national average with the D.C. schools, my God, look at that. Exterior walls and windows, 72 percent of DC schools are inadequate. The national average is 27 percent. Sixty-seven percent of the roofs on the schools in this city are in bad need of repair, 65 percent of the heating and ventilation needs repair, and 65 percent of the plumbing needs repair. Electrical lighting, 53 percent. That is just not acceptable. We should be ashamed.

It is our responsibility to make sure that those repairs are made. However, not only have we not done that, but in 1974 when we created home rule, we prohibited the District from raising its own money from the most likely source to repair its schools. How did we do that? Well, the Senators from Virginia and Maryland very cleverly put a provision in the act that says the District cannot tax the income of nonresident workers. Every State in the Union that has a tax on income, taxes the income of nonresidents.

Every city in a multistate area that has an income tax also taxes the income of nonresidents. So in prohibiting a commuter tax in DC, we have precluded District residents from generating the revenues to improve the physical infrastructure of the schools. The District has to have a revenue stream to be able to raise the bonds in order to pay for the school repairs.

We in Congress have the responsibility to repair the schools, and we have prevented the local government from raising the money using the most logical source to fix those schools.

What must we do? We have a number of options. I first point out that the closing of the schools this past fall demonstrates the necessity of funding the school repairs. In this regard, I want to clear up something for the record. A lot of blame has been heaped on General Becton, the school superintendent. Actually, what happened was that the citizen's group, Parents United, brought a lawsuit to ensure proper repairs while some repairs were already in process of being made. The work was planned so the schools wouldn't have to be closed, but the judge, who got fed up with city's inability to repair the schools, said, "No, you are not going to open the schools until you complete the repairs." This then created a panic, because the school administrators had to search all of a sudden to find contractors to get the schools fixed to then get the schools re-opened. That process, as a subsequent GAO analysis showed, ended up adding expense to the renovation process.

It is important for us to recognize that before we go home this year, before we fix schools in other areas, it is our responsibility to fix the schools of this city. We are constitutionally responsible. I am hopeful that in the days ahead, when our DC schools working group meets, our task will be to figure out how Congress is going to find the necessary $2 billion in the years ahead, either through some revenue stream created for the District or by utilization of Federal funds. We have to do that. We cannot allow this travesty to continue for the young people of D.C. when we have a constitutional responsibility to fix their schools.

I am hopeful that as we go forward, we will be able to work together, both sides of the aisle, to find a solution to this inexcusable travesty for the young people of Washington.

I want to make sure that my colleagues understand that what I have said is valid. First, we have a letter from Dr. Brimmer, the head of the control board, which indicates that it is impossible to create a revenue stream for the DC schools under the present fiscal situation of the city, nor does the school district have the authority to create a dedicated revenue source. Therefore, it would be necessary for Congress to do something to acquire the necessary money for construction and repairs of the school system.

I ask unanimous consent that this letter be printed in the RECORD.

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

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY,

Washington, DC, February 9, 1998.

Hon. JAMES M. JEFFORDS,

Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I appreciate your continued support of the District of Columbia Public Schools (DCPS) and the opportunity to provide you with information on the outlook for the DCPS capital program.

Simply put, the school system must rely upon the District of Columbia government for its capital improvement funds and the City government's related bonding capacity. The General Services Administration has estimated the total cost of repairing and improving the District's educational facilities at more than $2 billion. Years of deferred maintenance have left the DCPS education facilities in a state of extreme disrepair.

District school officials estimate that between $20 million and $30 million may be realized from the sale of former school properties in the next year. All of the proceeds from these sales will be used for school capital improvements. While these funding sources are substantial, they are finite infusions. Recent additions of capital improvement funds, principally through your efforts, from the privatization of Connie Lee and Sallie Mae, have raised $18.25 million and $36.8 million, respectively. These have greatly enhanced the capital program. However, the sums made available through these means, even when added to the District's current annual capacity to borrow for school repairs and improvements, are woefully inadequate. They do not fully fund the program developed to bring the DCPS facilities into the new millennium.

In February, 1997, the DCPS issued its first Long Range Facilities Master Plan covering the years 1997 through 2007. This plan, updated in July, 1997, sets out goals and plans for emergency repairs, right sizing, stabilization, and modernization of the District's public school facilities. Without additional resources, which are not now in sight, this program cannot be fully implemented, and its goals (including equipping schools with modern technology) cannot be achieved.

The only continuing source of funding available to the District is its annual capital borrowing program. This source must bear not only a school repair burden, but also the significant infrastructure needs, including the requirements of roads and bridges, of the rest of the District government. This capital program has been limited to approximately $150 million for the entire city in recent years. This is due to the District's statutory limitation on the amount of debt, as a percentage of total revenue, that the city is allowed to carry. Given this limitation, and

past commitments to the Washington Metro system, the District can only afford to commit approximately $30 million to public school capital annually, while the annual capital improvement need is well in excess of $100 million.

The Authority continues to evaluate alternatives, including a non-profit corporation financing vehicle and a dedicated revenue stream. However, to date none of these alternatives appears to achieve the needed capital funds flow to DCPS without a negative effect on the City's other capital needs. It is also important to note that, for fiscal year 1997, the Federal government provided a Federal Payment (in-lieu-of-taxes) to the Nation's Capital. The District of Columbia Revitalization and Self-Government Improvement Act of 1997 (Revitalization Act) repealed the authorization for such a payment and replaced it with a Federal Contribution of $190 million for fiscal year 1998, with no specific authorization beyond that year. The President's budget for fiscal year 1999 makes no request for the Federal Contribution. This puts further stress on the District's revenue sources and amounts that can be obtained through a capital borrowing program.

Your efforts on behalf of the District's school children is recognized and appreciated by this District's citizens and leaders. I hope that this information will be useful to you.

Sincerely yours,

ANDREW F. BRIMMER,
Chairman.

Mr. JEFFORDS. In addition, I ask unanimous consent to have printed in the RECORD the testimony of Professor Raskin from hearings I held in January. It addresses the constitutionality of Congress' responsibility for those schools. As a constitutional scholar, his testimony justifies what I think has become obvious from the debate, that the Congress has a responsibility to provide for the D.C. schools infrastructure.

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

[Attachment 1A]

TESTIMONY OF PROFESSOR JAMIN B. RASKIN BEFORE THE SENATE LABOR AND HUMAN RESOURCES COMMITTEE, JANUARY 13, 1998

The Constitution confers on Congress the same powers over the District of Columbia that states have within their domains. In 1899, the Supreme Court stated that Congress "may exercise within the District all the legislative powers that the legislature of a state might exercise within the state . . . so long as it does not contravene any provision of the constitution of the United States."[1] In 1932, the Court found that the District Clause endows Congress with "all the powers of legislation which may be exercised by a state in dealing with its affairs, so long as other provisions of the Constitution are not infringed."[2]

Thus, Congress has a structural responsibility for education in the District, and this is a responsibility that must be executed in a constitutional way. In 1954, when the Supreme Court struck down racial segregation in public schools in the states as a violation of the Fourteenth Amendment, it also struck down racial segregation in public schools in the District of Columbia as a violation of the Fifth Amendment. This was *Bolling v. Sharpe*,[3] the unsung companion case to *Brown v. Board of Education*, which ended a century of Congressional segregation of public schools in D.C. and malign neglect of the black population.

Even after *Bolling v. Sharpe*, however, Congress oversaw a system of what federal District Court Judge J. Skelly Wright in 1967 called "racially and socially homogeneous schools" that "damage the minds and spirits of all children who attend them" and "block the attainment of the broader goals of democratic education."[4] In *Hobson v. Hansen* that year, the court found that the Congressionally-appointed school board, which had a maximum quota of three black members of nine (later changed to four), had effectively segregated the schools by race and class and created "optional zones for the purpose of allowing white children, 'trapped' in a Negro school district to 'escape' to a 'white' or more nearly white school, thus making the economic and racial segregation of the public school children more complete than it would otherwise be under a strict neighborhood assignment plan."[5]

The *Hobson* court also found that teachers and principals were assigned according to their race and the race of their students, that a tracking system was used to divide students according to race and class and consigned many students to an inferior and demeaning education, and that reading scores fell increasingly behind the national norm in each grade.[6]

Thus, although Congress clearly has an ultimate constitutional responsibility for schooling in the district, it is one that it has not generally lived up to, except by court order. Even now, we see that the Emergency School Board of Trustees, appointed by the Control Board, is an illegally created body. So now would be a good time to figure out how Congress can best fulfill its very real obligations to the District and its children.

On this question, I just have two quick points. First, unlike the citizens of the fifty states, residents of the District have no state constitution to fall back on in order to demand equality of resources and excellence of result in the educational process, something that has taken place in dozens of states. Thus, as you know, the Supreme Court's decision in *San Antonio v. Rodriguez*,[7] holding that education is not a fundamental right and that disparate funding of schools does not violate Equal Protection, is the barren and controlling constitutional framework for the District. This makes it all the more important that Congress try to take the rights of the people and the needs of the children seriously. As the Court put it in *Brown v. Board*, "education is perhaps the most important function of state and local governments."

But, second, this is a delicate matter since education, as the Court observed in *Rodriguez*, is also a public function jealously guarded by local governments, one in our nation's history that has been traditionally the province of the local community itself. So, Congress must also act with maximum respect and deference for the wishes of the local population, the American citizens who live there. Thus, your presumption should be that matters of fundamental educational policy should be decided by the local school board and elected officials so long as they do not implicate an independent federal interest that would justify congressional action under the District Clause. On matters of proposed departures from existing educational policy, such as the school voucher proposal currently in play, Congress should allow the District of make up its own mind in the way that every other locality in America is getting to choose for itself. Nothing could be more averse to the spirit of federalism, democratic government and local control over education than to have members of Congress elected from other jurisdictions deciding such basic matters for the people of the District themselves.

We must never forget that the District is part of America and its citizens have all the rights of other Americans. In 1933 in *O'Donoghue v. United States*,[8] Justice Sutherland recited explained why District residents may not be treated as second-class citizens:

"It is important to bear constantly in mind that the District was made up of portions of two of the original states of the Union, and was not taken out of the Union by cession. Prior thereto its inhabitants were entitled to all the rights, guaranties, and immunities of the Constitution, among which was the right to have their cases arising under the Constitution heard and determined by federal courts created under, and vested with the judicial power conferred by Article 3. We think it is not reasonable to assume that the cession stripped them of these rights, and that it was intended that at the very seat of the national government the people should be less fortified by the guaranty of an independent judiciary than in other parts of the Union."

Justice Sutherland quoted the Court's opinion in *Downes v. Bidwell*[9] to the same effect, emphasizing that the District clause had not subtracted constitutional rights from people who already had them as citizens of states:

"This District had been a part of the states of Maryland and Virginia. It had been subject to the Constitution, and was a part of the United States. The Constitution had attached to it irrevocably. There are steps which can never be taken backward. * * * The mere cession of the District of Columbia to the Federal government relinquished the authority of the states, but it did not take it out of the United States or from under the aegis of the Constitution. Neither party had ever consented to that construction of the cession. If, before the District was set off, Congress had passed an unconstitutional act affecting its inhabitants, it would have been void. If done after the District was created, it would have been equally void; in other words, Congress could not do indirectly, by carving out the District, what it could not do directly. The District still remained a part of the United States, protected by the Constitution."[10]

Thus, in closing, I would say that you walk a tightrope here, the way that all states do when the get involved in the essentially local issue of education. On the one hand, you have a basic constitutional and indeed moral responsibility to see to it that excellent education for effective democratic citizenship is made available to all children in the District regardless of race, ethnicity, language, income, social status, geography, and disability. On the other hand, as much as possible, you must respect the basic American principles of local control over education, democratic participation, and one person-one vote. These I would see as your basic constitutional responsibilities.

FOOTNOTES

[1] *Capital Traction C. V. Hof.*, 174 U.S. 1, 5 (applying the Seventh Amendment right to jury trial to the District of Columbia).

[2] *Atlantic Cleaners & Dyers v. U.S.*, 286 U.S. 427, 435 (finding that Congress, like a state, has power under the District Clause to criminalize local conspiracies in restrain of trade in the District of Columbia).

See footnotes at end of article.

[3] 347 U.S. 497 (1954).
[4] *Hobson* v. *Hansen*, 269 F.Supp. 401 (1967).
[5] *Id.* at 406.
[6] *Id.*
[7] 411 U.S. 1 (1973).
[8] 289 U.S. 516, 544 (finding that the local courts of the District of Columbia are Article III courts for constitutional purposes, unlike territorial courts which "'are incapable of receiving [Article III judicial power].'").
[9] 182 U.S. 244 (1901).
[10] *O'Donaghue*, 289 U.S. at 541 (quoting *Downes*, 182 U.S. at 260–61).

Mr. JEFFORDS. Also, for those who have additional interest in this issue, I ask unanimous consent to have printed in the RECORD a list of all the States that have an income tax and whether or not those states tax the income of nonresidents. I also ask unanimous consent to have printed a list with similar information about cities that impose taxes on nonresidents. It shows that every city in a multistate area that has an income tax also taxes the income of nonresidents.

Somebody may point out that Baltimore does not, but Baltimore, as you know, is flanked on two sides by water and on two other sides by the State of Maryland. It cannot therefore be construed as a city in a multistate area.

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

MAY 21, 1979.

[Attachment 4B]

THE LIBRARY OF CONGRESS, CONGRESSIONAL RESEARCH SERVICE

STATES WHICH HAVE A NONRESIDENT INCOME TAX

Alabama: Nonresidents taxed on income from property owned or business transacted in the State (Sec. 40–18–5).

Alaska: Nonresidents taxed on income attributable to Alaska sources (Sec. 43–20–035) Tax repealed Jan. 1, 1979.

Arizona: Nonresidents taxed on income from activities or sources within the State (Sec. 43–102).

Arkansas: Nonresidents taxed on income from property owned and businesses, trade or occupation transacted within the State (Sec. 84–2003).

California: Nonresidents taxed on income from sources within the State (Sec. 17951).

Colorado: Nonresidents taxed on income derived from sources within the State (Sec. 39–22–110).

Connecticut: No income tax. Tax subsequently instated. Nonresidents taxed on income derived from or connected with sources within the State.

Delaware: Nonresidents taxed on income derived from Delaware sources (Sec. 1102).

District of Columbia: Nonresidents are not taxed.

Florida: No income tax.

Georgia: Nonresidents are taxed on income derived from certain specified activities carried on in the State including from employment, business, trade (Secs. 92–3003, 92–3112).

Hawaii: Nonresidents taxed on the income derived from Hawaii sources (Sec. 235–4).

Idaho: Nonresidents taxed on income from certain specified activities within the State (Sec. 63–3027A).

Illinois: Nonresidents taxed on income attributable to certain activities within the State (Ch. 120 Sec. 3–301 through 304).

Indiana: Nonresidents taxed on income derived from Indiana sources (Sec. 6–3–2–1).

Iowa: Nonresidents taxed on income derived within the State (Sec. 442.5 and 422.6).

Kansas: Nonresidents taxed on income derived from Kansas sources (Sec.

Kentucky: Nonresidents taxed on income derived from sources within Kentucky (Sec. 141.020).

Louisiana: Nonresidents taxed on Louisiana income (Sec. 47–291, 47–293).

Maine: Nonresidents taxed on income derived from sources within Maine (Sec. 5140, 5142).

Maryland: Nonresidents taxed on income from tangible personal property permanently located in Maryland, income from a trade or business or occupation carried on the Maryland, and State lottery prizes (Sec. 287).

Massachusetts: Nonresidents taxed on income derived from sources within the State (Sec. 5A).

Michigan: Nonresidents taxed on income allocable to sources within Michigan (Sec. 206.51, 206.110).

Minnesota: Nonresidents taxed on income allocable to sources within Minnesota (Sec. 290.01).

Mississippi: Nonresidents taxed on income derived from sources within Mississippi (Sec. 27–7–5, 27–7–23).

Missouri: Nonresidents taxed on income from sources within Missouri (Sec. 143.041).

Montana: Nonresidents taxed on income derived from property owned and business carried on in Montana (Sec. 15–30–105).

Nebraska: Nonresidents taxed on income attributable to Nebraska sources (Sec. 77–2715).

Nevada: No income tax.

New Hampshire: No income tax (only interest and dividends).

New Jersey: Nonresidents taxed on certain categories of income earned or acquired in New Jersey (Sec. 54A:5–5).

New Mexico: Nonresidents taxed on income derived from property or employment in New Mexico (Sec. 7–2–3, 7–2–7).

New York: Nonresidents taxed on income derived from New York sources (Sec. 632).

North Carolina: Nonresidents taxed on income derived from North Carolina sources (Sec. 105–136).

North Dakota: Nonresidents taxed on income from property owned or business conducted in North Dakota (Sec. 57–38–03).

Ohio: Nonresidents taxed on income earned or received in Ohio (Sec. 5747.02).

Oklahoma: Nonresidents taxed on Oklahoma taxable income (Sec. 2362).

Oregon: Nonresidents taxed on income from Oregon sources (Sec. 316.037).

Pennsylvania: Nonresidents taxed on income from Pennsylvania sources (Sec. 7302).

Rhode Island: Nonresidents taxed on income from Rhode Island sources (Sec. 44–30–32 and 33).

South Carolina: Nonresidents taxed on income from property or business in South Carolina (Sec. 12–7–20 and 210).

South Dakota: No income tax.

Tennessee: No income tax (just dividends).

Texas: No income tax.

Utah: Nonresidents taxed on income from Utah sources (Sec. 59–14A–6).

Vermont: Nonresidents taxed on Vermont income (Sec. 5811, 5823).

Virginia: Nonresidents taxed on Virginia taxable income (Sec. 58–151.013).

Washington: No income tax.

West Virginia: Nonresidents taxed on income derived from West Virginia sources (Sec. 11–21–32).

Wisconsin: Nonresidents taxed on income derived from Wisconsin (Sec. 71.01).

Wyoming: No income tax.

MARINE B. MORRIS,
Legislative Attorney,
American Law Division.

[Attachment 4D]

TABLE 1.—SELECTED LARGE CITIES WITH AN INCOME TAX ON NONRESIDENTS: TAX RATE ON RESIDENTS AND NONRESIDENTS AND TYPE OF TAX BASE

[Cities listed alphabetically by state]

City	Resident rate (percent)	Nonresident rate (percent)	Tax base
Birmingham, AL	1.0	1.0	Earned income.
Los Angeles	0.825	0.825	Employer payroll or business gross receipts.
San Francisco, CA	1.50	1.50	Do.
Wilmington, DE	1.25	1.25	Payroll/earned income.
Indianapolis—Marion Co., IN.	0.7	0.175	State AGI.
Louisville, KY	2.2	1.45	Occ. lic. tax on wages and net profits.
Detroit, MI	3.0	1.5	Income earned and received in the city.
Kansas City	1.0	1.0	Nonresidents taxed on earnings or net profits from activities conducted in the city.
St. Louis, MO	1.0	1.0	Do.
Newark, NJ	1.0	1.0	Employer payroll tax.
New York	2.7–3.4	(1)	State taxable income.
Yonkers, NY	15.0	0.5	Net state tax.
Akron	2.0	2.0	(2).
Cincinnati	2.1	2.1	(2).
Cleveland	2.0	2.0	(2).
Dayton	2.25	2.25	(2).
Warren, OH	1.75	1.75	(2).
Philadelphia	4.86	4.2256	Earned income and net profits.
Pittsburgh, PA	2.875	1.0	Do.

[1] 0.45 wages/.65 self-employment.
[2] Earned compensation and net profits of unincorporated business.

Mr. JEFFORDS. There is no excuse for our inability to fulfill our responsibility to make sure that these schools are brought up to code compliance and modern standards.

I yield the floor.

Mr. GORTON. Mr. President, just a few moments ago, the manager of this bill had a vehicle for a wide-ranging debate over Federal education policy and received unanimous consent to withdraw from consideration the Gregg amendment.

Because the Gregg amendment was identical to an amendment that I offered last year in debate over the Individuals with Disabilities Education Act, and because the Gregg amendment perhaps created more interest on the part of school authorities, school board members, superintendents, principals, and teachers, than any other amendment being debated this week, it seemed important to me to explain to educators all across the country why the debate on the Gregg amendment or the Gregg-Gorton amendment will not be pursued during the course of the debate on this Coverdell A+ bill.

Violence in our schools—assaults, the carrying into schools of guns and other dangerous weapons, disruptive behavior that threatens the safety and security of the educational environment, disruptive behavior that detracts from the educational experience of all students—is an increasingly serious problem.

The Individuals with Disabilities Education Act, the purposes of which

are not only praiseworthy but in some respects essential in guaranteeing to all students, including even the most severely disabled, the opportunity for a public education that will allow them to live to the maximum of their capacities, nevertheless includes within it a set of provisions relating to safety, to discipline, and to the orderly nature of our classrooms that amounts to a clear and explicit double standard and, in an increasing number of cases, severely detracts from the educational atmosphere for all of the students of such a school.

In Seattle, late last month, a student designated "disabled" attacked other students with a knife on a schoolbus. In Louisiana, a teacher was attacked and hospitalized. In several States, as we know, assaults with guns have actually resulted in the deaths of students and of teachers. In Danbury, CT, parents picketed a school and withdrew their children from the school because two students were suspended for a mere 10 days for bringing a gun into the school atmosphere.

The Seattle Post Intelligencer, Seattle's morning newspaper—not a newspaper from which I often quote—wrote an editorial shortly after the incident that took place on that Seattle school bus that reads, in part, as follows:

Tuesday's stabbing incident involving a student aboard a Seattle school district bus has called attention to unwise provisions of Federal law that apparently require more tolerance of dangerous behavior by special education students.

If the school district really is required by law to allow students back into class who carry weapons or otherwise have demonstrated intent to harm others, that law is in error and must be changed.

. . . In this school year, there have been four or five instances in which special education students have been accepted back into school even though they had carried weapons, according to Brenda Little, an assistant legal counsel for the district.

Before a special education student can be disciplined, said Little, principals are required by Federal law to prove that the child understood the consequences of his or her behavior and that it was not related to the student's disability.

That's a prescription for disaster.

If a child carries a weapon to school, it is irrelevant whether that child understands the possible consequences of doing so.

. . . In fact, if the child doesn't understand the consequences, that's all the more reason to remove that child from situations where other children may be harmed.

Mr. President, I ask unanimous consent that the entire editorial be printed in the RECORD at this point.

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

CUT NO SLACK FOR WEAPONS BEARERS

Tuesday's stabbing incident involving a student aboard a Seattle School District bus has called attention to unwise provisions of federal law that apparently require more tolerance of dangerous behavior by special education students.

If the school district really is required by law to allow students back into class who carry weapons or otherwise have demonstrated intent to harm others, that law is in error and must be changed.

The bottom line is this: There is no case to be made for extending special civil rights protections to anyone if doing so results in threats to the safety of others.

This is especially so in public schools. "Mainstreaming"—educating special education students with others—is good. But there are cases where it may have its limits, and safety is one of them.

School administrators cannot tolerate threats to children regardless of who poses that threat. There can be no double standard in this matter. It's not rational public policy to tie the hands of those who have legal responsibility for ensuring the safety of students.

A 13-year old Denny Middle School special education student has been expelled for the stabbing, but he could be back in class within 10 days despite the district's zero-tolerance for weapons. That's because the district has to jump through higher hoops to expel special education students.

"We have to take kids back that would ordinarily not be allowed to return," said Denny Middle School principal Pat Batiste-Brown, alluding to the newly tightened federal regulations for special education students who break rules. Twenty percent of the students in her school are classified as special education students.

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That's a prescription for disaster.

If a child carries a weapon to school, it is irrelevant whether that child understands the possible consequences of doing so.

In fact, if the child doesn't understand the consequences, that's all the more reason to remove that child from situations where other children may be harmed.

Mr. GORTON. Mr. President, the editorial is correct; it is correct in its understanding and it is correct in its policy judgments.

In Louisiana, the Shreveport Times reports in an article about the Gregg-Gorton amendment that Louisiana Department of Education revealed that there were 22,790 out-of-school suspensions in special education in the 1996–97 school year. . . . The Bossier Parish school board led the fight for more local control by signing a resolution last week that supports Gorton and Gregg. . . . Bossier School superintendent Jane Smith vowed that if a special education student posed a considerable safety threat, such as bringing a gun to class, the parish would treat him or her like a regular education student regardless of the Federal laws.

In other words, Mr. President, we have a law, we have a statute, we have a set of regulations that actually causes a school superintendent to say that this is so bad, this is so dangerous to the students I am attempting to educate that I will simply defy the law. The Seattle school district hasn't taken that position.

In Danbury, Connecticut, parents had to picket and take their kids out of school because of the requirements of the statute that literally sets up a double standard. School districts have plenary authority over safety and discipline and an appropriate educational atmosphere for all of their regular students. They now have almost none—very limited rights to oppose discipline on students denominated "disabled." And don't think that this country isn't full of imaginative lawyers who can come up with a plausible case to denominate a student "disabled." In fact, often they use the very violent or safety-threatening activity of the student to demonstrate that a particular student is disabled.

The Gorton-Gregg amendment was very simple and very short. I believe that our colleagues ought to be reminded of exactly what it said. I am going to read it now:

Notwithstanding any other provision of the Individuals With Disabilities Education Act, each State educational agency or local educational agency may establish and implement uniform policies with respect to discipline and order applicable to all children within its jurisdiction to ensure safety and an appropriate educational atmosphere in its schools.

That's all. That is the entire proposal.

Well, when I made this proposal last year on my own, 47 Members of this body—just 3 short of the number needed to pass it—voted in favor of it. Several members who have voted against it have come to me since then to say that the combination of the reauthorization of IDEA, and the even more prescriptive regulations now proposed by the U.S. Department of Education, and the reactions of their own school boards, have caused them to rethink the issue. As a consequence, I believe that there is a very real chance that the Gorton-Gregg amendment would have been accepted by this body had we presented it.

But I must say, in a very interesting side line, that it truly cross-pressured our school board members, our superintendents, our principals, our teachers, and our PTA members because, of course, by and large, they don't much like the Coverdell bill. They recognize that the Coverdell bill is very likely to pass, that it will be presented to the President and the President will veto it. So a combination of the proposition that the President would veto this amendment in connection with the veto of the Coverdell bill and their own opposition to Senator COVERDELL has caused them to be less than enthusiastic about pursuing it at this time.

That is a valid concern, Mr. President. Both Senator GREGG and I would

like to accomplish our goal, would like to see to it that schools have restored to them the authority to keep order and to provide for the safety and security of their students. We feel this way in spite of the fact that we are strong supporters of the Coverdell bill.

A second element is involved. The amendment can be read to cover two closely related, nonetheless distinct, subjects. One of those is the pure physical safety and security of students in schools; that is to say, allowing schools to take disciplinary measures even against those who are disabled. That will assure the safety and security of all of the rest of the students. That is what the editorial in the Seattle Post Intelligencer is about.

But the other element in this amendment has to do with an appropriate educational atmosphere in the schools. That is even more worrisome to the community advocating the rights of the disabled. They see that as authorizing school boards, or teachers, or principals to expel students who present no safety hazard to their fellow students, but can be seen by the tremendous amount of attention they require on the part of teachers severely to distract from the educational atmosphere of a particular classroom. Personally, I believe that that is an appropriate consideration for our teachers and our principals and our school board members. I believe they have a right to weigh the quality of education of all of their students in making these judgments. I do recognize, however, that that aspect of this amendment is more controversial—not only more controversial, but more arguable than the balance is. And as a result of a series of meetings during the last two-week recess at schools all across the State of Washington, in which both the amendment I will introduce tomorrow on block grants and IDEA, aforementioned, more of our time was spent on this Disability Act and safety and security in the schools than on any other subject.

At the last of those meetings when both the disability community was represented and school authorities were represented, I detected for the first time some willingness to meet on a middle ground. Whether that middle ground has to do with safety and security only, how far the disability community is willing to go in that connection, whether or not there ought to be some consideration of the educational atmosphere of all students, none of these questions were settled by any stretch of the imagination in the course of the meetings that I had, even with the education community in the State of Washington. But I do feel that it is at least possible that on this very controversial issue a bit more time may permit us to find some common ground. From my perspective at least, that is the second reason that it was appropriate that I consented to the withdrawal of the Gregg amendment at this point in the debate.

I want to make it crystal clear, however, to educators all over the country who have supported us in this cause, that this withdrawal does not mean that the debate is over by any stretch of the imagination. The present Gregg-Gorton amendment, or something very similar to it, will be presented at an early opportunity on some other bill that relates directly or indirectly to education. It will not go away. But I hope the next time that it is presented, it is presented on a bill that is almost certain to be signed by the President of the United States rather than vetoed by the President of the United States.

In addition, I hope that by that point we may have at least a partial meeting of the minds—one might hope a full meeting of the minds—between those genuinely concerned with the educational rights and civil rights of the disabled community and those genuinely concerned with the safety and security of all of our students, and on the proposition that all of our students receive their education in an atmosphere best conducive to that education for all students in the public schools of the United States.

It is with those twin hopes—that we will have a better vehicle for this debate and that perhaps we can have the debate at a somewhat more extended fashion than the very limited time on the Coverdell bill and that we might bring the two sides together to a greater extent than they have ever been in the past—that I have agreed to the withdrawal of that amendment.

It is withdrawn from this bill. It will come up again. I believe that we need to do more to empower those men and women all across the United States who provide the educational services to our children day after day, week after week, year after year because of their own professional dedication. I believe their views need to be considered, and I think that we will be able to consider them better a little later on this year. I pledge, however, that consider them we will.

MORNING BUSINESS

Mrs. HUTCHISON. Mr. President, on behalf of the majority leader, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 5 minutes each.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, April 20, 1998, the federal debt stood at $5,514,299,725,342.15 (Five trillion, five hundred fourteen billion, two hundred ninety-nine million, seven hundred twenty-five thousand, three hundred forty-two dollars and fifteen cents).

Five years ago, April 20, 1993, the federal debt stood at $4,254,483,000,000 (Four trillion, two hundred fifty-four billion, four hundred eighty-three million).

Ten years ago, April 20, 1988, the federal debt stood at $2,512,569,000,000 (Two trillion, five hundred twelve billion, five hundred sixty-nine million).

Fifteen years ago, April 20, 1983, the federal debt stood at $1,251,499,000,000 (One trillion, two hundred fifty-one billion, four hundred ninety-nine million).

Twenty-five years ago, April 20, 1973, the federal debt stood at $454,840,000,000 (Four hundred fifty-four billion, eight hundred forty million) which reflects a debt increase of more than $5 trillion—$5,059,459,725,342.15 (Five trillion, fifty-nine billion, four hundred fifty-nine million, seven hundred twenty-five thousand, three hundred forty-two dollars and fifteen cents) during the past 25 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4640. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated April 1, 1998; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition, and Forestry, to the Committee on Commerce, Science, and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Finance, to the Committee on Foreign Relations, and to the Committee on Indian Affairs.

EC–4641. A communication from the Acting Assistant Secretary of Labor for Employment and Training, transmitting, pursuant to law, the report of a rule entitled "Indian and Native American Welfare-To-Work Grants Program" (RIN1205–AB16) received on

April 2, 1998; to the Committee on Indian Affairs.

EC–4642. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the annual report for calendar year 1997; to the Committee on the Judiciary.

EC–4643. A communication from the Clerk of the U.S. Court of Federal Claims, transmitting, pursuant to law, a report relative to a congressional reference case; to the Committee on the Judiciary.

EC–4644. A communication from the Senior Deputy Chairman of the National Foundation On the Arts and the Humanities, transmitting, pursuant to law, the annual report for fiscal year 1997; to the Committee on Labor and Human Resources.

EC–4645. A communication from the Acting Director of Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Labor and Human Resources.

EC–4646. A communication from the General Counsel of the Corporation For National Service, transmitting, pursuant to law, the report of a rule entitled "Administrative Costs for Learn and Serve America and AmeriCorps Grants Programs" received on April 16, 1998; to the Committee on Labor and Human Resources.

EC–4647. A communication from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling" received on April 16, 1998; to the Committee on Labor and Human Resources.

EC–4648. A communication from the Acting Deputy Director of the National Institute of Standards and Technology and the Under Secretary of Commerce for Export Administration, transmitting jointly, pursuant to law, the report of a rule entitled "Procedures For Implementation of the Fastener Quality Act" (RIN0693–AB43) received on April 16, 1998; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–376. A resolution adopted by the Idaho State Grange relative to the Environmental Protection Agency; to the Committee on Agriculture, Nutrition, and Forestry.

POM–377. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Agriculture, Nutrition, and Forestry.

SENATE RESOLUTION NO. 151

Whereas, The Food Quality Protection Act of 1996 (FQPA) was signed into law on August 3, 1996, by President Clinton; and

Whereas, Among the purposes of the FQPA is to assure that pesticide tolerance decisions and policies are based upon sound science and reliable data; and

Whereas, Another purpose of the FQPA is to assure that pesticide tolerance decisions and policies are formulated in an open and transparent manner; and

Whereas, The EPA is required by the FQPA to have reviewed approximately 3,000 of the approximately 9,700 existing tolerances by August 1999 to determine whether these tolerances meet the safety standards established by the FQPA; and

Whereas, The implementation of the FQPA could have a profound negative impact on domestic agricultural production and on consumer food prices and availability. With Michigan's diverse agriculture, this impact could be especially severe on our numerous specialty crops; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to take the following actions:

1. Direct the EPA to initiate immediately appropriate administrative rulemaking to ensure that the policies and standards the agency intends to apply in evaluating pesticide tolerances are subject to thorough public notice and comment prior to final tolerance determinations being made by the agency.

2. Direct the EPA to use its authority under the FQPA to provide interested persons the opportunity to produce data needed to evaluate a pesticide tolerance so that the agency can avoid the use of unrealistic default assumptions in making pesticide tolerance decisions.

3. Direct the EPA to implement the FQPA in a manner that will not disrupt agricultural production nor have a negative impact on the availability, diversity, and affordability of food.

4. Conduct oversight hearings immediately to ensure that actions taken by the EPA are consistent with the FQPA provisions and congressional intent. If the intent of the legislation is not carried out, then Congress should postpone the August 1999 deadline. Following oversight hearings, Congress should, if necessary, take appropriate actions or amend the FQPA to correct problem areas.

5. Encourage the Secretary of Agriculture and the United States Department of Agriculture to increase its commitment of manpower and budgetary resources to work with the EPA to gather scientific data. Furthermore, Congress should encourage the United States Department of Agriculture to conduct an economic impact statement on the implementation of the FQPA.

6. Clarify the role of Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act as its provisions relate to the reestablishment of tolerances under the FQPA; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, and the United States Environmental Protection Agency.

POM–378. A resolution adopted by the Board of County Commissioners of St. Johns County, Florida relative to the U.S. Army Corps of Engineers; to the Committee on Appropriations.

POM–379. A concurrent resolution adopted by the Legislature of the State of Kansas; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION NO. 5029

Whereas, In the span of a few years, 1971 through 1973, the Federal Courts made it clear that an appropriate education is a fundamental right of children with disabilities that is secured by the due process and equal protection clauses of the 14th Amendment to the U.S. Constitution; and

Whereas, In 1975, Congress passed Public Law 94–142, the Education for All Handicapped Children Act, known since 1990 as the Individuals with Disabilities Education Act of IDEA; and

Whereas, The IDEA requires that all children with disabilities receive a free, appropriate public education and provides a funding mechanism to assist states and local educational services agencies with the costs of maintaining programs; and

Whereas, For several years, the costs of providing special education services required under federal and state law have been escalating rapidly and have been a major concern of policymakers who have reviewed the matter studiously. To date, solutions have proven elusive; and

Whereas, All of the states have some mechanism in their school finance laws that acknowledge the additional costs of providing special education services for children with disabilities, estimated on average to be about 2.3 times greater than for general education pupils; and

Whereas, The U.S. Supreme Court has opined that the IDEA is a comprehensive scheme set up by Congress to aid the states in complying with the constitutional obligation to provide public education for children with disabilities; and

Whereas, The IDEA authorizes funding in accordance with a formula, a key variable of which is the average per pupil expenditure for general education pupils. The Act authorized Congress to appropriate a sum equal to 5 percent of this average per pupil expenditure in 1977, 10 percent in 1978, 20 percent in 1979, and 40 percent by 1980. Though the Act authorized funding according to this formula, appropriations have never approached the authorization level and remains at 10 percent or less today: Now, therefore, be it

Resolved by the House of Representatives of the State of Kansas, the Senate concurring therein, That the Legislature, in recognition that children with disabilities are endowed by the Constitution with the right to be provided with a free and appropriate public education and that the Congress of the United States has enacted the Individuals with Disabilities Education Act in order to insure that right, hereby urges the Congress to acknowledge the fact that special education services are extremely costly and should be supported by a combination of local, state, and federal funds; and be it further

Resolved, That the Legislature hereby requests the Congress to assume its fair share of the costs of special education services by increasing funding to a level more nearly approaching the level authorized by the Individuals with Disabilities Education Act; and be it further

Resolved, That the Secretary of State is hereby directed to send enrolled copies of this resolution to the President and President pro tempore of the Senate of the United States, to the Speaker of the House of Representatives of the United States, and to each member of the Kansas Congressional Delegation.

POM–380. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Kentucky; to the Committee on Appropriations.

RESOLUTION

Whereas, The conditions of the roads and bridges in the states is deteriorating; and

Whereas, The demand placed upon the nation's transportation system has increased and will continue to increase into the 21st Century; and

Whereas, Safe, reliable, and cost effective movement of people, goods, and information is critical to economic development and competitiveness in the market; and

Whereas, The United States Department of Transportation has estimated that over five years, $357 billion is needed to improve the

highway system, while $39.5 billion is needed just to maintain current road conditions; and

Whereas, States need every possible unencumbered dollar to improve their roads and bridges; and

Whereas, the United States Congress is urged to focus on incentives rather than disincentives in any transportation bill; now, therefore, be it

Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Senate hereby urges the Congress of the United States to provide funding without mandates to the Transportation Cabinet.

Section 2. The Senate Clerk of the Senate is directed to submit a copy of this Resolution to each member of the United States House of Representatives and the United States Senate.

POM-381. A resolution adopted by the Senate of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Appropriations.

Whereas, Transportation access and safety are essential to economic hopes in communities across Pennsylvania; and

Whereas, While Pennsylvania has taken steps to increase the amount of State transportation funding to match Federal dollars and to deal with State areas of responsibility, the list of priority projects still exceeds available funds and the State's 12-year transportation plan contains many projects for which funding is unidentified; and

Whereas, Huge increases in vehicle miles traveled and in shipping products and goods on interstate highways add significantly to maintenance needs; and

Whereas, The Federal Highway Administration periodically documents the substantial number of structurally deficient and functionally obsolete bridges in Pennsylvania; and

Whereas, Federal funding remains the most critical share of the funding for major construction and reconstruction projects, and the six-year reauthorization bill will determine the size and effectiveness of the transportation program Pennsylvania can undertake; and

Whereas, Congressman Bud Shuster, as Chairman of the Committee on Transportation and Infrastructure, and other congressional transportation advocates have proposed greatly increasing Federal funding as part of the transportation reauthorization, in the understanding that infrastructure investment is vital to the economic health of the nation and the states; and

Whereas, A long-term determination of Federal funding levels is necessary to allow for coordinated transportation planning at the State and local levels; and

Whereas, Money raised through Federal transportation taxes should be used to pay for transportation projects and enhanced motor vehicle and truck safety measures; not to cover deficits in other areas of Federal endeavor; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania urge the Congress of the United States to take action on the comprehensive multiyear transportation funding legislation; and be it further

Resolved, That congressional action on the transportation reauthorization include provisions for releasing trust fund moneys being withheld from transportation projects; and be it further

Resolved, That Pennsylvania support an increase in the Federal funding available to expand the array of projects that can be undertaken, which in turn will move up the completion of transportation priorities and secure the considerable job creation and highway safety benefits that will result; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-382. A concurrent resolution adopted by the Legislature of the State of West Virginia; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION NO. 16

Whereas, In 1977 the Surface Mining Control and Reclamation Act was enacted into law establishing an Abandoned Mine Reclamation Fund financed by a fee assessed on every ton of coal mined for the purpose of restoring previously mined but left unreclaimed lands; and

Whereas, To date over $1.1 billion has been spent nationwide from the Abandoned Mine Reclamation Fund to mitigate the hazards associated with abandoned coal mine lands such as dangerous highwalls, impoundments, open mine portals and contaminated water supplies; and

Whereas, West Virginia's share of unfunded high-priority abandoned coal mine reclamation costs are estimated to be $415 million; and

Whereas, West Virginia has received and spent almost $200 million from the Abandoned Mine Reclamation Fund to finance the reclamation of abandoned coal mine land sites in the State but is of the firm conviction that additional funding is vital to the success of future water projects within this State; and

Whereas, The discrepancy between fee collections and expenditures is widening, with approximately $285 million collected in fiscal year 1997 and only $177 million appropriated; and

Whereas, The threat to the health, safety and general welfare of coalfield citizens from the hazards associated with abandoned coal mine sites is unacceptable and must be mitigated; and

Whereas, The expenditure of funds for abandoned mine reclamation projects not only enhances the coalfield environment but creates jobs in the construction of such projects; therefore, be it

Resolved by the West Virginia Legislature, That the Committees on Appropriation of the United States House of Representatives and the United States Senate are urged to increase the annual appropriation from the Abandoned Mine Reclamation Fund to a level commensurate with annual fee collections as well as begin to draw-down the unspent balance of the fund especially for future water projects in these troubled areas; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the United States House of Representatives, the Secretary of the United States Senate, and to each member of the West Virginia Congressional Delegation.

POM-383. A joint resolution adopted by the General Assembly of the State of Colorado; to the Committee on Armed Services.

HOUSE JOINT RESOLUTION NO. 98-1013

Whereas, The federal military base realignment and closure process has led to the closing of Lowry Air Force Base and the impending closure of Fitzsimons Army Garrison; and

Whereas, The exchange and commissary at the former Lowry Air Force Base has been closed, and the exchange and commissary at Fitzsimons Army Garrison is scheduled to be closed in March, 1999; and

Whereas, Over three thousand two hundred active duty military personnel with approximately six thousand eight hundred dependents are assigned to Buckley Air National Guard Base or other locations in the Denver metropolitan area; and

Whereas, Over four thousand members of the National Guard and Reserves in the Denver metropolitan area are entitled to unlimited exchange and limited commissary privileges; and

Whereas, Over nineteen thousand military retirees reside in the Denver metropolitan area; and

Whereas, The closure of the exchange and commissary at Lowry Air Force Base and the consequent increase in the number of persons using the exchange and commissary at Fitzsimons Army Garrison has resulted in the exchange and commissary at Fitzsimons being inadequate to support the needs of the persons eligible to use it; and

Whereas, The active duty military personnel, members of the National Guard and Reserves, and military retirees presently entitled to exchange and commissary privileges at Fitzsimons Army Garrison will suffer from decreased quality of life and increased financial burdens when the exchange and commissary at Fitzsimons Army Garrison is closed in March, 1999; and

Whereas, The closure of the exchange and commissary at Fitzsimons Army Garrison will eliminate over two hundred jobs; and

Whereas, The closest alternative exchange and commissary for the Denver metropolitan area is located at the United States Air Force Academy, which is over sixty miles and more than an hour's drive away from Denver; and

Whereas, Buckley Air National Guard Base is owned by the United States Air Force, but licensed to the State of Colorado; and

Whereas, Buckley Air National Guard Base and the City of Aurora, Colorado have sufficient power, water, and sewer infrastructure to support a new exchange and commissary at Buckley Air National Guard Base; and

Whereas, Roy Romer, Governor of Colorado; Major General William A. Westerdahl, Adjutant General of the Colorado National Guard; and Paul E. Tauer, Mayor of Aurora, Colorado all support the relocation of the exchange and commissary from Fitzsimons Army Garrison to new facilities to be constructed at Buckley Air National Guard Base; now, therefore, be it

Resolved by the House of Representatives of the Sixty-first General Assembly of the State of Colorado, the Senate concurring herein, That we, the members of the Sixty-first General Assembly, request that the Congress of the United States, the Secretary of Defense, and the Secretary of the Air Force take immediate action to authorize the relocation of the exchange and commissary at Fitzsimons Army Garrison to new facilities to be constructed at Buckley Air National Guard Base and to ensure that the exchange and commissary at Fitzsimons Army Garrison remains open until the new facilities are completed; and be it further

Resolved, That the new exchange and commissary to be constructed at Buckley Air National Guard Base be sized to adequately meet the needs of all persons in the Denver metropolitan area who are eligible to use it; and be it further

Resolved, That copies of this Resolution be sent to the President of the United States,

the Speaker of the United States House of Representatives, the President of the United States Senate, the Secretary of Defense, the Secretary of the Air Force, the Speaker of the House and the President of the Senate of each state's legislature of the United States of America, and Colorado's Congressional delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

H.R. 2766. A bill to designate the United States Post Office located at 215 East Jackson Street in Painesville, Ohio, as the "Karl Bernal Post Office Building."

H.R. 2773. A bill to designate the facility of the United States Postal Service located at 3750 North Kedzie Avenue in Chicago, Illinois, as the "Daniel J. Doffyn Post Office Building."

H.R. 2836. A bill to designate the building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, as the "Eugene J. McCarthy Post Office Building."

H.R. 3120. A bill to designate the United States Post Office located at 95 West 100 South Street in Provo, Utah, as the "Howard C. Nielson Post Office Building."

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. COVERDELL (for himself, Mr. ASHCROFT, and Mr. BROWNBACK):

S. 1959. A bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs; to the Committee on Labor and Human Resources.

By Mr. WARNER:

S. 1960. A bill to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield, as previously authorized by law, by purchase or exchange as well as by donation; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN:

S. 1961. A bill for the relief of Suchada Kwong; to the Committee on the Judiciary.

By Mr. FAIRCLOTH:

S. 1962. A bill to provide for an Education Modernization Fund, and for other purposes; to the Committee on Finance.

By Mr. THURMOND (for himself and Mr. COVERDELL):

S. 1963. A bill to amend title 10, United States Code, to permit certain beneficiaries of the military health care system to enroll in Federal employees health benefits plans; to the Committee on Governmental Affairs.

By Mr. REID (for himself and Mr. BRYAN):

S. 1964. A bill to provide for the sale of certain public land in the Ivanpah Valley, Nevada, to the Clark County Department of Aviation; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FAIRCLOTH (for himself, Mr. HELMS, Mr. LOTT, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. CLELAND, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN):

S. Res. 211. A resolution expressing the condolences of the Senate on the death of Honorable Terry Sanford, former United States Senator from North Carolina; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COVERDELL (for himself, Mr. ASHCROFT, and Mr. BROWNBACK):

S. 1959. A bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs; to the Committee on Labor and Human Resources.

THE NEEDLE EXCHANGE PROGRAMS PROHIBITION ACT OF 1998

Mr. COVERDELL. Mr. President, I am today introducing, along with Senators ASHCROFT and BROWNBACK, a bill to prohibit the use of federal funds to carry out or support programs for the distribution of sterile hypodermic needles or syringes to illegal drug users.

This bill would effectively continue and make permanent the ban imposed through the appropriations process which expired at the end of March. We are pleased that the Administration has decided not to use federal tax dollars to fund needle exchanges despite the expiration of the ban. But coinciding with this announcement, Health and Human Services Secretary Donna Shalala strongly endorsed needles exchanges and encouraged local communities to use their own dollars to fund needle exchange programs. This legislation is therefore needed to foreclose any temptation the Administration may feel to federally fund needle exchanges in the future.

The Drug Czar, General Barry McCaffrey, has laid out the strong case against needle exchange programs. Handing out needles to drug users sends a message that the government is condoning drug use. It undermines our anti-drug message and undercuts all of our drug prevention efforts.

A report by General McCaffrey's office reviewed the world's largest needle exchange program in Vancouver, British Colombia, in operation since 1988. It found the program to be a failure. HIV infections were higher among users of free needles than those without access to them. The death rate from drugs jumped from 18 a year in 1988 to 150 in 1992. In addition, higher drug use followed implementation of the program.

Dr. James L. Curtis of New York, who has studied needle exchange programs was quoted in the Washington Times stating that the programs "should be recognized as reckless experimentation on human beings, the unproven hypothesis being that it prevents AIDS."

According to recent scientific studies, eight persons a day are infected with the HIV virus by using borrowed needles, while 352 people start using heroin each day and 4,000 die every year from heroin-related causes other than HIV. Far more addicts die of drug overdoses and related violence than from AIDS. It is wrong to aid and abet those deaths by handing out free needles to drug addicts. We should not be encouraging higher rates of heroin use.

Therefore, I hope my colleagues will join me in making permanent the prohibition on federal funding and support of needle giveaway programs.

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. 1959

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

SECTION 1. PROHIBITION ON USE OF FUNDS FOR HYPODERMIC NEEDLES.

Notwithstanding any other provision of law, no Federal funds shall be made available or used to carry out or support, directly or indirectly, any program of distributing sterile hypodermic needles or syringes to individuals for the hypodermic injection of any illegal drug.

Mr. ASHCROFT. Mr. President, I rise today to introduce, along with Senator COVERDELL, a very important piece of

legislation. It is a tragedy that this legislation is necessary. However, following yesterday's announcement by the Secretary of Health and Human Services that this Administration supports giving clean needles to drug addicts, I believe that Congress must now act. Congress must act to ensure that federal funds are never used to support these programs. This decision by the Administration, to support clean needle programs—but to withhold federal funding—is an intolerable message that it's time to accept drug use as a way of life.

Not surprisingly, the American people do not want their hard earned tax dollars spent to give illegal drug users the tool to continue their habit. We already take too much money from the American people. We should not use it to subsidize a lifestyle of which the people so fundamentally disagree. When we pass this bill we will send a message that giving free needles to drug addicts is not a policy that this nation should embrace.

Federal policy should call Americans to their highest and best and not accommodate them at their lowest and least. That is exactly what needle exchange programs do. They tell drug addicts, "we know that you are too weak to beat your addiction; therefore, we are going to make the lifestyle you have chosen easier."

This approach is called "harm reduction." The Harm Reduction Coalition states on their webpage that the organization "accepts drug use as a way of life." Therefore, they support policies which make drugs as harmless as possible. There are many that are part of this harm reduction movement who believe that legalization of drugs is the appropriate policy. In fact, the logical conclusion to their belief that drug use is a way of life and that it should be made as harmless as possible is legalization. The harm reduction philosophy is the basis of needle exchange programs. They say that if we provide people with clean needles, there will be less risk involved in using drugs. I am here today to reject that view.

Since 1988, the United States Congress has banned the use of federal funds for needle exchange programs. Recognizing that government subsidies for drug addicts is bad policy, this ban consistently has been supported by both sides of the aisle. Unfortunately, the 1998 Labor and Health and Human Services Appropriations bill included language to allow the Secretary of HHS to lift the ban after March 31, 1998. Yesterday, the Administration stated—wisely—that the federal funding ban should not be lifted. However, the Administration foolishly recommended that local communities fund these programs.

This endorsement of needles on demand opens the door to a subsequent decision to fund needle exchanges with the hard-earned money of American taxpayers. Yesterday's endorsement of clean needle programs sends the intolerable message that the Administration accepts illegal drug use as a way of life. It says clearly that this Administration will give approval to taxpayer funding the moment it appears that the decision can be sneaked past Congress. That is why this legislation has become necessary.

Mr. President, needle exchange programs are touted as a way of reducing HIV rates among intravenous drug users. First, there is no sound scientific evidence to support that assertion. Second, even if there were, there are other public health and moral reasons to oppose needle exchange programs.

Experts agree that the only scientifically sound method of making an affirmative showing that NEPs reduce the rate of HIV is to withhold clean needles from one group of drug users while providing clean needles to another. Since there are obvious problems in conducting such a study, it has not been done. In fact, there are studies which find just the opposite—that there are significant increases in HIV among clean needle program participants.

Participants in the Montreal needle exchange program were two times more likely to become infected than those who did not participate in the program. Vancouver has the largest needle exchange program in North America which was started in 1988. In 1987, the estimated HIV prevalence among IV drug users was 1–2 percent, in 1997, it was 23 percent.

Even the so-called "California" study which is heavily relied upon by needle exchange proponents, merely found that it is "likely" that NEPs decrease the rate of new HIV infection in intravenous drug users.

The nation's drug czar, Gen. Barry McCaffrey agrees that studies have not yet scientifically substantiated the claims embraced by Secretary Shalala in her announcement. In an April 17, 1998, letter to my office outlining the concerns of General McCaffrey, the Office of National Drug Control policy states that "science [on needle exchange programs] is uncertain." The letter states further that "[s]upporters of needle exchange frequently gloss over gaping holes in the data—holes which leave significant doubt regarding whether needle exchanges exacerbate drug use and whether they uniformly lead to decreases in HIV transmission."

A significant concern of those of us who oppose federal funding of needle exchange programs—and I oppose all needle exchange programs, whether federally funded or not—is that they will increase drug use. That is the precise reason that the Secretary was required to show that NEPs do not increase drug use before lifting the ban. There is absolutely no data to support the Secretary's finding that NEPs do not increase drug use.

While the California study found "no evidence" of increased drug use, the conclusion was based on interviews with drug users—illegal drug users.

In Vancouver, deaths from drug overdoses have increased more than 5 times since 1988—the year the needle exchange program started. Since their needle exchange program began, hospital admissions for heroin have increased 66 percent in San Francisco. In fact, the researcher who founded the San Francisco program and the founder of the New York program have both died of heroin overdoses during the last two years.

I think the letter outlining General McCaffrey's concerns says it best. "The bottom line is that General McCaffrey believes that we need a better understanding of how needle exchange programs will impact our nation's fight against drugs before we consider altering the current policy."

I believe that needle exchange programs send the wrong message to the youth of America. To say on the one hand, that drug use is wrong, and then on the other hand—to provide the tools necessary to safely use illegal drugs—undoubtedly will confuse the nation's youth. When their parents are paying taxes to the federal government that ultimately will be used to inject heroin into an addict's arm—how do you tell them that the government thinks drug use is wrong?

According to the drug czar's office, each day over 8,000 young people will try an illegal drug for the first time. While perhaps eight persons contract HIV directly or indirectly from dirty needles, 352 people start using heroin each day. More than 4,000 people die each year from heroin/morphine related causes.

General McCaffrey, who has been entrusted by this administration to advise the President on drug policy agrees. He says: "The problem is not dirty needles, the problem is heroin addiction. . . . The focus should be on bringing help to this suffering population—not give them more effective means to continue their addiction. One does not want to facilitate this dreadful scourge on mankind."

Secretary Shalala also said that NEPs are effective when supported by the communities. I think she would be hard pressed to find a community that embraces the needle exchange program in their neighborhood. I wonder if the Secretary would like a clean needle program in her neighborhood.

As the name suggests, needle exchange programs are supposed to get a dirty needle back from an addict for every needle they hand out. The idea is that these dirty needles will not be used again or left on the streets. However, according to needle exchange

workers, an "exchange" usually does not take place.

According to the Associated Press, in Willimantic, Connecticut, "more than 350 discarded hypodermic needles were collected from the city's streets, lots, and alleys in a single week." These were found after a two year old girl found and accidentally pricked herself with a dirty needle.

One needle exchange worker, who said they got approximately one-third to one-half of the needles back, handed out 950 needles in just one night. That means that about 475 dirty needles are either being used again—defeating the stated objective of these programs—or they are lying on our cities' streets, parks and playgrounds. In response to low number of needles they get back, the worker casually said that "one-for-one exchange does not fit the reality of how injection drug users live."

Needle exchanges also turn into one-stop shopping for drug addicts. Even the needle exchange proponents recognize this and talk about it as though it were a virtue of the program. From Harm Reduction Communication—"A user might be able to do the networking needed to find good drugs in the half hour he spends at a street-based needle exchange site—networking that might otherwise have taken half a day."

There are many tragic examples all over the nation. However, one article from the Pittsburgh Post Gazette best explains what this does to America's neighborhoods. "Our community has worked hard to battle the drug problem that plagues our neighborhoods at many levels. But the needle exchange program gives dealer and users one more reason to stay here. In addition, drug users from outside our community now find reasons to frequent our neighborhood. Drug addiction is not a victimless crime. Not only does it kill the addict, but also, in the process, the addict preys on those around him. Prostitution, burglary, and now violence are an increasing problem in our community. So while the needle exchange people try to help addicts, they do so at the expense of our neighborhoods."

This legislation is simple. It says that federal funds cannot be used to support directly, or indirectly, needle exchange programs.

The Nation's drug policy should be one of zero tolerance. It should not be a policy of accommodation. Drugs are turning our once vibrant cities into the centers of despair and hopelessness. We need an Administration who has no tolerance for the drug culture. An Administration who says that America can be called to a higher standard rather then accommodated in a culture of consuming drugs.

This Administration has shown that it is willing to ignore the record, ignore sound drug policy, and ignore the will of the American people. This is just another example of Washington, D.C. attacking, through policy, American values. Giving bulletproof vests to bank robbers would make bank robbery safer and simpler, and send the message that we accept bank robbery. A free needle policy is no different. What advocates of free needles on demand would clothe in rhetoric of 'harm reduction' and 'public health' is, instead a decision to subsidize, tolerate, and facilitate the use of illegal drugs.

Mr. BROWNBACK. Mr. President, I rise today to join my colleagues Senator COVERDELL and Senator ASHCROFT in introducing legislation that would prohibit the use of federal funds for any program that gives out hypodermic needles or syringes for use with illegal drugs.

Mr. President, last Friday, the Clinton Administration announced their intention to use federal funds to distribute free drug needles. Although they abruptly reversed course this week, they have maintained their intention of encouraging state and local governments and other institutions to distribute drug needles.

This is bad policy, bad science, and bad news for our country. A comprehensive study of the needle exchange program in Vancouver, British Columbia—the city with the world's largest needle give-away program—found that drug use, crime, and HIV transmission all increased where drug needles were handed out.

This should come as no surprise. One of the primary principles of economics is that you get more of what you subsidize and less of what you tax. You do not discourage drug use by giving out free needles. You cannot reduce disease by encouraging addiction.

More than ever before, we need strong leadership in the war on drugs, and a clear message that drugs are wrong, and harmful. Consider the facts: Over the past three years, casual drug us among teens has almost doubled. A survey by the National Institute on Drug Abuse found that the proportion of eighth graders who had tried heroin had doubled between 1991 and 1996. Every year, there are thousands of young people who fall prey to drugs. We need to send the clear message that using drugs is illegal and wrong. Drug use must be stopped, not subsidized.

That is why I am proud to stand with Senators COVERDELL and ASHCROFT in introducing legislation that to prohibit spending taxpayer dollars on drug needle give-aways, and urge my colleagues to expedite passage of this legislation.

By Mrs. FEINSTEIN:

S. 1961. A bill for the relief of Suchada Kwong; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mrs. FEINSTEIN. Mr. President, I am offering today, legislation that would provide permanent residency to Suchada Kwong, a recently widowed young mother of a U.S. citizen child who faces the devastation of being separated from her child and family here in the United States.

Suchada Kwong's U.S. citizen husband, Jimmy Kwong, was tragically killed in an automobile accident in June of 1996, leaving a 3-month-old U.S.-born son and his 29-year-old bride.

Because current law does not allow Suchada to adjust her status to permanent residency without her husband, Suchada now faces deportation.

Suchada and Jimmy Kwong met in Bangkok, Thailand, through a mutual friend in 1993. He communicated with her frequently by phone and visited her every time he was in Bangkok. They fell in love and were married in September 1995, and Suchada gave birth to Ryan Stephen Kwong in May 1996.

Suchada was supposed to have her INS interview on August 15, 1996. However, Jimmy was killed in an accident in June, less than 3 weeks after his son was born and 2 months short of the INS interview. Now, because the petitioner is deceased, Suchada is ineligible to adjust her status. While the immigration law provides for widows of U.S. citizens to self-petition, that provision is only available for people who have been married for over 2 years.

Suchada's deportation will not only cause hardship to her and her young child but to Suchada's mother-in-law, Mrs. Kwong, who faces losing her grandson, only a short time after she lost her only son.

Mrs. Kwong is elderly, and though she is financially capable, could not care for her grandson herself. Mrs. Kwong is proud to be self-supporting, having owned and worked in a small business until her retirement. The family has never used public assistance, and through Jimmy's job, the family has sufficient resources to support Suchada and Ryan. It would also be difficult for Suchada as a single mother in Thailand. Here in the United States, she has the support of Mrs. Kwong and their church.

Suchada was granted voluntary departure for one year on October 1996 to explore other options or prepare to leave the United States. During that time period, Suchada and her family have explored all options but failed. Now, the voluntary departure period has expired and Suchada must leave the country, leaving behind her young child and her family here in the United States.

Suchada has done everything she could to become a permanent resident of this country—except for the tragedy of her husband's death 2 months before she could become a permanent resident. I hope you support this bill so that we can help Suchada begin rebuilding her life in the United States.

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

S. 1961

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

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Suchada Kwong shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

By Mr. FAIRCLOTH:

S. 1962. A bill to provide for an Education Modernization Fund, and for other purposes; to the Committee on Finance.

THE EDUCATION MODERNIZATION FUND ACT OF 1998

Mr. FAIRCLOTH. Mr. President, today I am introducing legislation that would provide nearly $5 billion in federal loans for school modernization and construction.

Mr. President, this legislation would transfer $5 billion from the Exchange Stabilization Fund at the Treasury Department to the Department of Education and create an Education Modernization Fund.

The legislation would create a new account called the "Education Modernization Fund" that would be used to offer low interest, long term, loans to states for the purpose of building and modernizing elementary and secondary schools. The loans would be used for school districts with fast growing elementary and secondary student populations.

The GAO has estimated that one-third of all schools, housing 14 million students are in need of repair. In my home state of North Carolina—36% of schools report that they have at least one inadequate building. Fully 90% of schools report that they have some construction needs. The state estimates that $3.5 to $10 million is needed for school repair needs. North Carolina has one of the fastest growing student populations.

The purpose of my legislation Mr. President is very simple. We have a slush fund at the Treasury Department called the "Exchange Stabilization Fund." This fund is under the personal control of the Secretary of the Treasury. He can do whatever he wants with it. Over the past four years—he has used it to supplement international bailouts, which I think is very wrong.

He loaned $12 billion to Mexico. I have to ask, why not $12 billion for schools if New Mexico?

He has promised Indonesia $3 billion. Why not funds for schools in Indiana?

He has promised South Korea $5 billion. Why not $5 billion for South Carolina?

We have our priorities backwards with this Administration.

The ESF has all been used without any Congressional approval or authorization. Further, the fund has more than $30 billion available to it.

I think it is time that we transfer a small part of this money and put it to good use by using it for school construction.

Additionally, Mr. President, in my opinion, this plan is far better than the Democrat alternative that is being offered today, the one offered by Senator MOSELEY-BRAUN.

The Moseley-Braun formula is skewed so that much of the money will go to the larger cities and low income communities—whether or not there is a need for new schools. My plan is formulated for student population growth. For example, under the Coverdell, Republican bill—Rockingham County, North Carolina would be the first school district eligible for school construction bonds because of student growth.

But under the Democrats' plan, my state would receive less than its fair share. For example, North Carolina ranks 11th in national population, and Massachusetts, ranks 13th, but under the Moseley-Braun bill, Massachusetts would receive $20 million more in funds. Louisiana which ranks 22nd in population would receive nearly $90 million more than North Carolina. Of course, its no surprise that New York, California and Illinois, under their plan, receive nearly 25% of all the money.

The Democrats alternative would also put the Department of Education in charge of school districts. The DOE would have to approve any school construction plans. Schools that receive the federal benefit would have to meet certain curriculum standards and have federal mandates about graduation and employment rates.

Finally, in order to finance the government's school construction, it wipes out the increased IRA savings for education. There is no more starker contrast between two visions of education: parents being allowed to keep their money for their children's education —or the federal government taking it to enhance the power of the Department of Education.

In my view the solution is simple, we don't need to rob parents of their savings for education to pay for school construction—we need to take the foreign aid slush fund from the Treasury Department and put it to worthy domestic uses, like school construction.

By Mr. THURMOND (for himself and Mr. COVERDELL):

S. 1963, A bill to amend title 10, United States Code, to permit certain beneficiaries of the military health care system to enroll in Federal employees health benefits plans; to the Committee on Governmental Affairs.

THE MILITARY HEALTH CARE FAIRNESS ACT

Mr. THURMOND. Mr. President, I rise today to introduce the Military Health Care Fairness Act. A companion measure, H.R. 3613, was recently introduced in the House of Representatives by Congressman J.C. WATTS and 38 cosponsors. I am pleased to have Senator COVERDELL as an original cosponsor of this measure.

Mr. President, this bill allows those military retirees over the age of sixty-five to sign up for the Federal Employees Health Benefits program (FEHBP) so that they may have another option for health care coverage. It is estimated that approximately 1.3 million retirees, dependents, and survivors meet this criteria. However, it is doubtful that all of them will sign up for the FEHBP.

The recent base closures and realignments have limited the number of places where some retirees can receive health care. By joining the FEHBP, health care choices will increase. The FEHBP will probably be desirable to those retirees that do not have prescription drug plans or want to limit catastrophic out-of-pocket cost. Further, the retiree is not excluded from using the traditional military medical treatment facilities on a space available basis. When a retiree, under the FEHBP, uses a military facility, the health care plan reimburses the military for the cost of treatment.

Mr. President, during the first year of this program the costs will be capped at $100 million. This amount increases $100 million per year for five years to cap the costs at $500 million per year. The costs to the individual should be the same as to any other federal employee in a given geographical area. In order to determine the actual premiums, the health plans will be required to establish a separate risk pool to determine whether the military group's risk characteristics such as age, gender, and care-use affect the other federal employees' premiums. While I realize that some might say the costs of this measure are high, something must be done to give health care coverage to those retirees that do not have adequate coverage under the current military health care system. The many men and women who have given so much to protect our Country by serving in the military are to be commended for their sacrifices and we should acknowledge this by giving them adequate health care choices.

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

S. 1963

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 "Military Health Care Fairness Act".

SEC. 2. INCLUSION OF CERTAIN COVERED BENEFICIARIES IN FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) FEHBP OPTION.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1079a the following new section:

"§ 1079b. Health care coverage through Federal Employees Health Benefits program

"(a) FEHBP OPTION.—(1) Subject to the availability of funds to carry out this section for a fiscal year, eligible beneficiaries described in subsection (b) shall be afforded an opportunity to enroll in any health benefits plan under the Federal Employee Health Benefits program under chapter 89 of title 5, United States Code, offering medical care comparable to the care authorized by section 1077 of this title to be provided under section 1076 of this title (in this section referred to as an 'FEHBP plan').

"(2) The Secretary of Defense and the other administering Secretaries shall jointly enter into an agreement with the Director of the Office of Personnel Management to carry out paragraph (1).

"(b) ELIGIBLE BENEFICIARIES.—(1) An eligible beneficiary referred to in subsection (a) is a covered beneficiary who is a military retiree (except a military retiree retired under chapter 1223 of this title), a dependent of such a retiree described in section 1072(2)(B) or (C), or a dependent described in section 1072(2)(A), (D), or (I) of such a retiree who enrolls in an FEHBP plan, who,—

"(A) is not guaranteed access under TRICARE to health care that is comparable to the health care benefits provided under the service benefit plan offered under the Federal Employee Health Benefits program;

"(B) is eligible to enroll in the TRICARE program but is not enrolled because of the location of the beneficiary, a limitation on the total enrollment, or any other reason; or

"(C) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

"(2) In addition to the eligibility requirements described in paragraph (1), during the first two years that covered beneficiaries are offered the opportunity to enroll in an FEHBP plan under subsection (a), eligible beneficiaries shall be limited to—

"(A) except as provided in subparagraph (B), military retirees 65 years of age or older; and

"(B) military retirees retired under chapter 61 of this title.

"(3) An eligible beneficiary shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5 as a condition for enrollment in an FEHBP plan.

"(c) PRIORITY OF ENROLLMENT.—(1) Eligible beneficiaries shall be permitted to enroll in an FEHBP plan based on the order in which such beneficiaries apply to enroll in the plan.

"(2) The Secretary shall maintain a list of eligible beneficiaries who apply to enroll in an FEHBP plan, but whom the Secretary is not able to enroll because of the lack of available funds to carry out this section.

"(d) PERIOD OF ENROLLMENT.—The Secretary shall provide a period of enrollment for eligible beneficiaries in an FEHBP plan for a period of 90 days—

"(A) before implementation of the program described in subsection (a); and

"(B) each subsequent year thereafter.

"(e) TERM OF ENROLLMENT.—(1) The minimum period of enrollment in an FEHBP plan shall be three years.

"(2) A beneficiary who elects to enroll in an FEHBP plan, and who subsequently discontinues enrollment in the plan before the end of the period described in paragraph (1), shall not be eligible to reenroll in the plan.

"(f) RECEIPT OF CARE IN MTF.—(1) An eligible beneficiary enrolled in an FEHBP plan may receive care at a military medical treatment facility subject to the availability of space in such facility, except that the plan shall reimburse the facility for the cost of such treatment. The plan may adjust beneficiary copayments so that receipt of such care at a military medical treatment facility results in no additional costs to the plan, as compared with the costs that would have been incurred if care had been received from a provider in the plan.

"(g) CONTRIBUTIONS.—(1) Contributions shall be made for an enrollment of an eligible beneficiary in a plan of the Federal Employee Health Benefits program under this section as if the beneficiary were an employee of the Federal Government.

"(2) The administering Secretary concerned shall be responsible for the Government contributions that the Director of the Office of Personnel Management determines would be payable by the Secretary under section 8906 of title 5 for an enrolled eligible beneficiary if the beneficiary were an employee of the Secretary.

"(3) Each eligible beneficiary enrolled in an FEHBP plan shall be required to contribute the amount that would be withheld from the pay of a similarly situated Federal employee who is enrolled in the same health benefits plan under chapter 89 of title 5.

"(h) MANAGEMENT OF PARTICIPATION.—The Director of the Office of Personnel Management shall manage the participation of an eligible beneficiary in a health benefits plan of the Federal Employee Health Benefits program pursuant to an enrollment under this section. The Director shall maintain separate risk pools for participating eligible beneficiaries until such time as the Director determines that inclusion of participating eligible beneficiaries under chapter 89 of title 5 will not adversely affect Federal employees and annuitants enrolled in health benefits plans under such chapter.

"(i) REPORTING REQUIREMENTS.—(1) Not later than November 1 of each year, the Secretary of Defense and the Director of the Office of Personnel Management shall jointly submit to Congress a report describing the provision of health care services to enrollees under this section during the preceding fiscal year. The report shall address or contain the following:

"(A) The number of eligible beneficiaries who are participating in health benefits plans of the Federal Employee Health Benefits program pursuant to an enrollment under this section, both in terms of total number and as a percentage of all covered beneficiaries who are receiving health care through the health care system of the uniformed services.

"(B) The extent to which eligible beneficiaries use the health care services available to the beneficiaries under health benefits plans pursuant to enrollments under this section.

"(C) The cost to enrollees for health care under such health benefits plans.

"(D) The cost to the Department of Defense, the Department of Transportation, the Department of Health and Human Services, and any other departments and agencies of the Federal Government of providing care to eligible beneficiaries pursuant to enrollments in such health benefits plans under this section.

"(E) A comparison of the costs determined under paragraphs (C) and (D) and the costs that would otherwise have been incurred by the United States and enrollees under alternative health care options available to the administering Secretaries.

"(F) The effects of the exercise of authority under this section on the cost, access, and utilization rates of other health care options under the health care system of the uniformed services.

"(2) Not later than the date that is four years after the date of enactment of the National Defense Authorization Act for fiscal year 1999, the Secretary of Defense shall submit to Congress a report describing—

"(A) whether the Secretary recommends that a health care option for retired covered beneficiaries equivalent to the option described in subsection (a) be permanently offered to such beneficiaries; and

"(B) the estimated costs of offering such an option.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1079a the following:

"1079b. Health care coverage through Federal Employees Health Benefits program.".

(b) CONFORMING AMENDMENTS.—(1) Section 8905 of title 5, United States Code, is amended—

(A) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(B) by inserting after subsection (c) the following new subsection (d):

"(d) An individual whom the Secretary of Defense determines is an eligible beneficiary under subsection (b) of section 1079b of title 10 may enroll in a health benefits plan under this chapter in accordance with the agreement entered into under subsection (a) of such section between the Secretary and the Office and with applicable regulations under this chapter.".

(2) Section 8906 of title 5, United States Code, is amended—

(A) in subsection (b)—

(i) in paragraph (1), by striking "paragraphs (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)"; and

(ii) by adding at the end the following new paragraph:

"(4) In the case of individuals who enroll in a health plan under section 8905(d) of this title, the Government contribution shall be determined under section 1079b(g) of title 10."; and

(B) in subsection (g)—

(i) in paragraph (1), by striking "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)"; and

(ii) by adding at the end the following new paragraph:

"(3) The Government contribution described in subsection (b)(4) for beneficiaries who enroll under section 8905(d) of this title shall be paid as provided in section 1079b(g) of title 10.".

(c) IMPLEMENTATION.—The Secretary of Defense—

(1) shall begin to offer the health benefits option under section 1079b(a) of title 10, United States Code (as added by subsection (a)) not later than the date that is 6 months after the date of the enactment of this Act; and

(2) shall continue to offer such option through the year 2003, and to provide care to eligible covered beneficiaries under such section through the year 2005.

(d) FUNDING FROM AUTHORIZED APPROPRIATIONS.—Of the funds authorized to be appropriated for the Department of Defense for

military personnel for fiscal years 1999 through 2005, amounts shall be available for carrying out section 1079b of title 10, United States Code (as added by subsection (a)), as follows

(1) For fiscal year 1999, $100,000,000.
(2) For fiscal year 2000, $200,000,000.
(3) For fiscal year 2001, $300,000,000.
(4) For fiscal year 2002, $400,000,000.
(5) For fiscal year 2003, $500,000,000.
(6) For each of fiscal years 2004 and 2005, such sums as are necessary.

Mr. COVERDELL. Mr. President, today I am proud to join my esteemed colleague, Senator THURMOND, in introducing legislation that will address a growing crisis our nation's military retirees now face. These soldiers who all served so valiantly for our country now find it increasingly difficult to access the lifetime health care promised to them in exchange for 20 years of service. As a veteran myself, I believe that the government must honor the promises which the country made to those men and women who have served so faithfully in defense of the United States. America's veterans fulfilled their part of the bargain—now the government has a responsibility to do likewise. The legislation we introduce today is a Senate companion to House legislation introduced by Representative J.C. WATTS. Congressman WATTS has put a great deal of effort and leadership into this issue and I applaud his efforts.

Military retirees are the only Federal Government personnel who have been prevented from using their employer-provided health care once they reach Medicare-eligible age. In the past, Medicare-eligible retirees have received health care in military treatment facilities on a "space available" basis. However, cutbacks in health care funding, force reductions and base closures are forcing many Medicare-eligible retirees out of the military medical system. The legislation we have introduced today would correct this inequity by giving all military retirees health care coverage equal to our FEHBP health plan or the option to enroll in FEHBP. As you know, Mr. President, FEHBP is the same plan in which you, I, and all our colleagues and staff in the Congress, have the option of enrolling. FEHBP is a successfully administered health benefits plan. The least we can do is offer to our nation's military retirees the same choices in health care as are available to us. I dare say they deserve it.

This legislation would do more than allow access to FEHBP to retirees. It would also allow retirees experiencing difficulties with the TRICARE/CHAMPUS health plans. Due to TRICARE/CHAMPUS reimbursement rates, which are 15 percent below Medicare reimbursement rates, many doctors do not participate in TRICARE/CHAMPUS. When a military hospital has no space available for a military retiree, the retiree is referred to a private facility. If a private facility does not accept TRICARE/CHAMPUS, the retiree is left waiting for available space in a military hospital. This is unjust. Under this legislation, military retirees who cannot receive under TRICARE/CHAMPUS the same level of care provided under FEHBP have the option of enrolling in FEHBP. Again, Mr. President, these are the same options available to us as federal employees.

Mr. President, the Congress understands the need to fix the military health care system. Just last year in the 1998 Defense Authorization Act, this body recognized through an amendment I proudly cosponsored, the moral obligation we have incurred to provide health care to members and former members of the Armed Forces who are entitled to retired or retainer pay. This is a huge undertaking and important considerations such as the cost of such an endeavor must be made. While this legislation places caps on annual spending, providing those with funding concerns concrete numbers which to work, I firmly believe we can ill-afford not to honor the promises our nation made to these men and women.

Mr. President, this nation has long stood by the men and women who have fought for, and secured, our country's freedom. Without these soldiers America would not stand today as the world's example of democracy and cornerstone of freedom. We owe it to our nation, to our nation's military retirees and to ourselves to make the small sacrifice that passage of this bill would require.

By Mr. REID (for himself and Mr. BRYAN):

S. 1964. A bill to provide for the sale of certain public land in the Ivanpah Valley, Nevada, to the Clark County Department of Aviation; to the Committee on Energy and Natural Resources.

THE IVANPAH VALLEY AIRPORT PUBLIC LANDS TRANSFER ACT

Mr. REID. Mr. President, I rise to introduce The Ivanpah Valley Airport Public Lands Transfer Act for myself and Senator BRYAN, which provides for the sale of public lands in the Ivanpah Valley, Nevada, to the Clark County Department of Aviation.

Mr. President, Las Vegas Valley has the fastest growing population in the United States. Fifty percent of the visitors to Las Vegas come through McCarran Airport. This percentage is increasing as Las Vegas grows and increases in importance as an international travel destination.

Mr. President, Las Vegas Valley needs to begin developing other airports to accommodate passenger, air cargo, and charter flights. It is inevitable that McCarran Airport is reaching its capacity.

Mr. President, Las Vegas Valley has a unique opportunity to combine 6,650 acres of public land with up to $400 million in private capital to provide a new publicly-owned and operated airport for Clark County. The Ivanpah Valley Airport site is located about 30 miles south of Las Vegas and would provide a secondary, southern gateway to the Las Vegas metropolitan area. Of the total acreage, about 2,000 acres will be developed for the airport and the balance will be developed as an industrial center. The Ivanpah Valley Airport will be integrated into a global air cargo distribution network.

Mr. President, let me assure you that this is not a giveaway of public lands. My bill requires Clark County to pay fair market value for the land. Additionally, even though private dollars will be used to help develop this complex, the airport will remain publicly-owned and managed.

Mr. President, I request unanimous consent that the Ivanpah Valley Airport Public Lands Transfer Act be printed in the RECORD.

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

S. 1964

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 "Ivanpah Valley Airport Public Land Transfer Act".

SEC. 2. CONVEYANCE TO CLARK COUNTY DEPARTMENT OF AVIATION.

(a) IN GENERAL.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary of the Interior shall convey, under such terms and conditions as the Secretary considers appropriate, all right, title, and interest of the United States in and to the public land identified for disposition on the map entitled "Ivanpah Valley, Nevada-Airport Selections", numbered _____, and dated _____, to the Department of Aviation of Clark County, Nevada, for the purpose of developing an airport facility and infrastructure.

(b) AVAILABILITY OF MAP.—The Secretary shall ensure that the map described in subsection (a) is on file and available for public inspection in the offices of the Director, and the Las Vegas District, of the Bureau of Land Management.

(c) PHASED CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall convey the public land described in subsection (a) in small parcels over a period of up to 20 years, as is required to carry out the phased construction and development of the airport facility and infrastructure.

(2) APPRAISAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall ensure that an appraisal of the fair market value is conducted for each parcel of public land to be conveyed.

(3) PAYMENT OF FAIR MARKET VALUE.—A parcel shall be conveyed by the Secretary on payment by the Department of Aviation of Clark County, Nevada, to the Secretary, of the fair market value of the parcel, as determined under paragraph (2).

(d) WITHDRAWAL.—The public land described in subsection (a) is withdrawn from the operation of the mining and mineral leasing laws of the United States.

ADDITIONAL COSPONSORS

S. 356

At the request of Mr. GRAHAM, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.

S. 375

At the request of Mr. MCCAIN, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 375, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 772

At the request of Mr. SPECTER, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 772, a bill to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

S. 852

At the request of Mr. LOTT, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 981

At the request of Mr. THOMPSON, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 981, a bill to provide for analysis of major rules.

At the request of Mr. LEVIN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 981, supra.

S. 1080

At the request of Mr. AKAKA, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1080, a bill to amend the National Aquaculture Act of 1980 to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes.

S. 1141

At the request of Mr. JOHNSON, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1141, a bill to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and for other purposes.

S. 1255

At the request of Mr. COATS, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 1255, a bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based policy may be used to enable individuals and families with limited means to achieve economic self-sufficiency.

S. 1260

At the request of Mr. GRAMM, the names of the Senator from Arizona (Mr. KYL) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1305

At the request of Mr. GRAMM, the names of the Senator from New York (Mr. MOYNIHAN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1305, a bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and pre-competitive engineering research.

S. 1325

At the request of Mr. FRIST, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor 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.

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1325, supra.

S. 1334

At the request of Mr. BOND, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1360

At the request of Mr. ABRAHAM, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

S. 1392

At the request of Mr. BROWNBACK, the names of the Senator from Missouri (Mr. ASHCROFT), the Senator from Arizona (Mr. KYL), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1392, a bill to provide for offsetting tax cuts whenever there is an elimination of a discretionary spending program.

S. 1406

At the request of Mr. SMITH, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 1406, a bill to amend section 2301 of title 38, United States Code, to provide for the furnishing of burial flags on behalf of certain deceased members and former members of the Selected Reserve.

S. 1418

At the request of Mr. AKAKA, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1418, a bill to promote the research, identification, assessment, exploration, and development of methane hydrate resources, and for other purposes.

S. 1421

At the request of Mr. KENNEDY, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1421, a bill to amend the Public Health Service Act to provide additional support for and to expand clinical research programs, and for other purposes.

S. 1571

At the request of Mr. MCCAIN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1571, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 1608

At the request of Mr. ALLARD, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 1608, a bill to provide for budgetary reform by requiring the reduction of the deficit, a balanced Federal budget, and the repayment of the national debt.

S. 1621

At the request of Mr. GRAMS, the name of the Senator from Utah (Mr. HATCH) 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. 1643

At the request of Mr. KENNEDY, the name of the Senator from Georgia (Mr.

CLELAND) was added as a cosponsor of S. 1643, a bill to amend title XVIII of the Social Security Act to delay for one year implementation of the per beneficiary limits under the interim payment system to home health agencies and to provide for a later base year for the purposes of calculating new payment rates under the system.

S. 1647

At the request of Mr. SPECTER, his name 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. 1677

At the request of Mr. CHAFEE, the names of the Senator from Utah (Mr. BENNETT), the Senator from South Dakota (Mr. JOHNSON), the Senator from Vermont (Mr. LEAHY), and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1758

At the request of Mr. LUGAR, the names of the Senator from Utah (Mr. HATCH), the Senator from South Dakota (Mr. DASCHLE), the Senator from Washington (Mrs. MURRAY), and the Senator from North Carolina (Mr. FAIRCLOTH) were added as cosponsors 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. 1759

At the request of Mr. HATCH, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Illinois (Mr. DURBIN), the Senator from California (Mrs. FEINSTEIN), the Senator from California (Mrs. BOXER), and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 1759, a bill to grant a Federal charter to the American GI Forum of the United States.

S. 1825

At the request of Mrs. MURRAY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1825, a bill to amend title 10, United States Code, to provide sufficient funding to assure a minimum size for honor guard details at funerals of veterans of the Armed Forces, to establish the minimum size of such details, and for other purposes.

S. 1903

At the request of Mr. THOMAS, the names of the Senator from Georgia (Mr. COVERDELL), the Senator from Kansas (Mr. ROBERTS), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 1903, a bill to prohibit the return of veterans memorial objects to foreign nations without specific authorization in law.

S. 1957

At the request of Mr. BURNS, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1957, a bill to provide regulatory assistance to small business concerns, and for other purposes.

SENATE CONCURRENT RESOLUTION 65

At the request of Ms. SNOWE, the names of the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. DURBIN), the Senator from New York (Mr. MOYNIHAN), the Senator from California (Mrs. BOXER), the Senator from California (Mrs. FEINSTEIN), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of Senate Concurrent Resolution 65, a concurrent resolution calling for a United States effort to end restriction on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

SENATE RESOLUTION 175

At the request of Mr. ROBB, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of Senate Resolution 175, a bill to designate the week of May 3, 1998 as "National Correctional Officers and Employees Week."

SENATE RESOLUTION 197

At the request of Mr. REID, the names of the Senator from Washington (Mrs. MURRAY), the Senator from South Dakota (Mr. JOHNSON), and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of Senate Resolution 197, a resolution designating May 6, 1998, as "National Eating Disorders Awareness Day" to heighten awareness and stress prevention of eating disorders.

SENATE RESOLUTION 199

At the request of Mr. TORRICELLI, the names of the Senator from Alaska (Mr. MURKOWSKI), the Senator from Indiana (Mr. LUGAR), and the Senator from Georgia (Mr. COVERDELL) were added as cosponsors of Senate Resolution 199, a resolution designating the last week of April of each calendar year as "National Youth Fitness Week."

SENATE RESOLUTION 211—EXPRESSING THE CONDOLENCES OF THE SENATE

Mr. FAIRCLOTH (for himself, Mr. HELMS, Mr. LOTT, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. CLELAND, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 211

Whereas Terry Sanford served his country with distinction and honor for all of his adult life;

Whereas Terry Sanford served his country in World War II, where he saw action in 5 European campaigns and was awarded a Bronze Star and a Purple Heart;

Whereas as Governor of North Carolina from 1961 to 1965, Terry Sanford was a leader in education and racial tolerance and was named by Harvard University as 1 of the top 10 Governors of the 20th Century;

Whereas as President of Duke University, Terry Sanford made the University into a national leader in higher education that is today recognized as one of the finest universities in the United States; and

Whereas Terry Sanford served with honor in the United States Senate from 1987 to 1993 and championed the solvency of the social security system: Now, therefore, be it

Resolved, That the Senate—

(1) has heard with profound sorrow the announcement of the death of the Honorable Terry Sanford and expresses its condolences to the Sanford family, especially Margaret Rose, his wife of over 55 years; and

(2) expresses its profound gratitude to the Honorable Terry Sanford and his family for the service that he rendered to his country.

SEC. 2. TRANSMITTAL.

The Secretary of the Senate shall transmit an enrolled copy of this resolution to the family of the Honorable Terry Sanford.

AMENDMENTS SUBMITTED

THE EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

MOSELEY-BRAUN (AND OTHERS) AMENDMENT NO. 2292

Ms. MOSELEY-BRAUN (for herself, Mr. MOYNIHAN, Mr. DASCHLE, Mr. KENNEDY, Mrs. MURRAY, Mr. DODD, Mr. BINGAMAN, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. REED, Mr. ROBB, Mr.

GLENN, Mr. REID, Mr. LEVIN, Mr. KERRY, Mrs. FEINSTEIN, Mr. DURBIN, Mr. KERREY, and Mr. HARKIN) proposed an amendment 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:

Strike all after "**SECTION**", and insert the following:

1. SHORT TITLE; AMENDMENT TO 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Public School Improvement Tax Act of 1998".

(b) AMENDMENT TO 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.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendment to 1986 Code; table of contents.

TITLE I—TAX INCENTIVES FOR EDUCATION

Sec. 101. Expansion of incentives for public schools.

Sec. 102. Exclusion from gross income of education distributions from qualified State tuition programs.

Sec. 103. Extension of exclusion for employer-provided educational assistance.

Sec. 104. Additional increase in arbitrage rebate exception for governmental bonds used to finance education facilities.

Sec. 105. Exclusion of certain amounts received under the National Health Corps Scholarship program.

Sec. 106. Treatment of qualified public educational facility bonds as exempt facility bonds.

TITLE II—REVENUE

Sec. 201. Clarification of deduction for deferred compensation.

Sec. 202. Modification to foreign tax credit carryback and carryover periods.

Sec. 203. Certain taxpayers precluded from prematurely claiming losses or from creating reserves for bad debts from receivables.

Sec. 204. Application of environmental income tax.

Sec. 205. Excise tax on purchase of structured settlement agreements.

Sec. 206. Property subject to a liability treated in same manner as assumption of liability.

Sec. 207. Clarification and expansion of mathematical error assessment procedures.

Sec. 208. Clarification of definition of specified liability loss.

Sec. 209. Modification of depreciation method for tax-exempt use property.

TITLE I—TAX INCENTIVES FOR EDUCATION

SEC. 101. EXPANSION OF INCENTIVES FOR PUBLIC SCHOOLS.

(a) IN GENERAL.—Part IV of subchapter U of chapter 1 (relating to incentives for education zones) is amended to read as follows:

"PART IV—INCENTIVES FOR QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS

"Sec. 1397E. Credit to holders of qualified public school modernization bonds.

"Sec. 1397F. Qualified zone academy bonds.

"Sec. 1397G. Qualified school construction bonds.

"SEC. 1397E. CREDIT TO HOLDERS OF QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified public school modernization bond on the credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year the amount determined under subsection (b).

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any qualified public school modernization bond is the amount equal to the product of—

"(A) the credit rate determined by the Secretary under paragraph (2) for the month in which such bond was issued, multiplied by

"(B) the face amount of the bond held by the taxpayer on the credit allowance date.

"(2) DETERMINATION.—During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any month is the percentage which the Secretary estimates will on average permit the issuance of qualified public school modernization bonds without discount and without interest cost to the issuer.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND; CREDIT ALLOWANCE DATE.—For purposes of this section—

"(1) QUALIFIED PUBLIC SCHOOL MODERNIZATION BOND.—The term 'qualified public school modernization bond' means—

"(A) a qualified zone academy bond, and

"(B) a qualified school construction bond.

"(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means, with respect to any issue, the last day of the 1-year period beginning on the date of issuance of such issue and the last day of each successive 1-year period thereafter.

"(e) OTHER DEFINITIONS.—For purposes of this part—

"(1) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given to such term by section 14101 of the Elementary and Secondary Education Act of 1965. Such term includes the local educational agency that serves the District of Columbia but does not include any other State agency.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

"(4) PUBLIC SCHOOL FACILITY.—The term 'public school facility' shall not include any stadium or other facility primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

"(f) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section and the amount so included shall be treated as interest income.

"(g) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified public school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"SEC. 1397F. QUALIFIED ZONE ACADEMY BONDS.

"(a) QUALIFIED ZONE ACADEMY BOND.—For purposes of this part—

"(1) IN GENERAL.—The term 'qualified zone academy bond' means any bond issued as part of an issue if—

"(A) 95 percent or more of the proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by a local educational agency,

"(B) the bond is issued by a State or local government within the jurisdiction of which such academy is located,

"(C) the issuer—

"(i) designates such bond for purposes of this section,

"(ii) certifies that it has written assurances that the private business contribution requirement of paragraph (2) will be met with respect to such academy, and

"(iii) certifies that it has the written approval of the local educational agency for such bond issuance, and

"(D) the term of each bond which is part of such issue does not exceed 15 years.

"(2) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the private business contribution requirement of this paragraph is met with respect to any issue if the local educational agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

"(B) QUALIFIED CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'qualified contribution' means any contribution (of a type and quality acceptable to the local educational agency) of—

"(i) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

"(ii) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

"(iii) services of employees as volunteer mentors,

"(iv) internships, field trips, or other educational opportunities outside the academy for students, or

"(v) any other property or service specified by the local educational agency.

"(3) QUALIFIED ZONE ACADEMY.—The term 'qualified zone academy' means any public school (or academic program within a public school) which is established by and operated under the supervision of a local educational agency to provide education or training below the postsecondary level if—

"(A) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

"(B) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the local educational agency,

"(D) the comprehensive education plan of such public school or program is approved by the local educational agency, and

"(E)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

"(ii) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

"(4) QUALIFIED PURPOSE.—The term 'qualified purpose' means, with respect to any qualified zone academy—

"(A) constructing, rehabilitating, or repairing the public school facility in which the academy is established,

"(B) providing equipment for use at such academy,

"(C) developing course materials for education to be provided at such academy, and

"(D) training teachers and other school personnel in such academy.

"(5) TEMPORARY PERIOD EXCEPTION.—A bond shall not be treated as failing to meet the requirement of paragraph (1)(A) solely by reason of the fact that the proceeds of the issue of which such bond is a part are invested for a reasonable temporary period (but not more than 36 months) until such proceeds are needed for the purpose for which such issue was issued. Any earnings on such proceeds during such period shall be treated as proceeds of the issue for purposes of applying paragraph (1)(A).

"(b) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

"(1) IN GENERAL.—There is a national zone academy bond limitation for each calendar year. Such limitation is—

"(A) $400,000,000 for 1998,

"(B) $700,000,000 for 1999,

"(C) $700,000,000 for 2000,

"(D) $700,000,000 for 2001,

"(C) $700,000,000 for 2002, and

"(D) except as provided in paragraph (3), zero after 2002.

"(2) ALLOCATION OF LIMITATION.—

"(A) ALLOCATION AMONG STATES.—

"(i) 1998 LIMITATION.—The national zone academy bond limitation for calendar year 1998 shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget).

"(ii) LIMITATION AFTER 1998.—The national zone academy bond limitation for any calendar year after 1998 shall be allocated by the Secretary among the States in the manner prescribed by section 1397G(d); except that, in making the allocation under this clause, the Secretary shall take into account Basic Grants attributable to large local educational agencies (as defined in section 1397G(e)).

"(B) ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.—The limitation amount allocated to a State under subparagraph (A) shall be allocated by the State education agency to qualified zone academies within such State.

"(C) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under subparagraph (B) for such calendar year.

"(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

"(A) the limitation amount under this subsection for any State, exceeds

"(B) the amount of bonds issued during such year which are designated under subsection (a) with respect to qualified zone academies within such State,

the limitation amount under this subsection for such State for the following calendar year shall be increased by the amount of such excess. The preceding sentence shall not apply if such following calendar year is after 2004.

"SEC. 1397G. QUALIFIED SCHOOL CONSTRUCTION BONDS.

"(a) QUALIFIED SCHOOL CONSTRUCTION BOND.—For purposes of this part, the term 'qualified school construction bond' means any bond issued as part of an issue if—

"(1) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a public school facility,

"(2) the bond is issued by a State or local government within the jurisdiction of which such school is located,

"(3) the issuer designates such bond for purposes of this section, and

"(4) the term of each bond which is part of such issue does not exceed 15 years.

Rules similar to the rules of section 1397F(a)(5) shall apply for purposes of paragraph (1).

"(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) by any issuer shall not exceed the sum of—

"(1) the limitation amount allocated under subsection (d) for such calendar year to such issuer, and

"(2) if such issuer is a large local educational agency (as defined in subsection (e)) or is issuing on behalf of such an agency, the limitation amount allocated under subsection (e) for such calendar year to such agency.

"(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(1) IN GENERAL.—There is a national qualified school construction bond limitation for each calendar year equal to the dollar amount specified in paragraph (2) for such year, reduced, in the case of calendar years 1999 and 2000, by 1.5 percent of such amount.

"(2) DOLLAR AMOUNT SPECIFIED.—The dollar amount specified in this paragraph is—

"(A) $9,700,000,000 for 1999,

"(B) $9,700,000,000 for 2000, and

"(C) except as provided in subsection (f), zero after 2000.

"(d) 65-PERCENT OF LIMITATION ALLOCATED AMONG STATES.—

"(1) IN GENERAL.—Sixty-five percent of the limitation applicable under subsection (c) for any calendar year shall be allocated among the States under paragraph (2) by the Secretary. The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to issuers within such State and such allocations may be made only if there is an approved State application.

"(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among the States in proportion to the respective amounts each such State received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year. For purposes of the preceding sentence, Basic Grants attributable to large local educational agencies (as defined in subsection (e)) shall be disregarded.

"(3) MINIMUM ALLOCATIONS TO STATES.—

"(A) IN GENERAL.—The Secretary shall adjust the allocations under this subsection for any calendar year for each State to the extent necessary to ensure that the sum of—

"(i) the amount allocated to such State under this subsection for such year, and

"(ii) the aggregate amounts allocated under subsection (e) to large local educational agencies in such State for such year,

is not less than an amount equal to such State's minimum percentage of 65 percent of the national qualified school construction bond limitation under subsection (c) for the calendar year.

"(B) MINIMUM PERCENTAGE.—A State's minimum percentage for any calendar year is the minimum percentage described in section 1124(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334(d)) for such State for the most recent fiscal year ending before such calendar year.

"(4) ALLOCATIONS TO CERTAIN POSSESSIONS.—The amount to be allocated under paragraph (1) to any possession of the United States other than Puerto Rico shall be the amount which would have been allocated if all allocations under paragraph (1) were made on the basis of respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). In making other allocations, the amount to be allocated under paragraph (1) shall be reduced by the aggregate amount allocated under this paragraph to possessions of the United States.

"(5) APPROVED STATE APPLICATION.—For purposes of paragraph (1), the term 'approved State application' means an application which is approved by the Secretary of Education and which includes—

"(A) the results of a recent publicly-available survey (undertaken by the State with the involvement of local education officials, members of the public, and experts in school construction and management) of such State's needs for public school facilities, including descriptions of—

"(i) health and safety problems at such facilities,

"(ii) the capacity of public schools in the State to house projected enrollments, and

"(iii) the extent to which the public schools in the State offer the physical infrastructure needed to provide a high-quality education to all students, and

"(B) a description of how the State will allocate to local educational agencies, or otherwise use, its allocation under this subsection to address the needs identified under subparagraph (A), including a description of how it will—

"(i) give highest priority to localities with the greatest needs, as demonstrated by inadequate school facilities coupled with a low level of resources to meet those needs,

"(ii) use its allocation under this subsection to assist localities that lack the fiscal capacity to issue bonds on their own, including the issuance of bonds by the State on behalf of such localities, and

"(iii) ensure that its allocation under this subsection is used only to supplement, and not supplant, the amount of school construction, rehabilitation, and repair in the State that would have occurred in the absence of such allocation.

Any allocation under paragraph (1) by a State education agency shall be binding if such agency reasonably determined that the allocation was in accordance with the plan approved under this paragraph.

"(e) 35-PERCENT OF LIMITATION ALLOCATED AMONG LARGEST SCHOOL DISTRICTS.—

"(1) IN GENERAL.—Thirty-five percent of the limitation applicable under subsection (c) for any calendar year shall be allocated under paragraph (2) by the Secretary among local educational agencies which are large local educational agencies for such year. No qualified school construction bond may be issued by reason of an allocation to a large local educational agency under the preceding sentence unless such agency has an approved local application.

"(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among large local educational agencies in proportion to the respective amounts each such agency received for Basic Grants under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the most recent fiscal year ending before such calendar year.

"(3) LARGE LOCAL EDUCATIONAL AGENCY.—For purposes of this section, the term 'large local educational agency' means, with respect to a calendar year, any local educational agency if such agency is—

"(A) among the 100 local educational agencies with the largest numbers of children aged 5 through 17 from families living below the poverty level, as determined by the Secretary using the most recent data available from the Department of Commerce that are satisfactory to the Secretary, or

"(B) 1 of not more than 25 local educational agencies (other than those described in clause (i)) that the Secretary of Education determines (based on the most recent data available satisfactory to the Secretary) are in particular need of assistance, based on a low level of resources for school construction, a high level of enrollment growth, or such other factors as the Secretary deems appropriate.

"(4) APPROVED LOCAL APPLICATION.—For purposes of paragraph (1), the term 'approved local application' means an application which is approved by the Secretary of Education and which includes—

"(A) the results of a recent publicly-available survey (undertaken by the local educational agency with the involvement of school officials, members of the public, and experts in school construction and management) of such agency's needs for public school facilities, including descriptions of—

"(i) the overall condition of the local educational agency's school facilities, including health and safety problems,

"(ii) the capacity of the agency's schools to house projected enrollments, and

"(iii) the extent to which the agency's schools offer the physical infrastructure needed to provide a high-quality education to all students,

"(B) a description of how the local educational agency will use its allocation under this subsection to address the needs identified under subparagraph (A), and

"(C) a description of how the local educational agency will ensure that its allocation under this subsection is used only to supplement, and not supplant, the amount of school construction, rehabilitation, or repair in the locality that would have occurred in the absence of such allocation.

A rule similar to the rule of the last sentence of subsection (d)(5) shall apply for purposes of this paragraph.

"(f) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

"(1) the amount allocated under subsection (d) to any State, exceeds

"(2) the amount of bonds issued during such year which are designated under subsection (a) pursuant to such allocation,

the limitation amount under such subsection for such State for the following calendar year shall be increased by the amount of such excess. A similar rule shall apply to the amounts allocated under subsection (e). The subsection shall not apply if such following calendar year is after 2002.

"(g) SET-ASIDE ALLOCATED AMONG INDIAN TRIBES.—

"(1) IN GENERAL.—The 1.5 percent set-aside applicable under subsection (c)(1) for any calendar year shall be allocated under paragraph (2) among Indian tribes for the construction, rehabilitation, or repair of tribal schools. No allocation may be made under the preceding sentence unless the Indian tribe has an approved application.

"(2) ALLOCATION FORMULA.—The amount to be allocated under paragraph (1) for any calendar year shall be allocated among Indian tribes on a competitive basis by the Secretary of Education, in consultation with the Secretary of the Interior—

"(A) through a negotiated rulemaking procedure with the tribes in the same manner as the procedure described in section 106(b)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4116(b)(2)), and

"(B) based on criteria described in paragraphs (1), (3), (4), (5), and (6) of section 12005(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8505(a)).

"(3) APPROVED APPLICATION.—For purposes of paragraph (1), the term 'approved application' means an application submitted by an Indian tribe which is approved by the Secretary of Education and which includes—

"(A) the basis upon which the applicable tribal school meets the criteria described in paragraph (2)(B), and

"(B) an assurance by the Indian tribe that such tribal school will not receive funds pursuant to allocations described in subsection (d) or (e).

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given such term by section 45A(c)(6).

"(B) TRIBAL SCHOOL.—The term 'tribal school' means a school that is operated by an Indian tribe for the education of Indian children with financial assistance under grant under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) or a contract with the Bureau of Indian Affairs under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.)."

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(8) REPORTING OF CREDIT ON QUALIFIED PUBLIC SCHOOL MODERNIZATION BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest'includes amounts includible in gross income under section 1397E(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 1397E(d)(2)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting."

(c) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter U of chapter 1 is amended by striking the item relating to part IV and inserting the following new item:

"Part IV. Incentives for qualified public school modernization bonds."

(2) Part V of subchapter U of chapter 1 is amended by redesignating both section 1397F and the item relating thereto in the table of sections for such part as section 1397H.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to obligations issued after December 31, 1998.

(2) REPEAL OF RESTRICTION ON ZONE ACADEMY BOND HOLDERS.—The repeal of the limitation of section 1397E of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) to eligible taxpayers (as defined in subsection (d)(6) of such section) shall apply to obligations issued after December 31, 1997.

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) 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 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 December 31, 1997.

SEC. 104. ADDITIONAL INCREASE IN ARBITRAGE REBATE EXCEPTION FOR GOVERNMENTAL BONDS USED TO FINANCE EDUCATION FACILITIES.

(a) IN GENERAL.—Section 148(f)(4)(D)(vii) (relating to increase in exception for bonds financing public school capital expenditures) is amended by striking "$5,000,000" the second place it appears and inserting "$10,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1998.

SEC. 105. EXCLUSION OF CERTAIN AMOUNTS RECEIVED UNDER THE NATIONAL HEALTH CORPS SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—Section 117(c) (relating to the exclusion from gross income amounts received as a qualified scholarship) is amended—

(1) by striking "Subsections (a)" and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a)"; and

(2) by adding at the end the following new paragraph:

"(2) NATIONAL HEALTH CORPS SCHOLARSHIP PROGRAM.—Paragraph (1) shall not apply to any amount received by an individual under the National Health Corps Scholarship Program under section 338A(g)(1)(A) of the Public Health Service Act."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to amounts received in taxable years beginning after December 31, 1993.

SEC. 106. TREATMENT OF QUALIFIED PUBLIC EDUCATIONAL FACILITY BONDS AS EXEMPT FACILITY BONDS.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking "or" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", or", and by adding at the end the following:

"(13) qualified public educational facilities."

(b) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—Section 142 is amended by adding at the end the following:

"(k) QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(13), the term 'qualified public educational facility' means any school facility which is—

"(A) part of a public elementary school or a public secondary school,

"(B) except as provided in paragraph (6)(B)(iii), located in a high-growth school district, and

"(C) owned by a private, for-profit corporation pursuant to a public-private partnership agreement with a State or local educational agency described in paragraph (2).

"(2) PUBLIC-PRIVATE PARTNERSHIP AGREEMENT DESCRIBED.—A public-private partnership agreement is described in this paragraph if it is an agreement—

"(A) under which the corporation agrees—

"(i) to do 1 or more of the following: construct, rehabilitate, refurbish, or equip a school facility, and

"(ii) at the end of the contract term, to transfer the school facility to such agency for no additional consideration, and

"(B) the term of which does not exceed the term of the underlying issue.

"(3) SCHOOL FACILITY.—For purposes of this subsection, the term 'school facility' means—

"(A) school buildings,

"(B) functionally related and subordinate facilities and land with respect to such buildings, including any stadium or other facility primarily used for school events, and

"(C) any property, to which section 168 applies (or would apply but for section 179), for use in the facility.

"(4) PUBLIC SCHOOLS.—For purposes of this subsection, the terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as in effect on the date of the enactment of this subsection.

"(5) HIGH-GROWTH SCHOOL DISTRICT.—For purposes of this subsection, the term 'high-growth school district' means a school district established under State law which had an enrollment of at least 5,000 students in the second academic year preceding the date of the issuance of the bond and an increase in student enrollment of at least 20 percent during the 5-year period ending with such academic year.

"(6) ANNUAL AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING.—

"(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(13) if the aggregate face amount of bonds issued by the State pursuant thereto (when added to the aggregate face amount of bonds previously so issued during the calendar year) exceeds an amount equal to the greater of—

"(i) $10 multiplied by the State population, or

"(ii) $5,000,000.

"(B) ALLOCATION RULES.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the State may allocate in a calendar year the amount described in subparagraph (A) for such year in such manner as the State determines appropriate.

"(ii) RULES FOR CARRYFORWARD OF UNUSED AMOUNT.—With respect to any calendar year, a State may make an election under rules similar to the rules of section 146(f), except that the sole carryforward purpose with respect to such election is the issuance of exempt facility bonds described in section 142(a)(13).

"(iii) SPECIAL ALLOCATION RULE FOR SCHOOLS OUTSIDE HIGH-GROWTH SCHOOL DISTRICTS.—A State may elect to allocate an aggregate face amount of bonds not to exceed $5,000,000 from the amount described in subparagraph (A) for each calendar year for qualified public educational facilities without regard to the requirement under paragraph (1)(A)."

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(1) by striking "or (12)" and inserting "(12), or (13)", and

(2) by striking "and environmental enhancements of hydroelectric generating facilities" and inserting "environmental enhancements of hydroelectric generating facilities, and qualified public educational facilities".

(d) EXEMPTION FROM LIMITATION ON USE FOR LAND ACQUISITION.—Section 147(h) (relating to certain rules not apply) is amended—

(1) by adding at the end the following:

"(3) EXEMPT FACILITY BONDS FOR QUALIFIED PUBLIC EDUCATIONAL FACILITIES.—Subsection (c) shall not apply to any exempt facility bond issued as part of an issue described in section 142(a)(13) (relating to qualified public educational facilities).", and

(2) by striking "MORTGAGE REVENUE BONDS, QUALIFIED STUDENT LOAN BONDS, AND QUALIFIED 501(c)(3) BONDS" in the heading and inserting "CERTAIN BONDS".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1998.

TITLE II—REVENUE

SEC. 201. CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION.

(a) IN GENERAL.—Section 404(a) (relating to deduction for contributions of an employer to an employee's trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end the following new paragraph:

"(11) DETERMINATIONS RELATING TO DEFERRED COMPENSATION.—For purposes of determining under this section—

"(A) whether compensation of an employee is deferred compensation, and

"(B) 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) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act except with respect to compensation relating to severance pay, which shall apply to taxable years beginning after December 31, 2000.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by subsection (a) to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(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.

SEC. 202. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Section 904(c) (relating to limitation on credit) is amended—

(1) by striking "in the second preceding taxable year,", and

(2) by striking "or fifth" and inserting "fifth, sixth, or seventh".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 1998.

SEC. 203. CERTAIN TAXPAYERS PRECLUDED FROM PREMATURELY CLAIMING LOSSES OR FROM CREATING RESERVES FOR BAD DEBTS FROM RECEIVABLES.

(a) REPEAL OF NON-ACCRUAL EXPERIENCE METHOD FOR SERVICE PROVIDERS.—Section 448(d) (relating to definitions and special rules) is amended by striking paragraph (5) and by redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively.

(b) CERTAIN RECEIVABLES NOT ELIGIBLE FOR MARK TO MARKET.—Section 475(c) (relating to definitions) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR CERTAIN RECEIVABLES.—

"(A) IN GENERAL.—Paragraph (2)(C) shall not include any note, bond, debenture, or other evidence of indebtedness which is nonfinancial customer paper.

"(B) NONFINANCIAL CUSTOMER PAPER.—For purposes of subparagraph (A), the term 'nonfinancial customer paper' means any receivable—

"(i) arising out of the sale of goods or services by a person the principal activity of which is the selling or providing of nonfinancial goods and services, and

"(ii) held by such person or a related person at all times since issue."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year beginning after December 31, 2000—

(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 ratably over the 4-taxable year period beginning with such first taxable year.

SEC. 204. APPLICATION OF ENVIRONMENTAL INCOME TAX.

(a) EXTENSION OF TAX.—Section 59A(e) (relating to application of tax) is amended to read as follows:

"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2003."

(b) COORDINATION WITH EXCEPTION OF CERTAIN SMALL CORPORATIONS FROM ALTERNATIVE MINIMUM TAX.—Section 59A(a) (relating to imposition of tax) is amended by adding at the end the following flush sentence:

"Such tax shall not be imposed on a corporation for any taxable year if such corporation is exempt under section 55(e)(1) for the taxable year."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 205. EXCISE TAX ON PURCHASE OF STRUCTURED SETTLEMENT AGREEMENTS.

(a) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end the following new chapter:

"CHAPTER 48—STRUCTURED SETTLEMENT AGREEMENTS

"Sec. 5000A. Tax on purchases of structured settlement agreements.

"SEC. 5000A. TAX ON PURCHASES OF STRUCTURED SETTLEMENT AGREEMENTS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any person who purchases the right to receive payments under a structured settlement agreement a tax equal to 20 percent of the amount of the purchase price.

"(b) EXCEPTION FOR COURT-ORDERED PURCHASES.—Subsection (a) shall not apply to any purchase which is pursuant to a court order which finds that such purchase is necessary because of the extraordinary and unanticipated needs of the individual with the personal injuries or sickness giving rise to the structured settlement agreement.

"(c) STRUCTURED SETTLEMENT AGREEMENT.—For purposes of this section, the term 'structured settlement agreement' means—

"(1) any right to receive (whether by suit or agreement) periodic payments as damages on account of personal injuries or sickness, or

"(2) any right to receive periodic payments as compensation for personal injuries or sickness under any workmen's compensation act.

"(d) PURCHASE.—For purposes of this section, the term 'purchase' has the meaning given such term by section 179(d)(2)."

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end the following new item:

"CHAPTER 48. Structured settlement agreements.

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

SEC. 206. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a) (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability" in paragraph (2).

(2) SECTION 358.—Section 358(d)(1) (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) SECTION 368.—

(A) Section 368(a)(1)(C) is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—Section 357(c) is amended by adding at the end the following new paragraph:

"(4) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—For purposes of this section, section 358(d), section 368(a)(1)(C), and section 368(a)(2)(B)—

"(A) a liability shall be treated as having been assumed to the extent, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement), and

"(B) in the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee shall be treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability.

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(c)(4) shall apply."

(2) SECTION 1031.—The last sentence of section 1031(d) is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(c)(4)) a liability of the taxpayer", and

(B) by striking "or acquisition (in the amount of the liability)".

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) is amended by striking "or acquired".

(4) Section 357(c)(1) is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) is amended by striking "or acquisition (in the amount of the liability)".

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

SEC. 207. CLARIFICATION AND EXPANSION OF MATHEMATICAL ERROR ASSESSMENT PROCEDURES.

(a) TIN DEEMED INCORRECT IF INFORMATION ON RETURN DIFFERS WITH AGENCY RECORDS.—Section 6213(g)(2) (defining mathematical or clerical error) is amended by adding at the end the following flush sentence:

"A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN."

(b) EXPANSION OF MATHEMATICAL ERROR PROCEDURES TO CASES WHERE TIN ESTABLISHES INDIVIDUAL NOT ELIGIBLE FOR TAX CREDIT.—Section 6213(g)(2) is amended by striking "and" at the end of subparagraph (I), by striking the period at the end of the first subparagraph (J) (relating to higher education credit) and inserting a comma, by redesignating the second subparagraph (J) (relating to earned income credit) as subparagraph (K) and by striking the period at the end and inserting ", and", and by adding at the end the following new subparagraph:

"(L) the inclusion of a TIN on a return with respect to an individual for whom a credit is claimed under section 21, 24, or 32 if, on the basis of data obtained by the Secretary from the person issuing the TIN, it is established that the individual does not meet any applicable age requirements for such credit."

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

SEC. 208. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

"(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

"(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

"(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses for taxable years beginning after the date of the enactment of this Act.

SEC. 209. MODIFICATION OF DEPRECIATION METHOD FOR TAX-EXEMPT USE PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 168(g)(3) (relating to tax-exempt use property subject to lease) is amended to read as follows:

"(A) TAX-EXEMPT USE PROPERTY.—In the case of any tax-exempt use property, the recovery period used for purposes of paragraph (2) shall be equal to 150 percent of the class life of the property determined without regard to this subparagraph."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property—

(1) placed in service after December 31, 1998, and

(2) placed in service on or before such date which—

(A) becomes tax-exempt use property after such date, or

(B) becomes subject to a lease after such date which was not in effect on such date.

In the case of property to which paragraph (2) applies, the amendment shall only apply with respect to periods on and after the date the property becomes tax-exempt use property or subject to such a lease.

NOTICE OF HEARING

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing on "The Exploding Problem of Telephone Slamming In America."

This hearing will take place on Thursday, April 23, 1998, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Timothy J. Shea of the subcommittee staff at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, April 21, 1998, at 10:30 a.m. in closed session, to consider S. 1873, 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.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, April 21 at 2:20 p.m. to hold a joint closed hearing with the Judiciary Committee and on Wednesday, April 22, 1998 at 2:30 p.m. to hold a joint open hearing with the Judiciary Committee.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. COVERDELL. Mr. President, the Committee on Veterans' Affairs requests unanimous consent to hold a hearing on ionizing radiation, veterans' health care, and related issues.

The hearing will take place on Tuesday, April 21, 1998, at 10 a.m., in room 418 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, April 21, 1998, at 2:30 p.m. on carriage of goods by sea/death on the high seas.

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

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT INFORMATION

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Technology, Terrorism, and Government Information, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Tuesday, April 21, 1998 at 2:30 p.m. to hold a classified briefing in room 219, Senate Hart Office Building, on: "Chemical and Biological Weapons Threats to America."

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

SUBCOMMITTEE ON TRADE

Mr. COVERDELL. Mr. President, the Finance Committee Subcommittee on Trade requests unanimous consent to conduct a hearing on Tuesday, April 21, 1998, beginning at 9:30 a.m. in room 215, Dirksen.

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

ADDITIONAL STATEMENTS

WE THE PEOPLE . . . 1998 NATIONAL FINALS

• Mr. CRAIG. Mr. President, on May 2-4, 1998, more than 1,200 students will participate in the national finals of the We the People . . . The Citizen and the Constitution Program. This is a three day academic competition on the Constitution and Bill of Rights here in Washington, D.C. I am proud to acknowledge students from Les Bois High School in Boise, Idaho, who have achieved the great honor of participating in this outstanding program. Under the direction of their teachers, Dan Prinzing and Janet Adams, these students have worked diligently to reach the national finals by winning competitions in Idaho.

Administered by the Center for Civic Education, the primary goal of the We the People . . . program, is to promote civic competence and responsibility among the nation's elementary and secondary students. This instructional program is designed to increase the students' understanding of American constitutional democracy. By providing firsthand experience, students are able to witness the relevance of the Constitution and Bill of Rights in dealing with contemporary issues.

Participation in the national finals requires that the students demonstrate their knowledge of constitutional principles and their relevance to current issues before a simulation of congressional committees composed of constitutional scholars, lawyers, journalists, and government leaders. Here the students will have the opportunity to scrutinize and take or defend positions on issues placed before them.

This program provides an excellent opportunity for these students to increase their knowledge of our nation's government and legislative procedure. This is an experience that will benefit both these students and the nation, as it provides an excellent hands-on course in preparing our young Americans for future leadership.

I commend these students from Les Bois High School for this outstanding achievement, and wish them luck in the National competition. I am proud to have them represent the great state of Idaho.

Mr. President, I ask unanimous consent that a list of student names from Les Bois High School who will be competing be printed in the RECORD.

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

Students from Les Bois Junior High (Boise, Idaho) participating in the We the People program:

Ryan Abo, Kyle Anderson, Sean Beaver, Heather Birkinshaw, Michelle Blank, Megan Campbell, Elly Davis, Jordan DeLange, Jesika Groves, Patrick Hanks, Julia Holz, Michelle Howland, Justin Hunter, Jaime Jacobson, Chris Johnson, Jesse Judd, Julie Larson, Kellee Matsko, Ellen Misner, Amber Moss-Jensen, Niki O'Neal, Shannon Otte, Louis Poppler, Britanie Poreba, Barbara Sabo, Nicholai Salovich, Melissa Schurger, Bryan Sharmon, Marc Therrien, and David Wymond.•

CELEBRATE TUFTONIA'S DAY

• Mr. MOYNIHAN. Mr. President, I rise today to mark a very important event to the 78,000 plus other graduates of Tufts University—Tuftonia's Day. Tuftonia's day marks the anniversary of Tufts University on this date in 1852 (It is the second oldest college in the Boston area). It is a time for all Tufts students, alumni, professors, and friends of the university to turn their thoughts to Tufts and their fellow Tuftonians. Tufts is my alma mater. I graduated from the university and received both my masters degree and my doctorate from the Fletcher School of Law and Diplomacy.

Tufts, a school of 7,800 students, is one of the finest universities in the country and is rated as such by the most recent U.S. News and World Report survey. The main campus is located in Medford, Massachusetts and is home to the Tufts College of Liberal Arts, Jackson College, the College of Engineering, the Boston School of Occupational Therapy, and the Fletcher School. The Dental and Medical schools are downtown on the Boston campus and the School of Veterinary Medicine, the only such school in New England, is located in Grafton, Massachusetts.

When Charles Tufts founded the college, it is said he wanted to found a "light on the hill." The first rate education, the wonderful experiences, the enduring friendships, and the values instilled in Tufts students during their years on the hill, shows that Charles Tufts' dream has been realized.

Mr. President, Tufts University is a wonderful place, and Tuftonia's Day is a special time for all Jumbos (our mascot) to think about our days at Tufts and to pay tribute to our alma mater, the dear old brown and blue. I join with my fellow Tufts alumni in doing so and in recognizing Tuftonia's day.•

VICKI DONOVAN: 1998 NEW HAMPSHIRE TEACHER OF THE YEAR

• Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Vicki Donovan for being named the 1998 New Hampshire Teacher of the Year. Vicki is a fourth grade teacher at Belmont Elementary School in Belmont, New Hampshire, and is being recognized for her excellence in teaching and leadership in innovative curriculum reform.

As a teacher for over 15 years, Vicki has proven her dedication to her students and her community, going far beyond her classroom duties. As a member of the Belmont Elementary Language Arts Curriculum Committee, Vicki facilitated a pilot program in their new language arts curriculum. She is involved in Belmont Elementary School's extracurricular activities, and has always displayed an avid interest in the lives and well-being of her students. She is a member of the newly formed Health Fair Committee that involves school staff and local health care officials in providing resources and information to students and families. She is an elected member of the Government Study Committee that has done exhaustive work in attempting to restructure and improve the Belmont town government, and she is involved with the Youth and Education Committee of the Belmont Civic Pride Organization. This is just a sampling of Vicki's professional and civic involvements; her contributions to Belmont Elementary School and the Town of Belmont are immeasurable.

Vicki's own educational record proves the value that she places in learning. She has continued to take professional courses throughout her teaching career, and in 1996 completed her Masters degree in Education. She has supported future teachers by supervising student teachers, and helped improve herself and other teachers through her participation at professional workshops. She has previously been recognized in "Who's Who Among America's Teachers" and with the Academy of Applied Science and Central New Hampshire Educational Collaborative Award.

Mr. President, as a former teacher myself, I recognize the challenges, responsibilities and dedication involved in teaching. Teachers are entrusted with the enormous responsibility of preparing our youth to be active and responsible citizens. I am very honored to have Vicki Donovan as a teacher in the Granite State, and it is with great pride that I represent her in the U.S. Senate.•

PRESIDENTIAL TAX CHECK-OFF

• Mr. BIDEN. Mr. President, I rise today to call my colleagues' attention to a guest editorial by a long-time friend of mine, Mr. Sam Shipley, which recently appeared in the Wilmington News Journal. I think he makes some very important points about the presidential tax check-off box, and I commend the article to my colleagues. I ask that it be printed in the RECORD.

The editorial follows:

[From the Wilmington (DE) News Journal, Mar. 11, 1998]

$3 ELECTION CHECK-OFF CAN ADD UP

(By Samuel L. Shipley)

The presidential tax check-off needs promoting by the Federal Election Commission. It's been a secret to most Americans. One of the most effective strategies to increase taxpayer awareness would be through public service announcements in the news media, particularly national television.

And there would be no better time to air them than now, when Americans have their 1040 forms in hand, complete with instructions on making the check-off.

This year, the 1040 forms for 1997 taxes will allow each taxpayer to check off $3 as a matching contribution to the presidential campaign. This can be doubled to $6 on joint tax returns, even if only one spouse is employed.

The money from the presidential campaign check-off on Form 1040 is allocated equally among presidential candidates, after they raise a certain amount of funds on their own.

In the 1990s, despite a national decline in voting participation, more than 100 million Americans turned out to cast ballots for president. No doubt the overwhelming majority of these people file annual income tax returns.

This means that this year alone, there is the potential for hundreds of millions of dollars from citizens of all walks of life to be set aside for the 2000 elections.

It has been estimated that $1 billion or more was spent on the 1996 presidential election by the respective candidates and their parties. If taxpaying Americans would begin using the presidential campaign funding check-off this year and next, federal election funds to presidential races could replace a large percentage of the money that candidates see fit to seek from the special interests.

As a Delaware state Democratic Party chairman for many years and participant in many national political activities and campaigns, I am absolutely convinced of one

point. The overwhelming majority of candidates for high national office do not like to go, hat in hand, asking people—particularly special interests—for money. Some absolutely detest it. But with the high cost of staff, organization and particularly media, they see no other alternative.

The American people have it in their hands, now more than ever, to give presidential candidates the opportunity to back off from special interests—if they will only use the voluntary $3 tax check-off. This would go a long way to let presidential contenders campaign and serve with honor and dignity. This is the beginning of an answer to the cancer of politics, if only the people will take a scalpel to sleazy special-interest money. This could act as a catalyst to pressure on Congress to overhaul campaign spending practices.•

TRIBUTE TO EXERCISE TIGER WAR VETERANS

• Mr. BOND. Mr. President, on April 23, in a ceremony held in Kings Bay, Georgia on the U.S.S. *Maine*, Exercise Tiger veterans will be honored. Following the dockside ceremony, there will be a 24 hour embark on the nuclear missile submarine of the United States Navy's Sub Group 10. In addition, my home State of Missouri will receive a memorial anchor commemorating the D-day dress rehearsal turned battle that took place during World War II.

This week in 1944, German "E" boats, patrolling the English Channel attacked Eight American tank landing ships near the Devon coast killing 749 United States Army and United States Navy soldiers. Of Tiger's death toll, 201 men were from the 3206th Quartermaster Company in my home State of Missouri. Due to the secrecy of this mission, to see the soldiers, who fought so bravely, finally received the acknowledgment they deserve.

Knowing that I cannot adequately express my admiration and respect, I join in the opportunity to say thank you. I hope the raising of the anchor memorial will in some way compensate the brave soldiers who risked or lost their lives during this crucial exercise. This week will be a great occasion for the survivors of Exercise Tiger and I pay tribute to their courage and service to the United States of America.•

MORE QUESTIONS ON GLOBAL WARMING

• Mr. ABRAHAM. Mr. President, last year the Senate passed a bipartisan resolution, S. Res. 98, which expressed the Sense of the Senate that the United States should not enter into any global warming treaty unless developing nations joined in the effort by agreeing to emission limits. This resolution passed by a vote of 95–0.

Despite this clear and specific resolution, the Administration negotiated and agreed to a treaty in Kyoto which sets binding limits on carbon emissions by developed nations, but which compels no similar participation from the developing world. Clearly, the Kyoto treaty fails to meet the criteria established by S. Res. 98.

To date, China, India, Brazil, Mexico, South Korea and other emerging trading partners have no obligations under the Kyoto Treaty. Since signing the agreement, the Administration has worked to secure some level of participation by these nations with the intention of amending the Treaty. Of course, these countries understand the economic impact of emissions limits, so it is not surprising that the United States is having a difficult time convincing these governments that their participation is necessary.

Recently, however, the State Department reports that it has reached "a conceptual agreement" with some countries to "pursue an umbrella group to trade emissions permits." No details about the nature or design of the agreement have been released, so it is difficult to judge the success of the recent efforts. A few questions come to mind however. What limits would these nations agree to? Would this be a part of the Protocol or a separate agreement outside the Protocol? How would this "umbrella group" even be recognized by the Protocol Parties? Finally, what is the U.S. offering to entice this group?

Mr. President, the Administration's actions and comments since Kyoto raise many questions but provide few answers. I hope the delegation will be more forthcoming in the next few months and allow Congress and the public an opportunity to comment on the U.S. proposals prior to the June and November sessions.•

RECOGNIZING MICHAEL TODD

• Mr. MACK. Mr. President, I rise today to recognize and congratulate Michael Todd, an Army Veteran and fellow Floridian who was recently selected by the Jewish War Veterans Organization to participate as a non-Jewish delegate on the Allied Veterans' Mission to Israel. Nominated by the Oskar Schindler Post of the Jewish War Veterans in Port Charlotte, Mr. Todd was West Coast Florida's only representative on the goodwill trip to Israel from April 5–April 13, 1998.

As a U.S. Army combat soldier, Mr. Todd was wounded four times and highly decorated for his valor and meritorious service during the Vietnam War. Since his return from Vietnam in 1974, Mr. Todd has volunteered on behalf of veterans throughout Florida and the nation. He founded and is the current President of both the National Veterans for America, and the South Gulf Coast Regional Veterans Council of Florida. Furthermore, Mr. Todd is an active member of various veterans organizations, ranging from the American Legion to the Vietnam Veterans of America.

In addition, the Charlotte County, Florida Board of County Commissioners has issued a proclamation declaring April 21, 1998 as "Michael Todd Day." In the proclamation, the County Commissioners praised Mr. Todd's efforts to improve the lives of veterans of the armed forces and their family members.

Mr. Todd's tireless volunteer service deserves the respect and admiration of Congress, the Country and Charlotte County. I am proud to offer my congratulations and look forward to hearing about his experiences while on his mission to Israel. I have no doubt he will continue to represent the Jewish War Veterans and the United States of America with honor.

Mr. President, I ask that the text of Charlotte County's Proclamation designating today as "Michael Todd Day" be printed in the RECORD.

The proclamation follows:

PROCLAMATION

Whereas, the national organization of the Jewish War Veterans of the United States of America in Washington, D.C., provides a program entitled the Annual Allied Veterans' Mission to Israel, under which non-Jewish select veteran leaders from throughout the United States are nominated by local posts and state councils and selected as delegates to visit Israel and learn about its history and people and to act as ambassadors of good will for their state and local communities; and

Whereas, a highly decorated local U.S. Army combat Vietnam veteran (wounded four times), Michael Todd, has brought honor and recognition to himself, the State of Florida, Charlotte County, and the City of Punta Gorda by being nominated by the Oakar Schindler Post of the Jewish War Veterans in Port Charlotte and its State Council and subsequently selected as a delegate and an ambassador of good will representing the State of Florida, Charlotte County, and the City of Punta Gorda, to participate in the Jewish War Veterans' Annual Allied Veterans' Mission to Israel from April 5 to April 13, 1998; and

Whereas, the honor bestowed on Michael Todd provides recognition to Mr. Todd for his tireless efforts as a veterans' advocate and leader, and his devoted service to his community as President of So. Gulf Coast Regional Veterans Council of Florida, National President of Veterans for America, President of Veterans Outreach and Assistance, as a member of the American Legion 110, DAV 154, VFW 5690, and Charlotte County Community Projects Council, as Vice President of the Vietnam Veterans of America, as advisor on veterans affairs for the State of Florida and legislative liaison to the State of Florida and Washington, D.C., and as a past representative for American Ligion Post 110 to the executive board of the Charlotte County Veterans Council; now, therefore, be it

Proclaimed, That, in recognition of the time and effort provided by Michael Todd to improve the community and the lives of the veterans of the armed forces and their family members, April 21, 1998, be declared Michael Todd Day in Charlotte County.•

ORDERS FOR WEDNESDAY, APRIL 22, 1998

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that when the

Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. on Wednesday, April 22. I further ask that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of H.R. 2646, the A+education bill.

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

Mrs. HUTCHISON. I further ask that at 9:30 a.m. Senator GORTON be recognized to offer an amendment regarding block grants.

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

Mrs. HUTCHISON. I further ask that following debate on the Gorton amendment, it be temporarily set aside, and Senator MURRAY be immediately recognized to offer her amendment; further, that following the debate on the Murray amendment, it be set aside and Senator COATS be recognized to offer an amendment.

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

PROGRAM

Mrs. HUTCHISON. Tomorrow morning, the Senate will resume consideration of the Coverdell A+education bill. Amendments will be offered and debated throughout Wednesday's session in an attempt to finish that legislation.

I also inform my colleagues that funeral services will be held for former Senator Terry Sanford tomorrow in Durham, NC. Therefore, any votes ordered tomorrow morning in respect to amendments to the Coverdell bill would be stacked to occur at approximately 3 p.m. Members will be notified of the exact voting schedule when that becomes available.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mrs. HUTCHISON. Mr. President, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:10 p.m., adjourned until Wednesday, April 22, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 21, 1998:

EXECUTIVE OFFICE OF THE PRESIDENT

NEAL F. LANE, OF OKLAHOMA, TO BE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE JOHN HOWARD GIBBONS, RESIGNED.

DEPARTMENT OF LABOR

HENRY L. SOLANO, OF COLORADO, TO BE SOLICITOR OF THE DEPARTMENT OF LABOR, VICE THOMAS S. WILLIAMSON, JR.

UNITED STATES INFORMATION AGENCY

JONATHAN H. SPALTER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY, VICE ROBERT B. FULTON, RESIGNED.

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT

To be medical director

ROBERT W. AMLER
RONALD G. BANKS
DAVID M. BELL
RUTH L. BERKELMAN
JAMES W. BUEHLER
STEPHEN L. COCHI
D. PETER DROTMAN
PATRICIA M. GRIFFIN
JAMES L. HOFF
ROBERT J. KIM-FARLEY
RICHARD D. KLAUSNER
RICHARD D. MANDSAGER
EDWARD E. MAX
RICHARD D. OLSON
JOHN E. PARKER
HAROLD J. PAULSEN
MARTHA F. ROGERS
KENNETH A. SCHACHTER
STEVEN L. SOLOMON

To be senior surgeon

ALVIN ABRAMS
JANET ARROWSMITH-LOWE
ANITA W. BATMAN
SUZANNE BINDER
EDWARD A. BRANN
KENNETH G. CASTRO
JOANNE C. CHINNICI
TERENCE L. CHORBA
ROBERT B. CRAVEN
THOMAS J. CREELMAN
DEAN F. EFFLER
DELORES A. ENDRES
MARIO E. FAJARDO
HELENE D. GAYLE
THOMAS P. GROSS
HARRY W. HAVERKOS
MARK B. HORTON
HOWARD S. KRUTH
SCOTT R. LILLIBRIDGE
THURMA MCCANN GOLDMAN
RICHARD J. MILLER
RICHARD W. NISKA
STEPHEN M. OSTROFF
THOMAS A. PETERMAN
ROSSANNE M. PHILEN
LAWRENCE D. ROBERTSON, JR.
WILLIAM M. SAPPENFIELD
PAUL J. SELIGMAN
PHILIP H. SHERIDAN
PATRICK W. STENGER
ROBERT V. TAUXE
TIMOTHY J. UNGS
DONNA L. VOGEL
SCOTT F. WETTERHALL

To be surgeon

KELLY J. ACTON
ARTHUR V. BERMISA
CHARLES H. BEYMER
ROBERT T. CHEN
GEORGE A. CONWAY
THERESA DIAZ VARGAS
HERMAN A. DOBBS III
MICHAEL M. ENGELGAU
LUIS G. ESCOBEDO
STEVEN H. FOX
RICHARD L. HAYS
CLARE HELMINIAK
KATHLEEN L. IRWIN
MARTIN J. KILEEN
EVE M. LACKRITZ
DAVID M. NANNINO III
ELAINE MILLER
DOUGLAS S. MITCHELL
BERNARD L. NAHLEN

To be senior assistant surgeon

ANNA L. MILLER
NARAYAN NAIR
MICHAEL T. STEIN
LORI A. WILLINGHURST

To be dental director

DALE P. ARMSTRONG
STANFORD M. BASTACKY
ERIC D. BOTHWELL
BETTY DEBERRY-SUMNER
SUZANNE EBERLING
PHILIP C. FOX
JAMES E. HAUBENREICH
JOHN R. MEETH
JOHN P. ROSSETTI
ROBERT A. SAPPINGTON
FRED B. SKREPCINSKI
DAVID B. SYNDER
SARAH E. VALWAY
CHARLES R. WANNER

To be senior dental surgeon

MICHAEL J. ALPERT
JOHN F. ANTON
TED W. BENGTSON
JOHN W. BERRIDGE
ROBERT A. BEST
STEVEN M. BOE
JOHN W. BROWN III
JOHN L. BUCHANAN III
PAUL A. BUONVIRI
MAUREEN P. CLEARY
KEVIN C. CRAIG
MICHAEL N. GABOR
HORACE HARRIS
ROBERT W. HENDRICKS, JR.
KENNETH E. HOFFMAN
DERRICK T. JOHNSTON
GARY J. KAPLOWITZ
JAMES M. LOGAN
PATRICK D. MCDERMOTT
ROBERT J. MORK
MARK E. NEHRING
CATHERINE A. PHILLIPS
ROBERT H. SELWITZ
CAROL E. SHERMAN

To be dental surgeon

ARLAN K. ANDREWS
MICHAEL C. ARNOLD
THOMAS L. BERMEL
TIMOTHY S. BISHOP
ARTURO BRAVO
HERMAN J. CAMPBELL
CLAY D. CROSSETT
SCOTT K. DUBOIS
JANIE G. FULLER
GEORGE HADDY
LINDA A. JACKSON
KENT K. KENYON
RONNIE D. MCCUAN
AARON R. MEANS, SR.
MARY G. MURPHY
RONALD J. NAGEL
THOMAS R. PALANDECH
SAMUEL J. PETRIE
RICHARD G. SCHRAGE
STEPHEN B. SCUTARI
JAMES N. SUTHERLAND

To be nurse director

NANCY J. DEVLIN
RICHARD I. GERBER
K. LOTHSCHUETZ MONTGOMERY
HELEN J. WOOTON
JABO I. ZELONIS

To be senior nurse officer

WILLIAM S. CAMPBELL
THEODORE W. CURRIER III
CATHERINE R. ESBENSHADE
SUSAN L. FIFER
NORMA J. HATOT
GALE L. HEAVNER
NARY D. HUTTON
MARY R. INGRAM
JAMES C. MCCANN
DEBORAH L. PARHAM
ROSALIE K. PHILLIPS
PAUL A. SATTLER
ANDREW G. SPARBER
REBECCA S. STANEVICH
STEVEN N. THOMPSON
MARILYN J. VRANAS
KATHLEEN L. WALKER
MELINDA WEISSER-LEE

To be nurse officer

GARY W. BANGS
ROBYN G. BROWN-DOUGLAS
MARY E. BRUK
CHERYL P. CHAPMAN
BRENDA L. CHARLEY
PATSY J. CLARK-ANDERSON
THOMAS M. CONRAD
ANNETTE C. CURRIER
THOMAS E. DALY
NANCY L. EGBERT
JOSEPH P. FINK
LAVERNE G. FRAZIER
JEAN FROST
MARGARET A. HOEFT
MARVIN A. HOLCOMB
KIMBERLAE A. HOUK
INDIA L. HUNTER
LAURIE S. IRWIN-PINKLEY
BARBARA A. ISAACS
EVA L. JONES
DEBORAH KLEINFELD
MARY M. LEEMHUIS
MICHAEL D. LYMAN
REBECCA P. MANLEY
CALVIN J. MARSHALL
ROBERT W. MAYES
JUANITA J. MELLUM
SHARON D. MURRAIN-ELLERBE
JOHN D. ORELLA
STEVEN R. OVERSBY
MICHAEL J. PAPANIA
SANDRA D. PATTEA
MONIQUE V. PETROFSKY
HAROLD W. PITT
GILBERT P. ROSE
JEFF M. SKELTON
ERNESTINE T. SMARTT
JERILYN A. THORNBURG
BERNADINE L. TOYA
ELLEN D. WOLFE

To be senior assisant nurse officer

SANDRA A. CHATFIELD
SUSAN Z. MATHEW
JAMES M. SIMMERMAN

To be engineer director

MARC R. ALSTON
WILLIAM E. ENGLE
JAMES A. HEIDMAN
DANIEL L. HIGHTOWER
PAUL F. KANITZ
CHARLES S. MCCAMMON, JR.
MARTIN D. MCCARTHY
MICHAEL E. PETERSON
LAURENCE D. REED
LEO H. STANDER, JR.

To be senior engineer officer

ROBER A. ANDERSON
STEPHEN S. AOYAMA
ALBERT J. BERRETH
THOMAS F. BLOOM
ERNEST W. BRODT, JR.
DANIEL J. CARPENTER
JAMES J. CHERNIACK
JAMES A. DINOVO
ROBERT W. FAALAND
DOUGLAS C. JENSEN
WILLIAM B. KNIGHT
ERNEST L. LEPORINI
DOUGLAS C. OTT
LOUIS D. SMITH
CARL E. SULLENGER, JR.
WILLIAM M. VATAVUK
RODNEY LEE VYFF
MARVIN L. WEBER

To be engineer officer

JAMES W. COLLINS
RANDY J. CORRELL
ROBIN A. DALTON
BRYAN L. FISCHER
STEVEN J. FORTHUN
ALLEN K. JARRELL
DANIEL G. MCLAUGHLIN
JOEL A. NEIMEYER
JEFFREY J. NOLTE
KENNETH E. OLSON II
ROBERT J. REISS
ROSS D. SCHROEDER
TODD M. SCOFIELD
KEITH P. SHORTALL
GEORGE F. SMITH

To be senior assistant engineer officer

NATHAN D. GJOVIK
JAMES H. LUDINGTON

To be scientist director

DONNA K. CHANDLER
MICHAEL J. COLLIGAN
ROBERT A. HAHN
HUGH J. HANSEN
DANIEL M. LEWIS
MELODY Y. LIN
WALTER L. SCOTT

To be senior scientist

LESLIE P. BOSS
WILLIAM G. BROGDON
PETER I. HARTSOCK
DELORIS L. HUNTER
SCOTT R. RIPPEY
JOHN M. SPAULDING
CHING-LONG J. SUN
RANDY L. TUBBS

To be scientist

LORRAINE L. CAMERON
DEBRA G. DEBORD
JAMES E. HOADLEY
MAHENDRA H. KOTHARY
HELENA O. MISHOE
PAUL D. SIEGEL
WILLIAM H. TAYLOR III

To be sanitarian director

GEORGE E. BYRNS
ALAN M. CROFT
LARRY M. SOLOMAN

To be senior sanitarian

PIERRE L. BELANGER
JACK L. CHRISTY
JON S. PEABODY
PAUL D. PRYOR
GERALD W. SHIPPS
RALPH T. TROUT
DONALD J. VESPER

To be sanitarian

GAIL G. BUONVIRI
ALAN S. ECHT
RUSSELL E. ENSCORE
MARK A. HAMILTON
MICHAEL E. HERRING
STEVEN G. INSERRA
LYNN E. JENKINS
MARTHA D. KENT
WALTER M. SNESKO
RICHARD E. TURNER
REBECCA L. WEST

To be senior veterinary officer

ROBERT J. CAROLAN
CYNTHIA L. POND
RICHARD E. RACE

To be veterinary officer

SHANNA L. NESBY-ODELL

To be pharmacist director

LARRY D. CROLL
RODNEY W. HILL
JANET M. JONES
WILLIAM H. KEHOE, JR.
DIANNE L. KENNEDY
JOHN W. LEVCHUK
ALFREDO MATIELLA, JR.
WILLIAM L. MATTHEWS, JR.
PAUL V. MCSHERRY
ROBIN M. NIGHSWANDER
KARL W. SCHILLING
KENNETH L. SPEAR
FRANKLIN D. STOTTLEMYER
JOSEPH A. TANGREA
ALAN M. YAMASHITA

To be senior pharmacist

RICHARD L. ABEL
DENNIS M. ALDER
JANET L. ANDERSON
MARK D. ANDERSON
JOHN T. BABB
MARION T. BEARDEN
JAMES P. COBB
PATRICK O. COX
GALEN R. GOEDEN
PATRICK S. HOGAN
ANDREW G. JANCOSEK
PAUL F. JAROSINSKI
GARY R. LAWLESS
KEVIN M. LEMIEUX
DELBERT G. MARTIN
YANA R. MILLE
JAMES W. MOORE
ROBERT B. OSHIDA
LARRY A. PFEIFER
GLEN M. PREWETT
MARK E. RAMEY
WELDON B. ROBERTS
DONOVAN J. SAUTER
JAMES M. THOMPSON
CHARLES A. TRIMMER
DENNIS J. VETTESE
MARILEE J. WHITE
DANIEL P. WILLIAMS
MICHAEL W. WOODFORD

To be pharmacist

DAVID B. BAKKEN
LISA D. BECKER
CHARLES C. BRUNER
NARY A. FONG
BEN GLIDEWELL
GEORGE J. HAVENS III
CARL W. HUNTLEY
CAROLYN J. JOHNSON
MICHAEL D. JONES
ANTHONY E. KELLER
ALICE D. KNOBEN
DENNIS L. LIVINGSTON
AMY L. MINNICK
JAMES M. MOORE
CLAIRE L. NEALLY
NICHOLAS A. QUAGLIETTA
BRIAN D. SCHAFER
WILLIAM I. SCHUMAN
MARGARET A. SIMONEAU
JAMES E. TEAGUE
VIRGINIA A. TIBBETTS

To be senior assistant pharmacist

JAMES A. GOOD
VALERIE E. JENSEN
KIMBERLY D. KNUTSON
DAVID A. KONIGSTEIN
JILL A. SANDERS
PAMELA STEWART-KUHN

To be dietitian director

MARK S. SIEGEL

To be senior dietitian

CYNTHIA L. W. CHUNG
JOHN E. FINN
PATSY R. HENDERSON

To be dietitian

GLORIA J. STABLES

To be therapist director

JIMMY R. JONES

To be senior therapist

BEVERLY J. BELL
KEITH E. VARVEL

To be therapist

DAVID J. BRUEGGEMANN
SUSANNE E. PICKERING
MICHAELE R. SMITH

To be senior assistant therapist

MARK T. MELANSON

To be health services director

MARTIN T. ABELL
GLORIA N. AMES
WILLIAM S. COLLINS
ELMON S. CRUMPLER
LELAND D. FREIDENBURG, JR.
ROLLAN J. GONGWER
HENRY H. KNOX
KURT R. MAURER
ROBERT W. MILLER
FRED M. RANDALL
MELVIN E. SEGAL
CHARLES K. SHOWALTER
JACOB E. TENENBAUM
GEORGE H. WALTER
JOHN J. WHALEN

To be senior health services officer

EDITH M. BAILEY
PATRICIA E. BROOKS
HAMILTON L. BROWN
GUY E. BURROUGHS, JR.
CONSTANCE M. BURTOFF
WESLEY W. CHARLTON
RAYMOND L. CLARK
MICHAEL L. DAVIS
RONNIE L. DAVIS
PETER A. DOOB
ANN B. FAGAN
JAMES W. GARVIE
PAUL HEWETT
KENT E. JAFFE
THOMAS M. JAKUB
WILLIAM G. JONES
MICHAEL O. KENEALLY
PAUL T. KIRKHAM
BRUCE E. LEONARD
PAUL W. LICHTENSTEIN
ARNULFO MANANGAN
BOBBY L. MASON
MARTIN A. OBERLY
JOHNNY R. RAINEY
STEPHEN A. SOUZA
EDWIN S. SPIRER
WENDELL E. WAINWRIGHT
HENRY J. WIRTH III
JON P. YEAGLEY

To be health services officer

FRANKLIN D. CROOKS
WILLIAM M. GOSMAN
JANET S. HARRISON
PAUL W. HOLLAND
GREG A. KETCHER
EDWARD M. MCNERNEY
BARRY A. MILLER
MICHAEL R. MILNER
SUSAN D. TELLER
GENE W. WALTERS
RAY J. WEEKLY

To be senior assistant health services officer

CAROL E. AUTEN
CHERYL A. WISEMAN

IN THE AIR FORCE

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. DANIEL JAMES III, [redacted]

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. LEE P. RODGERS, [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DANIEL C. BALOUGH, [redacted]
BRIG. GEN. ROGER L. BRAUTIGAN, [redacted]
BRIG. GEN. THOMAS A. WESSELS, [redacted]

To be brigadier general

COL. BRUCE A. ADAMS, [redacted]
COL. MICHAEL B. BARRETT, [redacted]
COL. LOWELL C. DETAMORE, JR., [redacted]
COL. KENNETH D. HERBST, [redacted]
COL. KENNETH L. PENTTILA, [redacted]

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) JEFFREY A. COOK, [redacted]

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

PHILIP M. ARMSTRONG, [redacted]
PHILIP A. BARKER, [redacted]
ELWOOD M. BARNES, [redacted]
*ROBERT PATRICK BECK, [redacted]
OLEDIA P. BELL, [redacted]
ERNEST H. BERTHELETTE, [redacted]
JIMMY M. BROWNING, [redacted]
*ELIEZER CASTANON, [redacted]
DONOVAN V.C. GAFFNEY, [redacted]
RONALD M. HARVELL, [redacted]
RAYMOND L. JOHNSON, [redacted]
THOMAS D. KELLY, [redacted]
JOHN M. KINNEY, [redacted]
PHILIP S. LLANOS, [redacted]
STEVEN P. MCCAIN, [redacted]
DANIEL H. NELMS, [redacted]
STEVEN J. NICOLAI, [redacted]
ROBERT E. ODELL, JR., [redacted]
SCOTT A. OFSDAHL, [redacted]
ROBERT N. PHILLIPS, [redacted]
PATRICK J. RYAN, [redacted]
PAUL L. SHEROUSE, [redacted]
DOUGLAS J. SLATER, SR., [redacted]
WILLIAM T. TOGUCHI, [redacted]
VICTOR J. TONEY, [redacted]
TIMOTHY P. WAGONER, [redacted]
*REX A. WILLIAMS, [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS A PERMANENT PROFESSOR OF THE UNITED STATES MILITARY ACADEMY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 4333(B):

To be lieutenant colonel

GARY W. KRAHN, [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

RICHARD D. COULTER, [redacted]
MICHAEL J. HOBBS, [redacted]
DAVID D. KENDRICK, [redacted]
MOSE A. MCWHORTER, [redacted]
DANTE L. PETRIZZO, [redacted]
KARIM SHIHATA, [redacted]

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

MICHALE D. COBB, [redacted]
FRANK A. LINDELL, [redacted]
RAYMOND B. ROLL, [redacted]

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

DANIEL D. THOMPSON, [redacted]